

—

CONRAD

—

O:\BAI\BAI98.189

S.L.C.

40

(d) BUDGET TREATMENT OF AMOUNTS IN TRUST
 FUND.—The amounts in the Trust Fund shall be excluded
 from, and shall not be taken into account, for purposes
 of any budget enforcement procedure under the Congres-
 sional Budget Act of 1974 or the Balanced Budget and
 Emergency Deficit Control Act of 1985.

CHAPTER 3—INVESTMENTS FOR CHILDREN

SEC. 131. INVESTMENTS IN HEALTHY CHILD DEVELOP-
 MENT.

(a) CHILD DEVELOPMENT PROJECTS.—

(1) IN GENERAL.—The Secretary shall use the
 funds allocated for use under this section as follows:

(A) INVESTMENTS FOR EARLY CHILDHOOD
 DEVELOPMENT.—60 percent of such funds will
 be used for investments in early childhood de-
 velopment as follows:

(i) 10 percent to expand the Early
 Head Start program under section 645A of
 the Head Start Act (42 U.S.C. 9841).

(ii) 20 percent to the Child Care and
 Development Block Grant Act of 1990 (42
 U.S.C. 658A et seq.) to provide certificates
 and grants to increase the availability and
 affordability of quality child care for chil-

child care =

\$ 7.6 B v. \$ 11.4

10% =

\$.8

20% =

\$ 1.5 v.

\$ 7.5

Too much to
 HS and Early
 HS here.
 shouldn't
 take out
 from mandator

Not sure
 what this
 means.

O:\BAI\BAI98.189

S.L.C.

41

1 dren of working families from birth
2 through school age, including children with
3 disabilities.

4 (iii) 25 percent to expand the Head
5 = \$1.9 v. \$3.8 Start program under the Head Start Act
6 (42 U.S.C. 9801) to increase enrollment
7 and responsiveness of such program.

8 (iv) 5 percent to early childhood devel-
9 = \$1.4 v. 0 opment programs under part C and section
10 (OMB says \$1.1) 619 of the Individuals with Disabilities
11 Education Act.

12 Not less than 30 percent of amounts made
13 30% of available under clause (ii) shall be set-aside for
14 20% (\$1.5) = innovative programs for babies and toddlers, in-
15 cluding the development of family child care
16 networks, start-up for infant care programs, the
17 training of providers, or the provision of parent
18 education and support.

19 (B) IMPROVEMENT OF THE QUALITY OF
20 CHILD CARE.—20 percent to establish a health
21 and safety fund through the Child Care and
22 Development Block Grant Act of 1990 (42
23 U.S.C. 658A et seq.), 50 percent of which shall
24 be used to provide incentives to reward States
25 that improve the quality of child care programs

30%?

Another 20%
Also, separation
of quality
into 2 pieces?

= \$1.5

O:\BAI\BAI98.189

S.L.C.

42

1 in the State by adopting the essential compo-
2 nents of the child care program of the armed
3 services or the essential components of other
4 proven child care models. Such components in-
5 clude the provision of training linked to in-
6 creased wages, improved standards and enforce-
7 ment, lower child to staff ratios, higher rates
8 for accredited programs, and consumer edu-
9 cation including resources referral services.

10 (C) PROGRAMS TO PROMOTE HEALTHY BE-
11 = § 1.5 b HAVIOR.—20 percent to the Child Care and De-
12 velopment Block Grant Act of 1990 (42 U.S.C.
13 658A et seq.) to expand the availability and af-
14 fordability of quality before- and after-school
15 care, and summer and weekend activities for
16 school age (through 15 years of age) children,
17 including children with disabilities, to promote
18 good health and academic achievement and to
19 help in avoiding high risk behaviors. Eligible
20 entities for grants under this clause shall in-
21 clude elementary and secondary schools, com-
22 munity-based organizations, child care centers,
23 family child care homes, youth centers, or part-
24 nerships and should be targeted to communities
25 with high rates of poverty or at-risk children.

O:\BAI\BAI98.189

S.L.C.

43

1 (b). SUPPLEMENT NOT SUPPLANT.—Amounts pro-
2 vided to a State under this section shall be used to supple-
3 ment and not supplant other Federal, State and local
4 funds provided for programs that serve the health and de-
5 velopmental needs of children. Amounts provided to the
6 State under any of the provisions of law referred to in
7 this section shall not be reduced solely as a result of the
8 availability of funds under this section.

9 (c) FUNDING.—The Board shall use amounts made
10 available for a fiscal year under section 111(a)(2)(B)(i)
11 to carry out this section in such fiscal year.

12 **SEC. 132. IMPROVING ELEMENTARY EDUCATION.**

13 (a) GRANTS AUTHORIZED.—From amounts made
14 available under section 111(a)(2)(b)(ii) for each fiscal
15 year, the Secretary of Education shall award grants to
16 States to enable the States to train, recruit and hire ele-
17 mentary school teachers for the purpose of reducing the
18 average class size for students in grades 1 through 3 to
19 not less than 15 and not more than 18 students per teach-
20 er.

21 (b) REGULATIONS REQUIRED.—The Secretary of
22 Education, not later than March 1, 1999, shall promulgate
23 regulations implementing the grant program described in
24 subsection (a).

25 (c) STATE PLAN.—

O:\BAI\BAI98.189

S.L.C.

44

1 (1) IN GENERAL.—Each State desiring a grant
2 under this section shall submit to the Secretary of
3 Education a State plan at such time, in such man-
4 ner, and accompanied by such information as the
5 Secretary may require.

6 (2) CONTENTS.—Each State plan shall dem-
7 onstrate to the satisfaction of the Secretary of Edu-
8 cation that—

9 (A) the activities assisted by the State with
10 funds provided under this section will be con-
11 ducted in compliance with the regulations de-
12 scribed in subsection (a); and

13 (B) the State will use the funds provided
14 under this section to reduce class size for stu-
15 dents in grades 1 through 3 in elementary
16 schools throughout the State, focusing on using
17 the funds to train, recruit and hire teachers for
18 elementary schools serving communities with
19 the least resources for training, recruiting and
20 hiring teachers for the grades and the highest
21 student-to-teacher ratios for the grades.

22 (3) APPROVAL.—The Secretary shall approve a
23 State plan submitted under paragraph (1) if the
24 State plan meets the requirements of this sub-
25 section.

O:\BAI\BAI98.189

S.L.C.

45

1 SEC. 133. INCREASED ENROLLMENT OF CHILDREN WITH
2 THE MEDICAID AND STATE CHILDREN'S
3 HEALTH INSURANCE PROGRAMS.

4 (a) TRANSITIONAL INCREASED FEDERAL MATCHING
5 RATE FOR INCREASED MEDICAID ADMINISTRATIVE
6 COSTS.—Section 1931(h) of the Social Security Act (42
7 U.S.C. 1396u-1(h)) is amended—

8 (1) in paragraph (2), by striking “attributable
9 to” and all that follows and inserting “attributable
10 to—

11 “(A) administrative costs of eligibility de-
12 terminations that (but for the enactment of this
13 section) would not be incurred; and

14 “(B) outreach activities to enroll uninsured
15 children in a State plan approved under this
16 title or title XXI.”; and

17 (2) by striking paragraphs (3) and (4) and in-
18 serting the following:

19 “(3) LIMITATION.—

20 “(A) IN GENERAL.—Beginning with fiscal
21 year 1997, the total amount of additional Fed-
22 eral funds that are expended as a result of the
23 application of this subsection shall not exceed
24 \$525,000,000.

25 “(B) AVAILABILITY OF APPROPRIATION.—
26 Any amount appropriated in accordance with

O:\BAI\BAI98.189

S.L.C.

46

1 this paragraph shall remain available until ex-
2 pended.

3 “(C) EQUITABLE DISTRIBUTION OF
4 FUNDS.—In applying this paragraph, the Sec-
5 retary shall ensure the equitable distribution of
6 additional funds among the States.”.

7 (b) MEDICAID PRESUMPTIVE ELIGIBILITY FOR LOW-
8 INCOME CHILDREN.—

9 (1) IN GENERAL.—Section 1920A(b)(3) of the
10 Social Security Act (42 U.S.C. 1396r-1a(b)(3)) is
11 amended—

12 (A) in subparagraph (A)(i)—

13 (i) by striking “or (II)” and inserting
14 “, (II)”;

15 (ii) by inserting “, or (III) is an ele-
16 mentary school or secondary school, as
17 such terms are defined in section 14101 of
18 the Elementary and Secondary Education
19 Act of 1965 (20 U.S.C. 8801), is a child
20 care resource and referral agency, a child
21 support enforcement agency, or is author-
22 ized to determine the eligibility of a child
23 for obtaining child health assistance under
24 title XXI that is in the form of coverage

O:\BAI\BAI98.189

S.L.C.

47

1 that meets the requirements of section
2 2103" before the semicolon; and
3 (B) in subparagraph (C), by striking "lim-
4 iting the classes of" and inserting "imposing
5 limitations on".

6 (2) RETROACTIVITY.—The amendments made
7 by paragraph (1) take effect as if included in the en-
8 actment of section 4912 of the Balanced Budget Act
9 of 1997 (Public Law 105-33; 111 Stat. 571).

10 (c) MEDICAID EXPENDITURES COUNTED AGAINST
11 STATE ALLOTMENTS UNDER TITLE XXI.—

12 (1) IN GENERAL.—Section 2104(d) of the So-
13 cial Security Act (42 U.S.C. 1397dd(d)) is amended
14 to read as follows:

15 “(d) CERTAIN MEDICAID EXPENDITURES COUNTED
16 AGAINST INDIVIDUAL STATE ALLOTMENTS.—The amount
17 of the allotment otherwise provided to a State under sub-
18 section (b) or (c) for a fiscal year shall be reduced by the
19 amount (if any) of the payments made to that State under
20 section 1903(a) for expenditures claimed by the State dur-
21 ing such fiscal year that is attributable to the provision
22 of medical assistance to a child for which payment is made
23 under section 1903(a)(1) on the basis of an enhanced
24 FMAP under the fourth sentence of section 1905(b).”.

O:\BAI\BAI98.189

S.L.C.

48

1 (2) RETROACTIVITY.—The amendment made by
2 paragraph (1) takes effect as if included in the en-
3 actment of section 4901 of the Balanced Budget Act
4 of 1997 (Public Law 105-33; 111 Stat. 552).

5 (d) MEDICAID AND STATE CHILDREN'S HEALTH IN-
6 SURANCE PROGRAM ELIGIBILITY FOR LEGAL IMMIGRANT
7 CHILDREN WHO ENTERED THE UNITED STATES AFTER
8 AUGUST 1996.—

9 (1) EXEMPTION FROM 5-YEAR BAN.—Section
10 403 of the Personal Responsibility and Work Oppor-
11 tunity Reconciliation Act of 1996 (8 U.S.C. 1613),
12 as amended by sections 5302(c)(1)(B) and 5303(c)
13 of the Balanced Budget Act of 1997 (Public Law
14 105-33; 111 Stat. 599, 600), is amended by adding
15 at the end the following:

16 “(e) MEDICAID AND SCHIP BENEFITS FOR CERTAIN
17 CHILDREN.—Notwithstanding any other provision of law,
18 the limitations under section 401(a) and subsection (a)
19 shall not apply to an individual who is under 19 years of
20 age and who lawfully entered the United States after Au-
21 gust 22, 1996, but only with respect to the eligibility of
22 that individual for—

23 “(1) child health assistance under title XXI of
24 the Social Security Act (42 U.S.C. 1397aa et seq.);
25 and

O:\BAI\BAI98.189

S.L.C.

49

1 “(2) medical assistance under title XIX of such
2 Act (42 U.S.C. 1396 et seq.), if the individual is an
3 optional targeted low-income child described in sec-
4 tion 1905(u)(2)(B) of such Act (42 U.S.C.
5 1396d(u)(2)(B)).”.

6 (2) NONAPPLICATION OF STATE AUTHORITY TO
7 DETERMINE ELIGIBILITY FOR MEDICAID.—Section
8 402(b)(2) of the Personal Responsibility and Work
9 Opportunity Reconciliation Act of 1996 (8 U.S.C.
10 1612(b)(2)), as amended by sections 5303(b) and
11 5305(b) of the Balanced Budget Act of 1997 (Public
12 Law 105–33; 111 Stat. 600, 601), is amended—

13 (A) in the matter preceding subparagraph
14 (A), by striking “Qualified” and inserting “Ex-
15 cept as provided in subparagraphs (A), (E),
16 (F), and (G), qualified”; and

17 (B) by adding at the end the following:

18 (G) MEDICAID EXCEPTION FOR CERTAIN
19 CHILDREN.—With respect to eligibility for bene-
20 fits for the program described in section
21 403(e)(2), paragraph (1) shall not apply to any
22 individual described in that section.”.

23 (3) RETROACTIVITY.—The amendments made
24 by paragraphs (1) and (2) take effect as if included

O:\BAI\BAI98.189

S.L.C.

50

1 in the enactment of the Balanced Budget Act of
2 1997 (Public Law 105-33; 111 Stat. 251).

3 (e) ANNUAL PAYMENT FOR REDUCTION IN MEDIC-
4 AID ELIGIBLE BUT UNENROLLED CHILDREN.—Section
5 1903 of the Social Security Act (42 U.S.C. 1396b) is
6 amended by adding at the end the following:

7 “(x) ENHANCEMENT PAYMENT FOR REDUCTION IN
8 ELIGIBLE BUT UNENROLLED CHILDREN.—

9 “(1) ANNUAL LUMP-SUM PAYMENT.—Begin-
10 ning with fiscal year 1999, in addition to the
11 amounts paid to a State under subsection (a), the
12 Secretary shall pay to each State that has an ap-
13 proved plan under this title an amount equal to the
14 enrollment enhancement payment determined under
15 paragraph (2).

16 “(2) ENROLLMENT ENHANCEMENT PAY-
17 MENT.—

18 “(A) FORMULA.—The enrollment enhance-
19 ment payment for a State for a fiscal year is
20 equal to the product of—

21 “(i) the excess baseline enrollment for
22 the State for the fiscal year;

23 “(ii) the average per child expendi-
24 tures by the State under this title for the
25 fiscal year; and

O:\BAI\BAI98.189

S.L.C.

51

1 “(iii) the enhanced FMAP for the
2 State for the fiscal year described in sec-
3 tion 2105(b).

4 “(B) DETERMINATION OF THE EXCESS
5 BASELINE ENROLLMENT.—For purposes of sub-
6 paragraph (A)(i), the excess baseline enrollment
7 for a State for a fiscal year is the difference be-
8 tween (i) the actual number of full year equiva-
9 lent children enrolled with the State plan and
10 (ii) the number of such children which the State
11 estimates would be so enrolled on the basis of
12 the number of such children so enrolled in the
13 preceding fiscal year and expected increases re-
14 sulting from population growth and such other
15 factors as the Secretary determines are appro-
16 priate.

17 “(3) DATA REQUIREMENTS.—Each State shall
18 submit to the Secretary such data, at such time and
19 in such manner, as the Secretary determines is nec-
20 essary to make the payments required under this
21 subsection. The Secretary shall ensure that data is
22 provided under this subsection in a manner that is
23 consistent with other data reporting requirements
24 for information required to be submitted by a State

O:\BAI\BAI98.189

S.L.C.

52

1 under this title and title XXI, and that avoids dupli-
2 cation of reporting requirements.

3 “(4) STATES WITH SIGNIFICANTLY HIGHER IN-
4 CREASED ACTUAL ENROLLMENT THAN THE EX-
5 PECTED NATIONAL AVERAGE INCREASE.—For any
6 fiscal year, if a State's actual full year equivalent
7 children enrollment percentage increase over the pre-
8 ceding fiscal year is at least twice the estimated na-
9 tional average percentage increase in such enroll-
10 ment for that fiscal year, as issued by the Congres-
11 sional Budget Office in January 1998, the State
12 shall submit such additional information as the Sec-
13 retary determines is necessary to verify that the in-
14 crease is the result of the State reducing the number
15 of unenrolled children who are eligible for medical
16 assistance under this title in the State.

17 “(5) TIMING OF PAYMENT; RECONCILIATION.—
18 The Secretary shall make the annual payment re-
19 quired under this subsection for a fiscal year not
20 later than September 30 of that fiscal year and shall
21 reconcile such payments during the subsequent fiscal
22 year. The Secretary may reduce or increase pay-
23 ments made under this subsection as necessary to
24 adjust for any overpayment or underpayment made
25 for any prior fiscal year. A State shall provide the

O:\BAI\BAI98.189

S.L.C.

53

1 Secretary with access to any records or information
2 relating to payments made under this subsection for
3 the purposes of review or audit.

4 “(6) WAIVERS.—The provisions of this sub-
5 section apply to a State providing medical assistance
6 under this title under waiver authority in the same
7 manner as they apply to a State with an approved
8 plan under this title.”.



06:44:57 PM

Record Type: Record

To: Thomas L. Freedman/OPD/EOP, Jerold R. Mande/OSTP/EOP
cc: Jennifer L. Klein/OPD/EOP
Subject: Issues in Conrad tobacco bill

Updated views.

----- Forwarded by Neera Tanden/WHO/EOP on 02/09/98 06:46 PM -----



06:38:58 PM

Record Type: Record

To:
cc:
Subject: Issues in Conrad tobacco bill

----- Forwarded by Neera Tanden/WHO/EOP on 02/09/98 06:24 PM -----



06:04:16 PM

Record Type: Record

To: Jerold R. Mande/OSTP/EOP, Thomas L. Freedman/OPD/EOP
cc: Jennifer L. Klein/OPD/EOP, Nicole R. Rabner/WHO/EOP
Subject: Issues in Conrad tobacco bill

The following are the child care team's comments on the Conrad bill:

1. Conrad uses the Medicaid formula for distribution of the funds, while we use the child allocation formula - these are very different. This is a larger issue, but we don't particularly care for child care.
2. Head Start and Early Head Start should not be paid for out of tobacco funding (which Conrad does and we steered very clear of doing). The argument is that this doesn't make sense since Head Start money goes directly to grantees (not states).
3. We don't spend anything on IDEA (although we don't have a problem with that).
4. The quality set-aside within the Child Care and Development Block Grant (CCDBG) (Section 131(a)(1)(A)) is too high -- we should suggest a 2 to 1 ratio between subsidies and early learning/quality. Also, the language ("including") suggests that states could use the funding for other non-specified uses. But should add additional activities, such as home visitation, and health linkages.

5. Again, the language is "including". This quality money should also be limited to the specified uses.

Clinton wants \$1.50-a-pack cigarette hike

Tobacco deal not a priority for Congress

By Susan Page
and Jessica Lee
USA TODAY

WASHINGTON — The cost of a pack of cigarettes could go up by \$1.50 under a proposal President Clinton will make today aimed at discouraging teenagers from smoking.

In an Oval Office statement that culminates three months of administration review and debate, Clinton will call for stiffer fines that would drive up cigarette prices over 10 years if targets to reduce youth smoking aren't met.

But Clinton's long-awaited comments come as a proposed \$368.5 billion national tobacco settlement seems doomed, at least for now. Republican leaders already have indicated that Congress won't take up the complicated, controversial agreement this year.

Under the settlement announced three months ago by state officials and tobacco company lawyers, the industry would pay \$368.5 billion over 25 years to settle smoking-related lawsuits. USA TODAY has obtained a state-by-state breakdown of the possible payouts (see chart).

On Tuesday, Clinton rejected the idea that the tobacco deal is dead.

"We ought to get this legislation through Congress as quickly as we can," he told reporters. "I would hope that we can



By Joe Marquardt, AP

Armey: Says he wants to see presidential leadership

get all the parties to the lawsuit involved to agree to it, but we have to do it right."

Although Clinton won't propose specific legislation, he promised to offer "clear principles to further this debate."

The tobacco agreement calls for reducing underage smoking by 30% in five years, 50% in seven years and 60% in 10 years. If the targets aren't met, the deal calls for penalties that would raise the price of cigarettes by more than 50 cents a pack. Clinton will call for significantly increasing the fines so that the hike would be \$1.50 per pack.

But House Majority Leader Dick Armey, R-Texas, said he expects more than a speech from Clinton today. "I think, to a large extent, we feel the president should exercise some leadership here," Armey said. "Send us a bill, Bill."

However, Senate Minority Leader Tom Daschle, D-S.D., said that Congress is getting just what it wants: time to de-

Breakdown of payouts

Of the \$368.5 billion to be paid by the tobacco industry over 25 years as part of the proposed national tobacco settlement, the states would receive about \$183 billion. The rest would go to settle private anti-tobacco lawsuits and to the federal government to finance anti-tobacco and health programs. Although the final allocation is up to Congress, state attorneys general have proposed two formulas for dividing up the money. For each \$1 billion paid to the states as a whole, here is what each state would receive (in millions of dollars):

Formula No. 1		Formula No. 2		Formula No. 1		Formula No. 2	
Alaska	2.1	2.2	Alaska	2.1	2.2	Wyo.	1.3
Ark.	7.5	7.8	Ala.	11.2	11.5	Neb.	4.4
Calif.	11.2	11.5	Ariz.	3.1	3.2	Nev.	4.5
Colo.	12.5	12.3	Ark.	7.5	7.8	N.H.	6.1
Conn.	18.3	18.5	Calif.	11.2	11.5	N.J.	33.8
Del.	2.6	2.7	Colo.	12.5	12.3	N.M.	4.4
D.C.	5.5	5.8	Conn.	18.3	18.5	N.Y.	13.7
Fla.	49.9	51.0	Del.	2.6	2.7	N.C.	21.1
Ga.	22.3	22.3	D.C.	5.5	5.8	N.D.	2.3
Hawaii	4.5	4.8	Fla.	49.9	51.0	Ohio	45.7
Idaho	2.3	2.4	Ga.	22.3	22.3	Okla.	9.4
Ill.	42.3	43.4	Hawaii	4.5	4.8	Ore.	10.4
Ind.	17.9	18.2	Idaho	2.3	2.4	Pa.	62.2
Iowa	7.9	8.2	Ill.	42.3	43.4	R.I.	6.6
Kan.	7.6	7.9	Ind.	17.9	18.2	S.C.	10.7
Ky.	16.0	16.1	Iowa	7.9	8.2	S.D.	2.2
La.	20.2	17.8	Kan.	7.6	7.9	Tenn.	22.2
Maine	7.0	6.8	Ky.	16.0	16.1	Texas	51.0
Md.	20.5	21.2	La.	20.2	17.8	Utah	3.1
Mass.	36.7	36.6	Maine	7.0	6.8	Vt.	2.7
Mich.	39.5	40.1	Md.	20.5	21.2	Va.	18.7
Minn.	20.8	21.9	Mass.	36.7	36.6	Wash.	18.9
Miss.	7.9	7.8	Mich.	39.5	40.1	W.Va.	8.1
Mo.	20.7	19.8	Minn.	20.8	21.9	Wis.	18.9
			Miss.	7.9	7.8	Wyo.	1.3

Source: USA TODAY research by Doug Levy

velop legislation. "From virtually every corner of our caucus, the message here is go slow," he said.

California Rep. Henry Waxman, the top Democrat on the Commerce Committee, praised Clinton for "keeping his focus on public health and stopping children from being the targets of the tobacco industry."

Aides say Clinton will speak only broadly about the need to focus on youth smoking and to maintain the Food and Drug Administration's authority to regulate tobacco.

Joining him in the Oval Office will be Health and Human Services Secretary Donna Shalala and domestic policy adviser Bruce Reed, who jointly led

the administration review. Agriculture Secretary Dan Glickman will attend, and Clinton is expected to call for provisions to protect tobacco farmers.

Mississippi Attorney General Michael Moore praised Clinton's stance. "I expect the president will be very supportive of what we have done," he said.

And former FDA Commissioner David Kessler, a leading smoking opponent, said Clinton's endorsement of a big price hike for cigarettes "terrific."

"If you want to reduce the number of young people who smoke," he said, "that's the right way to do it."

Contributing: Doug Levy

USA TODAY • WEDNESDAY, SEPTEMBER 17, 1997

cc: MIKE
CHRIS

+ return

cc: Bruce

Elaine

Here is the

January 13, 1998

MEMORANDUM

TO Jennifer and Nicole
FROM Bobbie
RE Pampers Partnership

John Burbank, assistant brand manager of Pampers and one of the contributors to the Child Care Conference reception, contacted me recently about the possibility of establishing a partnership with the White House. In an effort to help the Administration educate parents on their children's eligibility for federal assistance programs, he proposed a partnership using Pampers' extensive contacts with new and prospective parents to inform them of the availability of programs such as Medicare and HeadStart.

Pampers routinely supplies this country's 17,000 childbirth educators with information packets that are in turn distributed to more than 90% of expectant parents. John offered to produce and include information on federal assistance programs for low income families in every packet. Since information can vary from state to state, Procter and Gamble also offered to establish a 1-800 number for families to access their state specific information. Pampers would cover all costs.

I asked John what they would want in return and he said that they would like their role mentioned in any public announcement or press release. He added that if we prefer, they could make this a joint project with HHS rather than the White House. He also told me that he is working on a similar public education campaign on Sudden Infant Death Syndrome with the VP's office.

Let's meet at the end of this week or the beginning of the next to discuss whether this is something we should pursue -- and to plan next steps.

105TH CONGRESS
2D SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. CONRAD (for himself, Mr. DASCHLE, Mr. LAUTENBERG, Mr. REED, Mr. LEAHY, Mr. DODD, Mr. BINGAMAN, Mr. DURBIN, _____

_____) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To help parents keep their children from starting to use tobacco products, to expose the tobacco industry's past misconduct and to stop the tobacco industry from targeting children, to eliminate or greatly reduce the illegal use of tobacco products by children, to improve the public health by reducing the overall use of tobacco products, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Healthy Kids Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. Definitions.

TITLE I—HEALTHY KIDS TRUST FUND

Subtitle A—General Provisions

- Sec. 101. Establishment of Trust Fund.
- Sec. 102. Liability of tobacco product manufacturers.
- Sec. 103. Licensing of manufacturers.
- Sec. 104. Enforcement.

Subtitle B—Payments

CHAPTER 1—TO STATES

- Sec. 111. Payments to States.

CHAPTER 2—FEDERAL HEALTH PROGRAMS

- Sec. 121. National Institutes of Health Trust Fund for Health Research.

CHAPTER 3—INVESTMENTS FOR CHILDREN

- Sec. 131. Improving child care and early childhood development.
- Sec. 132. Improving elementary education.
- Sec. 133. Increased enrollment of children with the medicaid and State children's health insurance programs.
- Sec. 134. Medicare cancer patient demonstration project; evaluation and report to Congress.

TITLE II—FDA JURISDICTION OVER TOBACCO PRODUCTS

- Sec. 201. Reference.
- Sec. 202. Statement of general authority.
- Sec. 203. Treatment of tobacco products as drugs and devices.
- Sec. 204. Safety and efficacy standard and recall authority.
- Sec. 205. General health and safety regulation of tobacco products.

SUBCHAPTER F—TOBACCO PRODUCTS

- "Sec. 571. Promulgation of regulations.
- "Sec. 572. Scientific Advisory Committee.
- "Sec. 573. Performance standards.
- "Sec. 574. Disclosure and reporting of tobacco and nontobacco ingredients and constituents.
- "Sec. 575. Tobacco product warnings, labeling and packaging.
- "Sec. 576. Preservation of State and local authority.
- "Sec. 577. Restrictions on youth access to tobacco products.
- "Sec. 578. Public disclosure of health research.
- "Sec. 579. Citizen suits.
- "Sec. 580. Agricultural producers.

- "Sec. 581. Authority of Secretary.
- Sec. 206. Repeals.
- Sec. 207. Authority of Federal Trade Commission.

TITLE III—YOUTH SMOKING REDUCTION TARGETS AND INCENTIVES TO REDUCE YOUTH SMOKING RATES

- Sec. 301. Purpose.
- Sec. 302. Child tobacco use surveys.
- Sec. 303. Reduction in underage tobacco product usage.
- Sec. 304. Noncompliance.
- Sec. 305. Miscellaneous provisions.

TITLE IV—TOBACCO TRANSITION ASSISTANCE FUND

- Sec. 401. Tobacco transition assistance fund.

TITLE V—STANDARDS TO REDUCE INVOLUNTARY EXPOSURE TO TOBACCO SMOKE

- Sec. 501. Standards to reduce involuntary exposure to tobacco smoke.

TITLE VI—PUBLIC HEALTH AND OTHER PROGRAMS

Subtitle A—Research Programs

- Sec. 601. Tobacco-related research.
- Sec. 602. Research relating to patterns of smoking.
- Sec. 603. Surveillance and evaluation.

Subtitle B—Education and Prevention Programs

- Sec. 611. Grants for school- and community-based tobacco danger education programs.

Subtitle C—Miscellaneous Programs

- Sec. 621. Counter-advertising programs.
- Sec. 622. National Tobacco Cessation Program.
- Sec. 623. Assistance for those suffering from tobacco-related illnesses.
- Sec. 624. International tobacco control.
- Sec. 625. National Event Sponsorship Program.
- Sec. 626. Programs to reduce alcohol and illicit drug use by minors.

TITLE VII—LIABILITY PROTECTION; CONSENT DECREES; NATIONAL PROTOCOL

Subtitle A—Liability Protection and Attorney Fees

- Sec. 701. Dismissal of and limitations on civil actions.
- Sec. 702. Attorney's fees and expenses.

Subtitle B—Consent Decrees

- Sec. 711. Consent decrees.
- Sec. 712. Non-participating manufacturers.

Subtitle C—National Tobacco Control Protocol

CHAPTER 1—ESTABLISHMENT

Sec. 721. National Tobacco Control Protocol.

CHAPTER 2—TERMS AND CONDITIONS

Sec. 725. Application of chapter.

Sec. 726. Agreement to prohibit certain advertising.

Sec. 727. Consensual restrictions.

Sec. 728. Agreement on format and content requirements for labeling and advertising.

Sec. 729. Agreement to ban on nontobacco items and services, contests and games of chance, and sponsorship of events.

CHAPTER 3—ENFORCEMENT

Sec. 731. Federal enforcement of the protocol.

Sec. 732. State enforcement of the protocol.

Sec. 733. Private enforcement of protocol.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Prohibition on use of funds to facilitate the exportation or promotion of tobacco.

Sec. 802. Whistleblower protections.

Sec. 803. Prohibitions relating to tobacco products and children.

Sec. 804. Preservation of State and local authority.

Sec. 805. Severability.

TITLE IX—PROVISIONS RELATING TO NATIVE AMERICANS

Sec. 901. Provisions relating to Native Americans.

1 SEC. 2. FINDINGS.

2 Congress makes the following findings:

3 (1) Approximately 3,000 minors begin smoking
4 each day. 1,000 of these minors will die prematurely
5 from a tobacco-related illness or condition.

6 (2) The tobacco industry has targeted tobacco
7 product marketing and promotional efforts toward
8 minors as a source of replacement smokers. The in-
9 dustry has also targeted minorities.

10 (3) Approximately 90 percent of smokers start
11 by the time they are 18 years old. Half of all smok-
12 ers start by age 14.

1 (4) Although most minors plan to quit smoking
2 after experimenting, the vast majority find that they
3 have become addicted and cannot quit.

4 (5) Seventy percent of adult smokers would like
5 to quit smoking, but the tobacco industry has ma-
6 nipulated the level of nicotine in tobacco products
7 and added ingredients to enhance the addictive ef-
8 fects of nicotine to ensure that users of these prod-
9 ucts remain addicted.

10 (6) Tobacco products cause cancer, heart dis-
11 ease, emphysema, and other fatal illnesses. More
12 than 400,000 Americans die each year of these to-
13 bacco-related illnesses and conditions.

14 (7) Tobacco-related illnesses, medical conditions
15 resulting from tobacco use, and lost wages and pro-
16 ductivity cost the United States in excess of
17 \$100,000,000,000 annually.

18 (8) Federal and State taxpayers spend tens of
19 billions of dollars annually paying for the medicare,
20 medicaid, and other Federal and State health pro-
21 gram costs arising from tobacco-related illnesses and
22 conditions.

23 (9) The tobacco industry has systematically in-
24 voked and abused the attorney-client privilege to
25 hide its attempts to mislead the American public

1 about the health risks associated with tobacco use,
2 its manipulation of nicotine levels, and its efforts to
3 lure underage users and minorities to its products.

4 (10) Nicotine is an addictive drug. The market-
5 place for tobacco products is largely based on addic-
6 tion.

7 (11) Worldwide, smoking kills 3,000,000 people
8 each year. If current smoking patterns continue, to-
9 bacco use will kill 10,000,000 people a year by 2025.

10 (12) Environmental tobacco smoke is respon-
11 sible for 3,000 lung cancer deaths annually in Amer-
12 ican nonsmokers. Environmental tobacco smoke also
13 harms children's health.

14 (13) In 1995, the tobacco industry spent close
15 to \$4,900,000,000 to attract new users, retain cur-
16 rent users, increase current consumption, and gen-
17 erate favorable long-term attitudes toward smoking
18 and tobacco use.

19 (14) Tobacco product advertising misleadingly
20 portrays the use of tobacco as socially acceptable
21 and healthful.

22 (15) Tobacco product advertising is regularly
23 seen by persons under the age of 18, and persons
24 under the age of 18 are regularly exposed to tobacco
25 product promotional efforts.

1 (16) Through advertisements during and spon-
2 sorship of sporting events, tobacco has become
3 strongly associated with sports and has become por-
4 trayed as an integral part of sports and the healthy
5 lifestyle associated with rigorous sporting activity.

6 (17) Children are exposed to substantial and
7 unavoidable tobacco advertising, that leads to favor-
8 able beliefs about tobacco use, plays a role in leading
9 young people to overestimate the prevalence of to-
10 bacco use, and increases the number of young people
11 who begin to use tobacco.

12 (18) Tobacco advertising increases the size of
13 the tobacco market by increasing consumption of to-
14 bacco products including increasing tobacco sales to
15 young people.

16 (19) Children are more influenced by tobacco
17 advertising than adults, they smoke the most adver-
18 tised brands, and children as young as 3 to 6 can
19 recognize a character associated with smoking at the
20 same rate that they recognize cartoons and fast food
21 characters.

22 (20) Tobacco company documents indicate that
23 young people are an important and often crucial seg-
24 ment of the tobacco market.

1 (21) Comprehensive advertising restrictions will
2 have a positive effect on the smoking rates of young
3 people, as evidenced by the experience in Norway,
4 Finland, and other countries.

5 (22) Restrictions on advertising are necessary
6 to prevent unrestricted tobacco advertising from un-
7 dermining legislation prohibiting access to young
8 people and providing for education about tobacco
9 use.

10 (23) International experience shows that adver-
11 tising regulations that are stringent and comprehen-
12 sive have a greater impact on overall tobacco use
13 and young people's use than weaker or less com-
14 prehensive ones. Text only requirements, while not
15 as stringent as a ban, will accomplish this purpose
16 while preserving the informational function of adver-
17 tising.

18 **SEC. 3. PURPOSES.**

19 The purposes of this Act are—

20 (1) to help American families dramatically re-
21 duce the number of children illegally using tobacco
22 products by—

23 (A) increasing the price of cigarettes by at
24 least \$1.50 per pack in order to discourage
25 youth purchases;

1 (B) implementing prevention, education,
2 cessation, and counter-advertising programs;

3 (C) restricting advertisements designed to
4 encourage kids to use tobacco products;

5 (D) imposing penalties on manufacturers
6 for failing to reach youth smoking rate reduc-
7 tion targets;

8 (E) requiring retailers to comply with laws
9 forbidding sales to minors; and

10 (F) giving the Food and Drug Administra-
11 tion the authority to keep tobacco products out
12 of the hands of minors;

13 (2) to compensate taxpayers for their costs at-
14 tributable to tobacco-related illnesses by reimbursing
15 the medicaid and medicare programs and resolving
16 the legal claims of Federal, State and local govern-
17 ments for those costs that resulted from past mis-
18 conduct by the tobacco industry;

19 (3) to improve the public health by reducing the
20 number of adult users of tobacco products through
21 approved cessation programs and limiting public ex-
22 posure to environmental tobacco smoke;

23 (4) to provide assistance to tobacco farmers, to-
24 bacco factory workers, and rural communities;

1 (5) to make tobacco industry documents regard-
2 ing the health effects of tobacco, addiction, and the
3 agricultural production, manufacturing, distribution,
4 and marketing of tobacco products to youths avail-
5 able to the public; and

6 (6) to enhance global anti-tobacco efforts.

7 **SEC. 4. DEFINITIONS.**

8 In this Act:

9 (1) BRAND.—The term “brand” means a vari-
10 ety of a tobacco product distinguished by the tobacco
11 used, tar content, nicotine content, flavoring used,
12 size, filtration, or packaging.

13 (2) CIGAR.—The term “cigar” means any roll
14 of tobacco wrapped in leaf tobacco or in any sub-
15 stance containing tobacco (other than any roll of to-
16 bacco which is a cigarette or cigarillo within the
17 meaning of paragraph (3) or (4)).

18 (3) CIGARETTE.—The term “cigarette”
19 means—

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

22 (B) any roll of tobacco wrapped in any
23 substance containing tobacco which, because of
24 its appearance, the type of tobacco used in the
25 filler, or its packaging and labeling, is likely to

1 be offered to, or purchased by, consumers as a
2 cigarette described in subparagraph (A).

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

9 (5) CIGARETTE TOBACCO.—The term “cigarette
10 tobacco” means any product that consists of loose
11 tobacco and is intended for use by persons in a ciga-
12 rette. Unless otherwise stated, the requirements of
13 this Act pertaining to cigarettes shall also apply to
14 cigarette tobacco.

15 (6) DISTRIBUTOR.—The term “distributor”
16 means any person who furthers the distribution of
17 tobacco products, whether domestic or imported, at
18 any point from the original place of manufacture to
19 the person who sells or distributes the product to in-
20 dividuals for personal consumption. Such term shall
21 not include common carriers.

22 (7) LITTLE CIGAR.—The term “little cigar”
23 means any roll of tobacco wrapped in leaf tobacco or
24 any substance containing tobacco (other than any
25 roll of tobacco which is a cigarette within the mean-

1 ing of subsection (1)) and as to which 1,000 units
2 weigh not more than 3 pounds.

3 (8) MANUFACTURER.—The term “manufac-
4 turer” means any person, including any repacker or
5 relabeler, who manufactures, fabricates, assembles,
6 processes, or labels a finished tobacco product.

7 (9) PACKAGE.—The term “package” means a
8 pack, box, carton, or container of any kind in which
9 tobacco products are offered for sale, sold, or other-
10 wise distributed to consumers.

11 (10) PERSON.—The term “person” means an
12 individual, partnership, corporation, parent corpora-
13 tion, or any other business or legal entity or succes-
14 sor in interest of any such person.

15 (11) PIPE TOBACCO.—The term “pipe tobacco”
16 means any loose tobacco that, because of its appear-
17 ance, type, packaging, or labeling, is likely to be of-
18 fered to, or purchased by, consumers as a tobacco
19 product to be smoked in a pipe.

20 (12) POINT OF SALE.—The term “point of
21 sale” means any location at which an individual can
22 purchase or otherwise obtain tobacco products for
23 personal consumption.

24 (13) RETAILER.—The term “retailer” means
25 any person who sells tobacco products to individuals

1 for personal consumption, or who operates a facility
2 where vending machines or self-service displays are
3 permitted under this Act.

4 (14) ROLL-YOUR-OWN TOBACCO.—The term
5 “roll-your-own tobacco” means any tobacco which,
6 because of its appearance, type, packaging, or label-
7 ing, is suitable for use and likely to be offered to,
8 or purchased by, consumers as tobacco for making
9 cigarettes.

10 (15) SALE.—The term “sale” includes the sell-
11 ing, providing samples of, or otherwise making to-
12 bacco products available for personal consumption in
13 any place within the scope of this Act.

14 (16) SECRETARY.—Except as provided in title
15 IV, the term “Secretary” means the Secretary of
16 Health and Human Services.

17 (17) SMOKELESS TOBACCO.—The term “smoke-
18 less tobacco” means any product that consists of
19 cut, ground, powdered, or leaf tobacco that is in-
20 tended to be placed in the oral or nasal cavity.

21 (18) STATE.—The term “State” includes the
22 several States, the District of Columbia, the Com-
23 monwealth of Puerto Rico, Guam, the Virgin Is-
24 lands, American Samoa, the Northern Mariana Is-
25 lands, and any other territory or possession of the

1 United States. Such term includes any political divi-
2 sion of any State.

3 (19) TOBACCO.—The term “tobacco” means to-
4 bacco in its unmanufactured form.

5 (20) TOBACCO PRODUCT.—The term “tobacco
6 product” means any product made of or derived
7 from tobacco leaf for human consumption, including,
8 but not limited to, cigarettes, cigarillos, cigarette to-
9 bacco, cigars, little cigars, pipe tobacco, and smoke-
10 less tobacco, and roll-your-own tobacco.

11 (21) TRUST FUND.—Except as provided in sec-
12 tion 121 and title IV, the term “Trust Fund” means
13 the Health Enhancement and Lowered Tobacco
14 Hazards for Young Kids Trust Fund established
15 under section 101.

16 **TITLE I—HEALTHY KIDS TRUST** 17 **FUND**

18 **Subtitle A—General Provisions**

19 **SEC. 101. ESTABLISHMENT OF TRUST FUND.**

20 **(a) CREATION.—**

21 (1) IN GENERAL.—There is established in the
22 Treasury of the United States a trust fund to be
23 known as the “Health Enhancement and Lowered
24 Tobacco Hazards for Young Kids Trust Fund” (re-
25 ferred to as the “HEALTHY Kids Trust Fund”),

1 consisting of such amounts as may be appropriated
2 or credited to the Trust Fund.

3 (2) TRUSTEES.—The trustees of the Trust
4 Fund shall be the Secretary of the Treasury and the
5 Secretary of Health and Human Services.

6 (b) TRANSFERS.—There are hereby appropriated and
7 transferred to the Trust Fund an amount equal to 75 per-
8 cent of the—

9 (1) amounts received under the assessment
10 made under section 102;

11 (2) amounts paid as fines or penalties, includ-
12 ing interest thereon, under section 103; and

13 (3) amounts repaid or recovered under title III,
14 including interest thereon.

15 (c) REPAYABLE ADVANCES.—

16 (1) AUTHORIZATION.—There are authorized to
17 be appropriated to the Trust Fund, as repayable ad-
18 vances, such sums as may from time to time be nec-
19 essary to make the expenditures described in sub-
20 section (d).

21 (2) REPAYMENT WITH INTEREST.—Repayable
22 advances made to the Trust Fund shall be repaid,
23 and interest on such advances shall be paid, to the
24 general fund of the Treasury when the Secretary of

1 the Treasury determined that moneys are available
2 in the Trust Fund for such purposes.

3 (3) RATE OF INTEREST.—Interest on advances
4 made pursuant to this subsection shall be at a rate
5 determined by the Secretary of the Treasury (as of
6 the close of the calendar month proceeding the
7 month in which the advance is made) to be equal to
8 the current average market yield on outstanding
9 marketable obligations of the United States with re-
10 maining period to maturity comparable to the antici-
11 pated period during which the advance will be out-
12 standing.

13 (d) EXPENDITURES FROM TRUST FUND.—Amounts
14 in the Trust Fund shall be made available in each fiscal
15 year, without further appropriation as follows:

16 (1) 14.5 percent of such amounts shall be made
17 available for payments to States as provided for
18 under section 111.

19 (2) 17 percent of such amounts shall be made
20 available for grants to the States for child care and
21 early childhood development as provided for in sec-
22 tion 131.

23 (3) 6 percent of such amounts shall be made
24 available for grants to States for education as pro-
25 vided for in section 132.

1 (4) 4 percent of such amounts shall be made
2 available to carry out the outreach and increased en-
3 rollment provisions under the amendments made by
4 section 133 to the medicaid program under title XIX
5 of the Social Security Act (42 U.S.C. 1396 et seq.)
6 and the children's health insurance program under
7 title XXI of such Act (42 U.S.C. 1397aa et seq.).

8 (5) 15.5 percent of such amounts shall be made
9 available for public health programs, of which—

10 (A) \$300,000,000 shall be made available
11 to the Secretary to carry out chapter IX of the
12 Food Drug and Cosmetic Act (as added by sec-
13 tion 204);

14 (B) \$200,000,000 shall be made available
15 to the Indian Health Service to be used as pro-
16 vided for in title IX; and

17 (C) the remainder shall be made available
18 for public health programs as provided for in
19 title VI.

20 (6) 21 percent of such amounts shall be made
21 available to the National Institutes of Health Trust
22 Fund for Health Research for the conduct of re-
23 search through the National Institutes of Health as
24 provided for in section 121.

1 (7) For agricultural programs as provided for
2 in title IV—

3 (A) 12 percent of such amounts shall be
4 made available to the Tobacco Community Re-
5 vitalization Trust Fund for each of the first 10
6 fiscal years after the date of enactment of this
7 Act;

8 (B) 4 percent of such amounts shall be
9 made available to the Tobacco Community Re-
10 vitalization Trust Fund for each of the 11th
11 through 15th fiscal years after the date of en-
12 actment of this Act; and

13 (C) 2 percent of such amounts shall be
14 made available to the Tobacco Community Re-
15 vitalization Trust Fund for each of the 16th
16 through 25th fiscal years after the date of en-
17 actment of this Act.

18 (8) For the Hospital Insurance Trust Fund—

19 (A) 4 percent of such amounts shall be
20 made available to such Trust Fund for each of
21 the first 10 fiscal years after the date of enact-
22 ment of this Act, of which \$250,000,000 shall
23 be made available to carry out section 134 in
24 each of the 3 fiscal years described in such sec-
25 tion;

1 (B) 8 percent of such amounts shall be
2 made available to such Trust Fund for each of
3 the 11th through 15th fiscal years after the
4 date of enactment of this Act;

5 (C) 9 percent of such amounts shall be
6 made available to such Trust Fund for each of
7 the 16th through 25th fiscal years after the
8 date of enactment of this Act; and

9 (D) 10 percent of such amounts shall be
10 made available to such Trust Fund for each
11 subsequent fiscal year.

12 (9) For reducing the public debt—

13 (A) 6 percent of such amounts shall be
14 made available for such reduction in each of the
15 first 10 fiscal years after the date of enactment
16 of this Act;

17 (B) 10 percent of such amounts shall be
18 made available for such reduction in each of the
19 11th through 15th fiscal years after the date of
20 enactment of this Act;

21 (C) 11 percent of such amounts shall be
22 made available for such reduction in each of the
23 16th through 25th fiscal years after the date of
24 enactment of this Act; and

1 (D) 12 percent of such amounts shall be
2 made available for such reduction in each sub-
3 sequent fiscal year.

4 (e) BUDGETARY TREATMENT AND DEFINITION.—

5 (1) TREATMENT.—The Office of Management
6 and Budget shall not include any amounts made
7 available under paragraphs (8) and (9) of subsection
8 (d) in the estimates and reports required by sections
9 252(b) and (254) of the Balanced Budget and
10 Emergency Deficit Control Act of 1985 and the
11 Congressional Budget Act of 1974.

12 (2) DEFINITION.—In subsection (d)(9), the
13 term “public debt” means any obligation of the Fed-
14 eral Government included in the gross public debt.

15 **SEC. 102. LIABILITY OF TOBACCO PRODUCT MANUFACTUR-**
16 **ERS.**

17 (a) PAYMENTS.—

18 (1) INITIAL PAYMENT.—Not later than 90 days
19 after the date of enactment of this Act, each manu-
20 facturer shall pay to the Trust Fund an amount
21 that bears the same ratio to \$15,000,000,000 as the
22 average stock market capitalization of the tobacco
23 manufacturer (as defined in paragraph (3)) bears to
24 the average stock market capitalization of all to-
25 bacco manufacturers for 1996.

1 (2) ANNUAL ASSESSMENTS AND COLLECTION.—

2 For each calendar year beginning with the first full
3 calendar year following the year in which this Act is
4 enacted, the Secretary shall assess each manufac-
5 turer an amount determined under subsection (b).
6 Such assessments shall be collected in a manner
7 similar to the manner in which excise taxes are col-
8 lected under chapter 52 of the Internal Revenue
9 Code of 1986.

10 (3) AVERAGE STOCK MARKET CAPITALIZA-
11 TION.—For purposes of this subsection, the average
12 stock market capitalization of a manufacturer for a
13 year shall be determined by the Secretary of the
14 Treasury based on data submitted by manufacturers
15 and other appropriate data. Such determinations
16 shall be made regardless of whether the manufac-
17 turer issues stock.

18 (b) ANNUAL ASSESSMENTS.—The Secretary shall as-
19 sess each manufacturer (in accordance with regulations,
20 relating to the timing and method of payment of assess-
21 ments, to be promulgated by the Secretary of the Treas-
22 ury) an amount in accordance with the following:

23 (1) SMALL CIGARETTES.—With respect to a
24 manufacturer of cigarettes weighing not more than
25 3 pounds per thousand, the assessment shall equal—

1 (A) for cigarettes removed during calendar
2 year 1999, \$25 per thousand;

3 (B) for cigarettes removed during calendar
4 year 2000, \$50 per thousand; and

5 (C) for cigarettes removed during calendar
6 year 2001, \$75 per thousand.

7 (2) LARGE CIGARETTES.—

8 (A) IN GENERAL.—With respect to a man-
9 ufacturer of cigarettes weighing more than 3
10 pounds per thousand, the assessment shall
11 equal—

12 (i) for cigarettes removed during cal-
13 endar year 1999, \$52.50 per thousand;

14 (ii) for cigarettes removed during cal-
15 endar year 2000, \$105 per thousand; and

16 (iii) for cigarettes removed during cal-
17 endar year 2001, \$157.50 per thousand.

18 (B) EXCEPTION.—On cigarettes more than
19 6½ inches in length, at the rate prescribed for
20 cigarettes weighing not more than 3 pounds per
21 thousand, counting each 2¾ inches, or fraction
22 thereof, of the length of each as one cigarette.

23 (3) SMALL CIGARS.—With respect to a manu-
24 facturer of cigars weighing not more than 3 pounds
25 per thousand, the assessment shall equal—

1 (A) for cigars removed during calendar
2 year 1999, \$25 per thousand;

3 (B) for cigars removed during calendar
4 year 2000, \$50 per thousand; and

5 (C) for cigars removed during calendar
6 year 2001, \$75 per thousand.

7 (4) LARGE CIGARS.—With respect to a manu-
8 facturer of cigars weighing more than 3 pounds per
9 thousand, the assessment shall equal—

10 (A) for cigars removed during calendar
11 year 1999, 25 percent of the price for which
12 such cigars are sold but not more than \$500
13 per thousand;

14 (B) for cigars removed during calendar
15 year 2000, 50 percent of the price for which
16 such cigars are sold but not more than \$1,000
17 per thousand; and

18 (C) for cigars removed during calendar
19 year 2001, 75 percent of the price for which
20 such cigars are sold but not more than \$1,500
21 per thousand.

22 (5) SNUFF.—With respect to a manufacturer of
23 snuff (as such term is defined for purposes of chap-
24 ter 52 of the Internal Revenue Code of 1986) the
25 assessment shall equal—

1 (A) for snuff removed during calendar year
2 1999, \$6.67 per pound (and a proportionate as-
3 sessment at the like rate on all fractional parts
4 of a pound);

5 (B) for snuff removed during calendar year
6 2000, \$13.33 per pound (and a proportionate
7 assessment at the like rate on all fractional
8 parts of a pound); and

9 (C) for snuff removed during calendar year
10 2001, \$20 per pound (and a proportionate as-
11 sessment at the like rate on all fractional parts
12 of a pound).

13 (6) CHEWING TOBACCO.—With respect to a
14 manufacturer of chewing tobacco (as such term is
15 defined for purposes of chapter 52 of the Internal
16 Revenue Code of 1986) the assessment shall equal—

17 (A) for chewing tobacco removed during
18 calendar year 1999, \$2.67 per pound (and a
19 proportionate assessment at the like rate on all
20 fractional parts of a pound);

21 (B) for chewing tobacco removed during
22 calendar year 2000, \$5.33 per pound (and a
23 proportionate assessment at the like rate on all
24 fractional parts of a pound); and

1 (C) for chewing tobacco removed during
2 calendar year 2001, \$8 per pound (and a pro-
3 portionate assessment at the like rate on all
4 fractional parts of a pound).

5 (7) PIPE TOBACCO.—With respect to a manu-
6 facturer of pipe tobacco (as such term is defined for
7 purposes of chapter 52 of the Internal Revenue Code
8 of 1986) the assessment shall equal—

9 (A) for pipe tobacco removed during cal-
10 endar year 1999, \$5.33 per pound (and a pro-
11 portionate assessment at the like rate on all
12 fractional parts of a pound);

13 (B) for pipe tobacco removed during cal-
14 endar year 2000, \$10.67 per pound (and a pro-
15 portionate assessment at the like rate on all
16 fractional parts of a pound); and

17 (C) for pipe tobacco removed during cal-
18 endar year 2001, \$16.00 per pound (and a pro-
19 portionate assessment at the like rate on all
20 fractional parts of a pound).

21 (8) ROLL-YOUR-OWN TOBACCO.—With respect
22 to a manufacturer of roll-your-own tobacco the as-
23 sessment shall equal—

24 (A) for roll-your-own tobacco removed dur-
25 ing calendar year 1999, \$5.71 per pound (and

1 a proportionate assessment at the like rate on
2 all fractional parts of a pound);

3 (B) for roll-your-own tobacco removed dur-
4 ing calendar year 2000, \$11.43 per pound (and
5 a proportionate assessment at the like rate on
6 all fractional parts of a pound); and

7 (C) for roll-your-own tobacco removed dur-
8 ing calendar year 2001, \$17.14 per pound (and
9 a proportionate assessment at the like rate on
10 all fractional parts of a pound).

11 (c) INFLATION ADJUSTMENT.—In the case of a cal-
12 endar year after 2001, the dollar amount described in sub-
13 paragraph (C) of paragraphs (1), (2), (3), (4), (5), (6),
14 (7), and (8), and the percentage in subparagraph (C) of
15 paragraph (4), applicable to the preceding calendar year
16 shall be increased by an amount equal to—

17 (1) such dollar amount (or percentage), multi-
18 plied by

19 (2) the greater of—

20 (A) the medical consumer price percentage
21 increase for such calendar year as determined
22 in the same manner as the adjustment is deter-
23 mined under section 1(f)(3) of the Internal
24 Revenue Code of 1986 for such calendar year
25 by substituting “the second preceding calendar

1 year” for “calendar year 1992” in subpara-
2 graph (B) thereof; or

3 (B) 3 percent.

4 (d) ASSESSMENTS APPLICABLE TO FLOOR
5 STOCKS.—

6 (1) IN GENERAL.—Tobacco products manufac-
7 tured in or imported into the United States which
8 are removed before any assessment date, and held
9 on such date for sale by any person, shall be subject
10 to an assessment in an amount equal to the excess
11 of—

12 (A) the assessment which would be im-
13 posed under subsection (b) on the product if the
14 product had been removed on such date, over

15 (B) the prior assessment (if any) imposed
16 under such subsection on such product.

17 (2) LIABILITY FOR ASSESSMENT AND METHOD
18 OF PAYMENT.—

19 (A) LIABILITY FOR ASSESSMENT.—A per-
20 son holding cigarettes on any assessment date,
21 to which any assessment imposed under para-
22 graph (1) applies shall be liable for such assess-
23 ment.

24 (B) METHOD OF PAYMENT.—The assess-
25 ment imposed under paragraph (1) shall be

1 paid in such manner as the Secretary of the
2 Treasury shall prescribe by regulations.

3 (C) TIME FOR PAYMENT.—The assessment
4 imposed under paragraph (1) shall be paid on
5 or before April 1 following any assessment date.

6 (3) ARTICLES IN FOREIGN TRADE ZONES.—
7 Notwithstanding the Act of June 18, 1934 (48 Stat.
8 998, 19 U.S.C. 81a) and any other provision of law,
9 any product which is located in a foreign trade zone
10 on any assessment date, shall be subject to the as-
11 sessment imposed by paragraph (1) if—

12 (A) internal revenue taxes have been deter-
13 mined, or customs duties liquidated, with re-
14 spect to such product before such date; or

15 (B) such article is held on such date under
16 the supervision of a customs officer.

17 (4) ASSESSMENT DATE.—The term “assess-
18 ment date” means January 1.

19 (e) NO TAX BENEFIT.—

20 (1) IN GENERAL.—The initial payment de-
21 scribed in subsection (a)(1) shall not be considered
22 to be an ordinary and necessary expense in carrying
23 on a trade or business for purposes of the Internal
24 Revenue Code of 1986 and shall not be tax deduct-
25 ible.

1 (2) LOOK-BACK PENALTIES.—The payment of
2 penalties under title III shall not be considered to be
3 an ordinary and necessary expense in carrying on a
4 trade or business for purposes of the Internal Reve-
5 nue Code of 1986 and shall not be deductible.

6 (f) EFFECT OF BANKRUPTCY.—Section 507(a)(8) of
7 title 11, United States Code, is amended—

8 (1) in subparagraph (F)(iii), by striking “or” at
9 the end;

10 (2) in subparagraph (G), by striking the period
11 and inserting “; or”; and

12 (3) by adding at the end the following:

13 “(H) a payment, an assessment, or a pen-
14 alty to be paid into the Health Enhancement
15 and Lowered Tobacco Hazards for Young Kids
16 Trust Fund under section 102 (or any other
17 section) of the Healthy Kids Act.”.

18 (g) LIMITATION.—A manufacturer may not utilize
19 any proceeds from liability insurance coverage to make
20 payments or pay assessments under this section.

21 (h) HEALTHY KIDS STAMP.—The Secretary shall
22 promulgate regulations to provide that a Health Kids
23 Stamp be affixed to each package of a tobacco product
24 for which an assessment has been paid under this section.

1 (i) NONAPPLICATION TO CERTAIN MANUFACTUR-
2 ERS.—

3 (1) IN GENERAL.—A manufacturer described in
4 paragraph (2) shall be exempt from the require-
5 ments of this section relating to—

6 (A) the payment of an initial payment
7 under subsection (a)(1); and

8 (B) the payment of that portion of the an-
9 nual assessments under this section that will be
10 provided under paragraphs (1) through (4) of
11 section 101(d) to States with which such manu-
12 facturer has settled tobacco-related civil actions
13 as of the date of enactment of this Act. For any
14 such manufacturer, the Secretary shall deter-
15 mine the percentage of the annual assessment
16 of such manufacturer that would be paid to
17 such States under such section and deduct such
18 amount from the aggregate assessment due.

19 (2) MANUFACTURER.—A manufacturer de-
20 scribed in this section is a manufacturer that has re-
21 solved tobacco-related civil actions with more than
22 25 States prior to January 1, 1998 through judicial
23 consent decrees.

24 (3) LIMITATION.—The provisions of paragraph
25 (1) shall apply only to assessments on cigarettes to

1 the extent that such cigarettes constitute less than
2 3 percent of all cigarettes manufactured and distrib-
3 uted for consumers in any year.

4 **SEC. 103. LICENSING OF MANUFACTURERS.**

5 (a) IN GENERAL.—The Secretary, acting through the
6 Food and Drug Administration, shall establish a tobacco
7 manufacturer licensing program.

8 (b) REQUIREMENT.—A manufacturer or importer
9 shall have in effect a license issued under the program
10 under subsection (a) in order—

11 (1) to be eligible to manufacture and distribute
12 tobacco products in the United States, or, in the
13 case of an importer, to be eligible to import tobacco
14 products; and

15 (2) to be eligible to receive the protections pro-
16 vided under subtitle A of title VII.

17 (c) NONPAYMENT OF ASSESSMENTS.—A manufac-
18 turer or importer shall not be eligible to receive a license
19 under this section if such manufacturer or importer has
20 failed to pay the assessment required under section 102.

21 (d) REVOCATION AND SUSPENSION.—The Secretary
22 shall promulgate regulations to provide for the enforce-
23 ment of the program established under section (a). Such
24 regulations shall provide for the revocation or suspension
25 of a license for nonpayment of required assessments.

1 **SEC. 104. ENFORCEMENT.**

2 (a) IN GENERAL.—The Secretary of the Treasury, in
3 consultation with the Secretary of Health and Human
4 Services, shall enforce the provisions of section 102 with
5 respect to any manufacturer that fails to pay any amount
6 assessed under section 102.

7 (b) AMOUNT OF PENALTY.—The amount of the pen-
8 alty imposed by subsection (a) on any failure with respect
9 to a manufacturer shall be established by the Secretary
10 of the Treasury for each day during the noncompliance
11 period, except that no such penalty shall be less than
12 \$25,000 plus interest.

13 (c) NONCOMPLIANCE PERIOD.—For purposes of this
14 section, the term “noncompliance period” means, with re-
15 spect to any failure to pay an assessment under section
16 102, the period—

17 (1) beginning on the due date for such pay-
18 ment; and

19 (2) ending on the date on which such payment
20 is paid in full.

21 **Subtitle B—Payments**

22 **CHAPTER 1—TO STATES**

23 **SEC. 111. PAYMENTS TO STATES.**

24 (a) AVAILABILITY OF FUNDS.—

1 (1) IN GENERAL.—The amounts made available
2 for a fiscal year under section 101(d)(1) shall be
3 made available to carry out subsections (b) and (d).

4 (2) NO OVERPAYMENT.—With respect to the
5 amount provided to a State under paragraph (1) for
6 a fiscal year, the Secretary shall not treat such
7 amount as an overpayment under any joint Federal-
8 State health program.

9 (3) FISCAL YEAR LIMITATION.—Amounts made
10 available for a fiscal year under subsection (b) shall
11 not exceed the amount available for such fiscal year
12 under section 101(d)(1).

13 (b) REIMBURSEMENT.—

14 (1) IN GENERAL.—The Secretary shall use
15 amounts made available under subsection (a)(1) in
16 each fiscal year to provide funds to each State that
17 is eligible under subsection (c) to reimburse such
18 State for amounts expended by the State under the
19 State program under title XIX of the Social Security
20 Act (42 U.S.C. 1396 et seq.) or any other State
21 health program for the treatment of individuals with
22 tobacco-related illnesses or conditions.

23 (2) AMOUNT.—

24 (A) IN GENERAL.—Except as provided in
25 subparagraph (B), the amount for which a

1 State is eligible under paragraph (1) shall be
2 based on the ratio of the total Federal pay-
3 ments to the State under title XIX of the Social
4 Security Act (42 U.S.C. 1396 et seq.) for the
5 fiscal year involved to the total Federal pay-
6 ments to all States under such title for such fis-
7 cal year.

8 (B) SPECIAL PAYMENT RULE.—In the case
9 of a State that, as of the date of the enactment
10 of this Act, has resolved tobacco-related civil ac-
11 tions through judicial consent decrees with a
12 manufacturer described in section 102(i), the
13 amount determined under subparagraph (A)
14 shall be reduced by an amount equal to the
15 amount by which such manufacturer's payment
16 under section 102(a)(2) is reduced under sec-
17 tion 102(i) as a result of such settlement.

18 (3) ADJUSTMENT.—With respect to a fiscal
19 year in which the amount determined under para-
20 graphs (1) and (2) of subsection (a) exceeds the lim-
21 itation under subsection (a)(3), the Secretary shall
22 make pro rata reductions in the amounts provided to
23 States under this subsection.

24 (4) REALLOTMENT.—The amount for which a
25 State is eligible under this subsection that is not

1 made available to the State as a result of the failure
2 of the State to meet the requirements of subsection
3 (c) shall be made available to other States on a pro
4 rata basis.

5 (5) USE OF FUNDS.—

6 (A) IN GENERAL.—Amounts provided to a
7 State under this subsection shall be used—

8 (i) to reimburse the State for expenses
9 incurred by the State under the State pro-
10 gram under title XIX of the Social Secu-
11 rity Act (42 U.S.C. 1396 et seq.) relating
12 to the treatment of tobacco-related ill-
13 nesses or conditions;

14 (ii) to reimburse the State for other
15 expenses incurred by the State in providing
16 directly, or reimbursing others for the pro-
17 vision of, treatment for tobacco-related ill-
18 nesses or conditions; and

19 (iii) to provide funds to local govern-
20 mental entities as provided for in sub-
21 section (d).

22 (B) LIMITATION.—A State may not use
23 amounts provided under this subsection for pro-
24 grams or projects not approved of by the Sec-
25 retary.

1 (c) ELIGIBILITY.—To be eligible to receive funds
2 under this section a State shall—

3 (1) agree to resolve in accordance with section
4 701 any civil action that has been commenced by the
5 State against a tobacco manufacturer, distributor, or
6 retailer of a tobacco product seeking recovery for ex-
7 penditures attributable to the treatment of tobacco
8 induced illnesses and conditions or other damages;

9 (2) prepare and submit to the Secretary a de-
10 scription of the manner in which the State will com-
11 ply with the requirements of subsection (d) and a
12 certification that all actions described in paragraph
13 (1) have been dismissed; and

14 (3) comply with the provisions of subsection (d)
15 with respect to State and local governments.

16 (d) FUNDS FOR LOCAL GOVERNMENTAL ENTI-
17 TIES.—To be eligible to receive funds under subsection
18 (b), a State shall have adopted procedures to provide an
19 equitable portion of such funds to local governmental enti-
20 ties within the State that can demonstrate that such enti-
21 ties incurred tobacco-related health costs through—

22 (1) contributions to the program under title
23 XIX of the Social Security Act (42 U.S.C. 1396 et
24 seq.);

25 (2) the provision of indigent care;

1 (3) the provision of health care coverage to gov-
2 ernmental employees; or

3 (4) the implementation of tobacco product en-
4 forcement or tobacco product regulatory require-
5 ments in accordance with this Act.

6 **CHAPTER 2—FEDERAL HEALTH**
7 **PROGRAMS**

8 **SEC. 121. NATIONAL INSTITUTES OF HEALTH TRUST FUND**
9 **FOR HEALTH RESEARCH.**

10 (a) CREATION OF TRUST FUND.—There is estab-
11 lished in the Treasury of the United States a trust fund
12 to be known as the “National Institutes of Health Trust
13 Fund for Health Research” (hereafter referred to in this
14 section as the “Trust Fund”), consisting of such amounts
15 as may be appropriated or transferred to the Trust Fund
16 as provided in this section.

17 (b) FUNDING.—There shall be transferred to the
18 Trust Fund an amount equal to the amount made avail-
19 able for a fiscal year under section 101(d)(6) to carry out
20 this section in such fiscal year.

21 (c) OBLIGATIONS FROM TRUST FUND.—

22 (1) IN GENERAL.—Subject to the provisions of
23 paragraph (4), with respect to the amounts made
24 available in the Trust Fund in a fiscal year, the Sec-
25 retary shall distribute during any fiscal year—

1 (A) 2 percent of such amounts to the Of-
2 fice of the Director of the National Institutes of
3 Health to be allocated at the Director's discre-
4 tion—

5 (i) for carrying out the responsibilities
6 of the Office of the Director, including the
7 Office of Research on Women's Health and
8 the Office of Research on Minority Health,
9 the Office of Alternative Medicine, the Of-
10 fice of Rare Disease Research, the Office
11 of Behavioral and Social Sciences Research
12 (for use for efforts to reduce tobacco use),
13 the Office of Dietary Supplements, and the
14 Office for Disease Prevention; and

15 (ii) for construction and acquisition of
16 equipment for or facilities of or used by
17 the National Institutes of Health;

18 (B) 2 percent of such amounts for transfer
19 to the National Center for Research Resources
20 to carry out section 1502 of the National Insti-
21 tutes of Health Revitalization Act of 1993 con-
22 cerning Biomedical and Behavioral Research
23 Facilities;

1 (C) 7.5 percent of such amounts to be used
2 for research into the prevention and cure of
3 cancer;

4 (D) 7.5 percent of such amounts to be
5 used as provided for in section 601;

6 (E) 1 percent of such amounts to be used
7 for prevention research programs at the Centers
8 for Disease Control and Prevention;

9 (F) 1 percent of such amounts to be used
10 for quality and health outcomes research at the
11 Agency for Health Care Policy and Research;
12 and

13 (G) the remainder of such amounts to
14 member institutes and centers, including the
15 Office of AIDS Research, of the National Insti-
16 tutes of Health in the same proportion to such
17 remainder, as the amount of annual appropria-
18 tions under appropriations Acts for each mem-
19 ber institute and center for the fiscal year bears
20 to the total amount of appropriations under ap-
21 propriations Acts for all member institutes and
22 centers of the National Institutes of Health for
23 the fiscal year.

24 (2) PLANS OF ALLOCATION.—The amounts
25 transferred under paragraph (1)(E) shall be allo-

1 cated by the Director of the National Institutes of
2 Health or the various directors of the institutes and
3 centers, as the case may be, pursuant to allocation
4 plans developed by the various advisory councils to
5 such directors, after consultation with such
6 directors.

7 (3) GRANTS AND CONTRACTS FULLY FUNDED
8 IN FIRST YEAR.—With respect to any grant or con-
9 tract funded by amounts distributed under para-
10 graph (1), the full amount of the total obligation of
11 such grant or contract shall be funded in the first
12 year of such grant or contract, and shall remain
13 available until expended.

14 (4) TRIGGER AND RELEASE OF MONIES AND
15 PHASE-IN.—

16 (A) TRIGGER AND RELEASE.—No expendi-
17 ture shall be made under paragraph (1) during
18 any fiscal year in which the annual amount ap-
19 propriated for the National Institutes of Health
20 is less than the amount so appropriated for fis-
21 cal year 1999.

22 (B) PHASE-IN.—The Secretary shall phase
23 in the distributions required under paragraph
24 (1) so that—

1 (i) 25 percent of the amount in the
2 Trust Fund is distributed in the first fiscal
3 year for which funds are available;

4 (ii) 50 percent of the amount in the
5 Trust Fund is distributed in the second
6 fiscal year for which funds are available;

7 (iii) 75 percent of the amount in the
8 Trust Fund is distributed in the third fis-
9 cal year for which funds are available; and

10 (iv) 100 percent of the amount in the
11 Trust Fund is distributed in the fourth
12 and each succeeding fiscal year for which
13 funds are available.

14 (d) BUDGET TREATMENT OF AMOUNTS IN TRUST
15 FUND.—The amounts in the Trust Fund shall be excluded
16 from, and shall not be taken into account, for purposes
17 of any budget enforcement procedure under the Congres-
18 sional Budget Act of 1974 or the Balanced Budget and
19 Emergency Deficit Control Act of 1985.

**CHAPTER 3—INVESTMENTS FOR
CHILDREN**

**SEC. 131. IMPROVING CHILD CARE AND EARLY CHILDHOOD
DEVELOPMENT.**

(a) IN GENERAL.—The Secretary shall use amounts made available under section 101(d)(2) for a fiscal year for the following purposes:

(1) Improving the affordability of child care through increased appropriations for child care under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

(2) Enhancing the quality of child care and early childhood development through the provision of grants to States under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

(3) Expanding the availability and quality of school-age care through the provision of grants to States under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

(4) Assisting young children by providing grants to local collaboratives under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) for the purpose of improving parent education and supportive services, strength-

1 ening the quality of child care, improving health
2 services, and improving services for children with
3 disabilities.

4 (b) SUPPLEMENT NOT SUPPLANT.—Amounts made
5 available to a State under this section shall be used to
6 supplement and not supplant other Federal, State and
7 local funds provided for programs that serve the health
8 and developmental needs of children. Amounts provided
9 to the State under any of the provisions of law referred
10 to in this section shall not be reduced solely as a result
11 of the availability of funds under this section.

12 **SEC. 132. IMPROVING ELEMENTARY EDUCATION.**

13 (a) GRANTS AUTHORIZED.—The Secretary of Edu-
14 cation shall use amounts made available under section
15 101(d)(3) for a fiscal year to award grants to States and
16 local educational agencies to train, recruit and hire ele-
17 mentary school teachers for the purpose of reducing the
18 average class size for students in grades 1 through 3 to
19 not more than 18 students per teacher.

20 (b) REGULATIONS REQUIRED.—The Secretary of
21 Education, not later than March 1, 1999, shall promulgate
22 regulations as the Secretary determines necessary to assist
23 States and school districts in providing smaller class sizes
24 with qualified teachers in early grades. Such regulations
25 may include provisions relating to—

- 1 (1) the use of funds by the State, including the
2 awarding of grants to local educational agencies;
3 (2) teacher preparation and certification; and
4 (3) accountability for improved student achieve-
5 ment.

6 (c) STATE PLAN.—

7 (1) IN GENERAL.—Each State desiring a grant
8 under this section shall submit to the Secretary of
9 Education a State plan at such time, in such man-
10 ner, and accompanied by such information as the
11 Secretary may require.

12 (2) CONTENTS.—Each State plan shall dem-
13 onstrate to the satisfaction of the Secretary of Edu-
14 cation that—

15 (A) the activities assisted by the State with
16 funds made available under this section will be
17 conducted in compliance with any regulations
18 promulgated under subsection (a);

19 (B) the State will use the funds made
20 available under this section to reduce class size
21 for students in grades 1 through 3 in elemen-
22 tary schools throughout the State, focusing on
23 using the funds to train, recruit, and hire
24 teachers for elementary schools serving commu-
25 nities with the least available resources for such

1 activities and the largest class sizes in those
2 grades; and

3 (C) of the funds that are made available to
4 the State under this section, the State will
5 make available to each local educational agency
6 that serves children in grades 1 through 3 and
7 in which at least 30 percent of the children are
8 from families below the Federal poverty level, at
9 least as great a percentage of such funds as the
10 percentage of funds provided to that local edu-
11 cational agency as compared to other local edu-
12 cational agencies in the State under part A of
13 title I of the Elementary and Secondary Edu-
14 cation Act of 1965.

15 (3) APPROVAL.—The Secretary shall approve a
16 State plan submitted under paragraph (1) if the
17 State plan meets the requirements of this sub-
18 section.

19 **SEC. 133. INCREASED ENROLLMENT OF CHILDREN WITH**
20 **THE MEDICAID AND STATE CHILDREN'S**
21 **HEALTH INSURANCE PROGRAMS.**

22 (a) TRANSITIONAL INCREASED FEDERAL MATCHING
23 RATE FOR INCREASED MEDICAID ADMINISTRATIVE
24 COSTS.—Section 1931(h) of the Social Security Act (42
25 U.S.C. 1396u-1(h)) is amended—

1 (1) in paragraph (2), by striking “attributable
2 to” and all that follows and inserting “attributable
3 to—

4 “(A) administrative costs of eligibility de-
5 terminations that (but for the enactment of this
6 section) would not be incurred; and

7 “(B) outreach activities to enroll uninsured
8 children in a State plan approved under this
9 title or title XXI.”; and

10 (2) by striking paragraphs (3) and (4) and in-
11 serting the following:

12 “(3) LIMITATION.—

13 “(A) IN GENERAL.—Beginning with fiscal
14 year 1998, the total amount of additional Fed-
15 eral funds that are expended as a result of the
16 application of this subsection shall not exceed
17 \$525,000,000.

18 “(B) AVAILABILITY OF APPROPRIATION.—
19 Any amount appropriated in accordance with
20 this paragraph shall remain available until ex-
21 pended.

22 “(C) EQUITABLE DISTRIBUTION OF
23 FUNDS.—In applying this paragraph, the Sec-
24 retary shall ensure the equitable distribution of
25 additional funds among the States.”.

1 (b) MEDICAID PRESUMPTIVE ELIGIBILITY FOR LOW-
2 INCOME CHILDREN.—

3 (1) IN GENERAL.—Section 1920A(b)(3) of the
4 Social Security Act (42 U.S.C. 1396r-1a(b)(3)) is
5 amended—

6 (A) in subparagraph (A)(i)—

7 (i) by striking “or (II)” and inserting
8 “, (II)”; and

9 (ii) by inserting “, or (III) is an ele-
10 mentary school or secondary school, as
11 such terms are defined in section 14101 of
12 the Elementary and Secondary Education
13 Act of 1965 (20 U.S.C. 8801), is a child
14 care resource and referral agency, a child
15 support enforcement agency, or is author-
16 ized to determine the eligibility of a child
17 for obtaining child health assistance under
18 title XXI that is in the form of coverage
19 that meets the requirements of section
20 2103” before the semicolon; and

21 (B) in subparagraph (C), by striking “lim-
22 iting the classes of” and inserting “imposing
23 limitations on”.

24 (2) RETROACTIVITY.—The amendments made
25 by paragraph (1) take effect as if included in the en-

1 actment of section 4912 of the Balanced Budget Act
2 of 1997 (Public Law 105-33; 111 Stat. 571).

3 (c) MEDICAID EXPENDITURES COUNTED AGAINST
4 STATE ALLOTMENTS UNDER TITLE XXI.—

5 (1) IN GENERAL.—Section 2104(d) of the So-
6 cial Security Act (42 U.S.C. 1397dd(d)) is amended
7 to read as follows:

8 “(d) CERTAIN MEDICAID EXPENDITURES COUNTED
9 AGAINST INDIVIDUAL STATE ALLOTMENTS.—The amount
10 of the allotment otherwise provided to a State under sub-
11 section (b) or (c) for a fiscal year shall be reduced by the
12 amount (if any) of the payments made to that State under
13 section 1903(a) for expenditures claimed by the State dur-
14 ing such fiscal year that is attributable to the provision
15 of medical assistance to a child for which payment is made
16 under section 1903(a)(1) on the basis of an enhanced
17 FMAP under the fourth sentence of section 1905(b).”.

18 (2) RETROACTIVITY.—The amendment made by
19 paragraph (1) takes effect as if included in the en-
20 actment of section 4901 of the Balanced Budget Act
21 of 1997 (Public Law 105-33; 111 Stat. 552).

22 (d) MEDICAID AND STATE CHILDREN’S HEALTH IN-
23 SURANCE PROGRAM ELIGIBILITY FOR LEGAL IMMIGRANT
24 CHILDREN WHO ENTERED THE UNITED STATES AFTER
25 AUGUST 1996.—

1 (1) EXEMPTION FROM 5-YEAR BAN.—Section
2 403 of the Personal Responsibility and Work Oppor-
3 tunity Reconciliation Act of 1996 (8 U.S.C. 1613),
4 as amended by sections 5302(c)(1)(B) and 5303(c)
5 of the Balanced Budget Act of 1997 (Public Law
6 105–33; 111 Stat. 599, 600), is amended by adding
7 at the end the following:

8 “(e) MEDICAID AND SCHIP BENEFITS FOR CERTAIN
9 CHILDREN.—Notwithstanding any other provision of law,
10 the limitations under section 401(a) and subsection (a)
11 shall not apply to an individual who is under 19 years of
12 age and who lawfully entered the United States after Au-
13 gust 22, 1996, but only with respect to the eligibility of
14 that individual for—

15 “(1) child health assistance under title XXI of
16 the Social Security Act (42 U.S.C. 1397aa et seq.);
17 and

18 “(2) medical assistance under title XIX of such
19 Act (42 U.S.C. 1396 et seq.), if the individual is an
20 optional targeted low-income child described in sec-
21 tion 1905(u)(2)(B) of such Act (42 U.S.C.
22 1396d(u)(2)(B)).”.

23 (2) NONAPPLICATION OF STATE AUTHORITY TO
24 DETERMINE ELIGIBILITY FOR MEDICAID.—Section
25 402(b)(2) of the Personal Responsibility and Work

1 Opportunity Reconciliation Act of 1996 (8 U.S.C.
2 1612(b)(2)), as amended by sections 5303(b) and
3 5305(b) of the Balanced Budget Act of 1997 (Public
4 Law 105-33; 111 Stat. 600, 601), is amended—

5 (A) in the matter preceding subparagraph
6 (A), by striking “Qualified” and inserting “Ex-
7 cept as provided in subparagraphs (A), (E),
8 (F), and (G), qualified”; and

9 (B) by adding at the end the following:

10 “(G) MEDICAID EXCEPTION FOR CERTAIN
11 CHILDREN.—With respect to eligibility for bene-
12 fits for the program described in section
13 403(e)(2), paragraph (1) shall not apply to any
14 individual described in that section.”.

15 (3) RETROACTIVITY.—The amendments made
16 by paragraphs (1) and (2) take effect as if included
17 in the enactment of the Balanced Budget Act of
18 1997 (Public Law 105-33; 111 Stat. 251).

19 (e) ANNUAL PERFORMANCE BONUS FOR REDUCTION
20 IN MEDICAID ELIGIBLE BUT UNENROLLED CHILDREN.—

21 Section 1903 of the Social Security Act (42 U.S.C. 1396b)
22 is amended by adding at the end the following:

23 “(x) PERFORMANCE BONUS FOR REDUCTION IN ELI-
24 GIBLE BUT UNENROLLED CHILDREN.—

1 “(1) PERFORMANCE BONUS.—Beginning with
2 fiscal year 1999, in addition to the amounts paid to
3 a State under subsection (a), the Secretary shall pay
4 to each State that has an approved plan under this
5 title an amount equal to the performance bonus de-
6 termined under paragraph (2).

7 “(2) PERFORMANCE BONUS.—

8 “(A) FORMULA.—The performance bonus
9 for a State for a fiscal year is equal to the
10 product of—

11 “(i) the excess baseline enrollment for
12 the State for the fiscal year;

13 “(ii) the average per child expendi-
14 tures by the State under this title for the
15 fiscal year; and

16 “(iii) the enhanced FMAP for the
17 State for the fiscal year described in sec-
18 tion 2105(b).

19 “(B) DETERMINATION OF THE EXCESS
20 BASELINE ENROLLMENT.—

21 “(i) IN GENERAL.—For purposes of
22 subparagraph (A)(i), the excess baseline
23 enrollment for a State for a fiscal year is
24 the difference between (I) the actual num-
25 ber of full year equivalent children enrolled

1 under the State plan and (II) the baseline
2 number of full year equivalent children
3 that would be enrolled under the State
4 plan in the absence of the performance
5 bonus outreach efforts of the State.

6 “(ii) DETERMINATION OF THE BASE-
7 LINE NUMBER OF FULL YEAR EQUIVALENT
8 CHILDREN.—For purposes of clause (i)(II),
9 the baseline number of full year equivalent
10 children that would be enrolled under the
11 State plan in the absence of the perform-
12 ance bonus outreach efforts of the State
13 is—

14 “(I) in the case of fiscal year
15 1999, the actual number of full year
16 equivalent children enrolled under the
17 State plan in fiscal year 1998, in-
18 creased by the national percentage in-
19 crease for fiscal year 1999 in the
20 number of full year equivalent chil-
21 dren enrolled in all State plans under
22 this title, as projected by the Congres-
23 sional Budget Office in January 1998;
24 and

1 “(II) in the case of any succeed-
2 ing fiscal year, the baseline number of
3 full year equivalent children that
4 would be enrolled under the State
5 plan in the absence of the perform-
6 ance bonus outreach efforts of the
7 State determined for the preceding
8 fiscal year, increased by the national
9 percentage increase for that succeed-
10 ing fiscal year in the number of full
11 year equivalent children enrolled in all
12 State plans under this title, as pro-
13 jected by the Congressional Budget
14 Office in January 1998.

15 “(C) DETERMINATION OF AVERAGE PER
16 CHILD EXPENDITURES.—For purposes of sub-
17 paragraph (A)(ii), the average per child expend-
18 itures by a State under this title for a fiscal
19 year is—

20 “(i) the total amount paid to the
21 State under subsection (a)(1) that is at-
22 tributable to medical assistance provided to
23 children under the State plan; divided by

1 “(ii) the actual number of full year
2 equivalent children enrolled under the
3 State plan in that fiscal year.

4 “(3) DATA REQUIREMENTS.—Each State shall
5 submit to the Secretary such data, at such time and
6 in such manner, as the Secretary determines is nec-
7 essary to make the payments required under this
8 subsection. The Secretary shall ensure that data is
9 provided under this subsection in a manner that is
10 consistent with other data reporting requirements
11 for information required to be submitted by a State
12 under this title and title XXI, and that avoids dupli-
13 cation of reporting requirements.

14 “(4) STATES WITH SIGNIFICANTLY HIGHER IN-
15 CREASED ACTUAL ENROLLMENT THAN THE EX-
16 PECTED NATIONAL INCREASE.—For any fiscal year,
17 if a State’s actual full year equivalent children en-
18 rollment percentage increase over the preceding fis-
19 cal year is at least twice the estimated national per-
20 centage increase in such enrollment for that fiscal
21 year, as projected by the Congressional Budget Of-
22 fice in January 1998, the State shall submit such
23 additional information as the Secretary determines
24 is necessary to verify that the increase is the result
25 of the State reducing the number of unenrolled chil-

1 dren who are eligible for medical assistance under
2 this title in the State.

3 “(5) TIMING OF PERFORMANCE BONUS PAY-
4 MENTS; RECONCILIATION.—The Secretary shall pay
5 the performance bonuses required under this sub-
6 section for a fiscal year not later than September 30
7 of the succeeding fiscal year based on reporting data
8 that reflects each State’s actual number of full year
9 equivalent children enrolled under the State plan
10 and average per child expenditures. A State shall
11 provide the Secretary with access to any records or
12 information relevant to the payment of a perform-
13 ance bonus under this subsection for the purposes of
14 review or audit.

15 “(6) WAIVERS.—The provisions of this sub-
16 section apply to a State providing medical assistance
17 under this title under waiver authority in the same
18 manner as they apply to a State with an approved
19 plan under this title.”.

20 **SEC. 134. MEDICARE CANCER PATIENT DEMONSTRATION**
21 **PROJECT; EVALUATION AND REPORT TO**
22 **CONGRESS.**

23 (a) ESTABLISHMENT.—The Secretary shall establish
24 a 3-year demonstration project which provides for pay-
25 ment under the medicare program under title XVIII of

1 the Social Security Act (42 U.S.C. 1395 et seq.) of routine
2 patient care costs—

3 (1) which are provided to an individual diag-
4 nosed with cancer and enrolled in the medicare pro-
5 gram under such title as part of the individual's par-
6 ticipation in an approved clinical trial program; and

7 (2) which are not otherwise eligible for payment
8 under such title for individuals who are entitled to
9 benefits under such title.

10 (b) APPLICATION.—The beneficiary cost sharing pro-
11 visions under the medicare program, such as deductibles,
12 coinsurance, and copayment amounts, shall apply to any
13 individual participating in a demonstration project con-
14 ducted under this section.

15 (c) APPROVED CLINICAL TRIAL PROGRAM.—For
16 purposes of this section, the term “approved clinical trial
17 program” means a clinical trial program which is ap-
18 proved by—

19 (1) the National Institutes of Health;

20 (2) a National Institutes of Health cooperative
21 group or a National Institutes of Health center;

22 (3) the Food and Drug Administration (in the
23 form of an investigational new drug or device exemp-
24 tion);

25 (4) the Department of Veterans Affairs;

1 (5) the Department of Defense; or

2 (6) a qualified nongovernmental research entity
3 identified in the guidelines issued by the National
4 Institutes of Health for center support grants.

5 (d) ROUTINE PATIENT CARE COSTS.—

6 (1) IN GENERAL.—For purposes of this section,
7 “routine patient care costs” shall include the costs
8 associated with the provision of items and services
9 that—

10 (A) would otherwise be covered under the
11 medicare program if such items and services
12 were not provided in connection with an ap-
13 proved clinical trial program; and

14 (B) are furnished according to the design
15 of an approved clinical trial program.

16 (2) EXCLUSION.—For purposes of this section,
17 “routine patient care costs” shall not include the
18 costs associated with the provision of—

19 (A) an investigational drug or device, un-
20 less the Secretary has authorized the manufac-
21 turer of such drug or device to charge for such
22 drug or device; or

23 (B) any item or service supplied without
24 charge by the sponsor of the approved clinical
25 trial program.

1 (e) STUDY.—The Secretary shall study the impact on
2 the medicare program under title XVIII of the Social Se-
3 curity Act of covering routine patient care costs for indi-
4 viduals with a diagnosis of cancer and other diagnoses,
5 who are entitled to benefits under such title and who are
6 enrolled in an approved clinical trial program.

7 (f) REPORT TO CONGRESS.—Not later than 30
8 months after the date of enactment of this Act, the Sec-
9 retary shall submit a report to Congress that contains a
10 detailed description of the results of the study conducted
11 under subsection (e) including recommendations regarding
12 the extension and expansion of the demonstration project
13 conducted under this section.

14 (g) FUNDING.—The shall use amounts made avail-
15 able under section 101(d)(8)(A) for a fiscal year to carry
16 out this section.