CONRAD

(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 Congressional 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 DEVELOPMENT.

(a) CHILD DEVELOPMENT PROJECTS.—

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

child care = $7.6 B v. $11.4

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

10% = $.8

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

Too much to HS and Early HS here. Shldn't take out from mandatory

20% = $1.5 v. $7.5

(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-

Not sure what this means.

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

(iii) 25 percent to expand the Head Start program under the Head Start Act (42 U.S.C. 9801) to increase enrollment and responsiveness of such program.

= $1.9 v. $3.8

(iv) 5 percent to early childhood development programs under part C and section 619 of the Individuals with Disabilities Education Act.

= $.4 v. 0
(OMB says $.1)

Not less than 30 percent of amounts made available under clause (ii) shall be set-aside for innovative programs for babies and toddlers, including the development of family child care networks, start-up for infant care programs, the training of providers, or the provision of parent education and support.

30%?

30% of 20% ($1.5) =

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

Another 20%
Also, separation of quality into 2 pieces?
= $1.5

in the State by adopting the essential components of the child care program of the armed services or the essential components of other proven child care models. Such components include the provision of training linked to increased wages, improved standards and enforcement, lower child to staff ratios, higher rates for accredited programs, and consumer education including resources referral services.

(C) PROGRAMS TO PROMOTE HEALTHY BEHAVIOR.—20 percent to the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 658A et seq.) to expand the availability and affordability of quality before- and after-school care, and summer and weekend activities for school age (through 15 years of age) children, including children with disabilities, to promote good health and academic achievement and to help in avoiding high risk behaviors. Eligible entities for grants under this clause shall include elementary and secondary schools, community-based organizations, child care centers, family child care homes, youth centers, or partnerships and should be targeted to communities with high rates of poverty or at-risk children.

= $1.5B

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

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

SEC. 132. IMPROVING ELEMENTARY EDUCATION.

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

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

(c) STATE PLAN.—

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

(2) CONTENTS.—Each State plan shall demonstrate to the satisfaction of the Secretary of Education that—

(A) the activities assisted by the State with funds provided under this section will be conducted in compliance with the regulations described in subsection (a); and

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

(3) APPROVAL.—The Secretary shall approve a State plan submitted under paragraph (1) if the State plan meets the requirements of this subsection.

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

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

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

"(A) administrative costs of eligibility determinations that (but for the enactment of this section) would not be incurred; and

"(B) outreach activities to enroll uninsured children in a State plan approved under this title or title XXI."; and

(2) by striking paragraphs (3) and (4) and inserting the following:

"(3) LIMITATION.—

"(A) IN GENERAL.—Beginning with fiscal year 1997, the total amount of additional Federal funds that are expended as a result of the application of this subsection shall not exceed $525,000,000.

"(B) AVAILABILITY OF APPROPRIATION.— Any amount appropriated in accordance with this paragraph shall remain available until expended.

"(C) EQUITABLE DISTRIBUTION OF FUNDS.—In applying this paragraph, the Secretary shall ensure the equitable distribution of additional funds among the States.".

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

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

(A) in subparagraph (A)(i)—

(i) by striking "or (II)" and inserting ", (II)"; and

(ii) by inserting ", or (III) is an elementary school or secondary school, as such terms are defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), is a child care resource and referral agency, a child support enforcement agency, or is authorized to determine the eligibility of a child for obtaining child health assistance under title XXI that is in the form of coverage that meets the requirements of section 2103" before the semicolon; and

(B) in subparagraph (C), by striking "limiting the classes of" and inserting "imposing limitations on".

(2) RETROACTIVITY.—The amendments made by paragraph (1) take effect as if included in the enactment of section 4912 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 571).

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

(1) IN GENERAL.—Section 2104(d) of the Social Security Act (42 U.S.C. 1397dd(d)) is amended to read as follows:

"(d) CERTAIN MEDICAID EXPENDITURES COUNTED AGAINST INDIVIDUAL STATE ALLOTMENTS.—The amount of the allotment otherwise provided to a State under subsection (b) or (c) for a fiscal year shall be reduced by the amount (if any) of the payments made to that State under section 1903(a) for expenditures claimed by the State during such fiscal year that is attributable to the provision of medical assistance to a child for which payment is made under section 1903(a)(1) on the basis of an enhanced FMAP under the fourth sentence of section 1905(b).".

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

(d) MEDICAID AND STATE CHILDREN'S HEALTH INSURANCE PROGRAM ELIGIBILITY FOR LEGAL IMMIGRANT CHILDREN WHO ENTERED THE UNITED STATES AFTER AUGUST 1996.—

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

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

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

"(2) medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.), if the individual is an optional targeted low-income child described in section 1905(u)(2)(B) of such Act (42 U.S.C. 1396d(u)(2)(B)).".

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

(A) in the matter preceding subparagraph (A), by striking "Qualified" and inserting "Except as provided in subparagraphs (A), (E), (F), and (G), qualified"; and

(B) by adding at the end the following:

"(G) MEDICAID EXCEPTION FOR CERTAIN CHILDREN.—With respect to eligibility for benefits for the program described in section 403(e)(2), paragraph (1) shall not apply to any individual described in that section.".

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

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

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

"(x) ENHANCEMENT PAYMENT FOR REDUCTION IN ELIGIBLE BUT UNENROLLED CHILDREN.—

"(1) ANNUAL LUMP-SUM PAYMENT.—Beginning with fiscal year 1999, in addition to the amounts paid to a State under subsection (a), the Secretary shall pay to each State that has an approved plan under this title an amount equal to the enrollment enhancement payment determined under paragraph (2).

"(2) ENROLLMENT ENHANCEMENT PAYMENT.—

"(A) FORMULA.—The enrollment enhancement payment for a State for a fiscal year is equal to the product of—

"(i) the excess baseline enrollment for the State for the fiscal year;

"(ii) the average per child expenditures by the State under this title for the fiscal year; and "(iii) the enhanced FMAP for the State for the fiscal year described in section 2105(b).

"(B) DETERMINATION OF THE EXCESS BASELINE ENROLLMENT.—For purposes of subparagraph (A)(i), the excess baseline enrollment for a State for a fiscal year is the difference between (i) the actual number of full year equivalent children enrolled with the State plan and (ii) the number of such children which the State estimates would be so enrolled on the basis of the number of such children so enrolled in the preceding fiscal year and expected increases resulting from population growth and such other factors as the Secretary determines are appropriate.

"(3) DATA REQUIREMENTS.—Each State shall submit to the Secretary such data, at such time and in such manner, as the Secretary determines is necessary to make the payments required under this subsection. The Secretary shall ensure that data is provided under this subsection in a manner that is consistent with other data reporting requirements for information required to be submitted by a State under this title and title XXI, and that avoids duplication of reporting requirements.

"(4) STATES WITH SIGNIFICANTLY HIGHER INCREASED ACTUAL ENROLLMENT THAN THE EXPECTED NATIONAL AVERAGE INCREASE.—For any fiscal year, if a State's actual full year equivalent children enrollment percentage increase over the preceding fiscal year is at least twice the estimated national average percentage increase in such enrollment for that fiscal year, as issued by the Congressional Budget Office in January 1998, the State shall submit such additional information as the Secretary determines is necessary to verify that the increase is the result of the State reducing the number of unenrolled children who are eligible for medical assistance under this title in the State.

"(5) TIMING OF PAYMENT; RECONCILIATION.—The Secretary shall make the annual payment required under this subsection for a fiscal year not later than September 30 of that fiscal year and shall reconcile such payments during the subsequent fiscal year. The Secretary may reduce or increase payments made under this subsection as necessary to adjust for any overpayment or underpayment made for any prior fiscal year. A State shall provide the

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

"(6) WAIVERS.—The provisions of this subsection apply to a State providing medical assistance under this title under waiver authority in the same manner as they apply to a State with an approved plan under this title.".

[redacted]

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 ---------------------------

[redacted]

Record Type: Record

To:

cc:

Subject: Issues in Conrad tobacco bill

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

[redacted]

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

By Joe Marquette, AP

Armey: Says he wants to see presidential leadership

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 develop 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

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 $193 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
Ala.	[illegible]	[illegible]
Alaska	2.1	2.2
Ariz.	[illegible]	[illegible]
Ark.	7.5	7.8
Calif.	[illegible]	[illegible]
Colo.	12.5	12.3
Conn.	16.9	16.5
Del.	2.6	2.7
D.C.	5.5	[illegible]
Fla.	49.9	51.0
Ga.	22.3	22.3
Hawaii	4.5	4.8
Idaho	2.9	[illegible]
Ill.	42.3	43.4
Ind.	17.9	18.2
Iowa	7.9	8.2
Kan.	7.6	7.9
Ky.	16.0	16.1
La.	20.2	17.8
Maine	7.0	6.8
Md.	20.5	21.2
Mass.	36.7	36.6
Mich.	39.5	40.1
Minn.	20.8	21.9
Miss.	7.9	7.8
Mo.	20.7	19.8
Mont.	[illegible]	8.0
Neb.	4.4	4.6
Nev.	4.5	4.4
N.H.	6.1	6.1
N.J.	33.8	32.7
N.M.	4.4	4.6
N.Y.	[illegible]	[illegible]
N.C.	21.1	22.0
N.D.	2.3	2.4
Ohio	45.7	45.7
Okla.	9.4	9.7
Ore.	10.4	11.0
Pa.	52.2	53.3
R.I.	6.6	6.5
S.C.	10.7	9.8
S.D.	2.2	2.3
Tenn.	22.2	22.8
Texas	51.0	50.2
Utah	3.1	3.2
Vt.	2.7	2.6
Va.	18.7	18.7
Wash.	18.9	18.9
W.Va.	8.1	8.4
Wis.	18.9	19.7
Wyo.	1.3	1.3

Source: USA TODAY research by Doug Levy

USA TODAY • WEDNESDAY, SEPTEMBER 17, 1997

cc: Mike
Chris
+ return

cc: Bruce

Elena,
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.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Healthy Kids Act".

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

SEC. 2. FINDINGS.

Congress makes the following findings:

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

(2) The tobacco industry has targeted tobacco product marketing and promotional efforts toward minors as a source of replacement smokers. The industry has also targeted minorities.

(3) Approximately 90 percent of smokers start by the time they are 18 years old. Half of all smokers start by age 14.

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

(5) Seventy percent of adult smokers would like to quit smoking, but the tobacco industry has manipulated the level of nicotine in tobacco products and added ingredients to enhance the addictive effects of nicotine to ensure that users of these products remain addicted.

(6) Tobacco products cause cancer, heart disease, emphysema, and other fatal illnesses. More than 400,000 Americans die each year of these tobacco-related illnesses and conditions.

(7) Tobacco-related illnesses, medical conditions resulting from tobacco use, and lost wages and productivity cost the United States in excess of $100,000,000,000 annually.

(8) Federal and State taxpayers spend tens of billions of dollars annually paying for the medicare, medicaid, and other Federal and State health program costs arising from tobacco-related illnesses and conditions.

(9) The tobacco industry has systematically invoked and abused the attorney-client privilege to hide its attempts to mislead the American public

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

(10) Nicotine is an addictive drug. The marketplace for tobacco products is largely based on addiction.

(11) Worldwide, smoking kills 3,000,000 people each year. If current smoking patterns continue, tobacco use will kill 10,000,000 people a year by 2025.

(12) Environmental tobacco smoke is responsible for 3,000 lung cancer deaths annually in American nonsmokers. Environmental tobacco smoke also harms children's health.

(13) In 1995, the tobacco industry spent close to $4,900,000,000 to attract new users, retain current users, increase current consumption, and generate favorable long-term attitudes toward smoking and tobacco use.

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

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

(16) 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.

(17) Children are exposed to substantial and unavoidable tobacco advertising, that leads to favorable beliefs about tobacco use, plays a role in leading young people to overestimate the prevalence of tobacco use, and increases the number of young people who begin to use tobacco.

(18) Tobacco advertising increases the size of the tobacco market by increasing consumption of tobacco products including increasing tobacco sales to young people.

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

(20) Tobacco company documents indicate that young people are an important and often crucial segment of the tobacco market.

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

(22) Restrictions on advertising are necessary to prevent unrestricted tobacco advertising from undermining legislation prohibiting access to young people and providing for education about tobacco use.

(23) International experience shows that advertising regulations that are stringent and comprehensive have a greater impact on overall tobacco use and young people's use than weaker or less comprehensive ones. Text only requirements, while not as stringent as a ban, will accomplish this purpose while preserving the informational function of advertising.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to help American families dramatically reduce the number of children illegally using tobacco products by—

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

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

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

(D) imposing penalties on manufacturers for failing to reach youth smoking rate reduction targets;

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

(F) giving the Food and Drug Administration the authority to keep tobacco products out of the hands of minors;

(2) to compensate taxpayers for their costs attributable to tobacco-related illnesses by reimbursing the medicaid and medicare programs and resolving the legal claims of Federal, State and local governments for those costs that resulted from past misconduct by the tobacco industry;

(3) to improve the public health by reducing the number of adult users of tobacco products through approved cessation programs and limiting public exposure to environmental tobacco smoke;

(4) to provide assistance to tobacco farmers, tobacco factory workers, and rural communities;

(5) to make tobacco industry documents regarding the health effects of tobacco, addiction, and the agricultural production, manufacturing, distribution, and marketing of tobacco products to youths available to the public; and

(6) to enhance global anti-tobacco efforts.

SEC. 4. DEFINITIONS.

In this Act:

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

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

(3) CIGARETTE.—The term "cigarette" means—

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

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

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

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

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

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

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

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

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

(10) PERSON.—The term "person" means an individual, partnership, corporation, parent corporation, or any other business or legal entity or successor in interest of any such person.

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

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

(13) RETAILER.—The term "retailer" means any person who sells tobacco products to individuals

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

(14) ROLL-YOUR-OWN TOBACCO.—The term "roll-your-own tobacco" means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

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

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

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

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

United States. Such term includes any political division of any State.

(19) TOBACCO.—The term "tobacco" means tobacco in its unmanufactured form.

(20) TOBACCO PRODUCT.—The term "tobacco product" means any product made of or derived from tobacco leaf for human consumption, including, but not limited to, cigarettes, cigarillos, cigarette tobacco, cigars, little cigars, pipe tobacco, and smokeless tobacco, and roll-your-own tobacco.

(21) TRUST FUND.—Except as provided in section 121 and title IV, the term "Trust Fund" means the Health Enhancement and Lowered Tobacco Hazards for Young Kids Trust Fund established under section 101.

TITLE I—HEALTHY KIDS TRUST FUND

Subtitle A—General Provisions

SEC. 101. ESTABLISHMENT OF TRUST FUND.

(a) CREATION.—

(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the "Health Enhancement and Lowered Tobacco Hazards for Young Kids Trust Fund" (referred to as the "HEALTHY Kids Trust Fund"),

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

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

(b) TRANSFERS.—There are hereby appropriated and transferred to the Trust Fund an amount equal to 75 percent of the—

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

(2) amounts paid as fines or penalties, including interest thereon, under section 103; and

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

(c) REPAYABLE ADVANCES.—

(1) AUTHORIZATION.—There are authorized to be appropriated to the Trust Fund, as repayable advances, such sums as may from time to time be necessary to make the expenditures described in subsection (d).

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

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

(3) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month proceeding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the anticipated period during which the advance will be outstanding.

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

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

(2) 17 percent of such amounts shall be made available for grants to the States for child care and early childhood development as provided for in section 131.

(3) 6 percent of such amounts shall be made available for grants to States for education as provided for in section 132.

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

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

(A) $300,000,000 shall be made available to the Secretary to carry out chapter IX of the Food Drug and Cosmetic Act (as added by section 204);

(B) $200,000,000 shall be made available to the Indian Health Service to be used as provided for in title IX; and

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

(6) 21 percent of such amounts shall be made available to the National Institutes of Health Trust Fund for Health Research for the conduct of research through the National Institutes of Health as provided for in section 121.

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

(A) 12 percent of such amounts shall be made available to the Tobacco Community Revitalization Trust Fund for each of the first 10 fiscal years after the date of enactment of this Act;

(B) 4 percent of such amounts shall be made available to the Tobacco Community Revitalization Trust Fund for each of the 11th through 15th fiscal years after the date of enactment of this Act; and

(C) 2 percent of such amounts shall be made available to the Tobacco Community Revitalization Trust Fund for each of the 16th through 25th fiscal years after the date of enactment of this Act.

(8) For the Hospital Insurance Trust Fund—

(A) 4 percent of such amounts shall be made available to such Trust Fund for each of the first 10 fiscal years after the date of enactment of this Act, of which $250,000,000 shall be made available to carry out section 134 in each of the 3 fiscal years described in such section;

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

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

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

(9) For reducing the public debt—

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

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

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

(D) 12 percent of such amounts shall be made available for such reduction in each subsequent fiscal year.

(e) BUDGETARY TREATMENT AND DEFINITION.—

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

(2) DEFINITION.—In subsection (d)(9), the term "public debt" means any obligation of the Federal Government included in the gross public debt.

SEC. 102. LIABILITY OF TOBACCO PRODUCT MANUFACTURERS.

(a) PAYMENTS.—

(1) INITIAL PAYMENT.—Not later than 90 days after the date of enactment of this Act, each manufacturer shall pay to the Trust Fund an amount that bears the same ratio to $15,000,000,000 as the average stock market capitalization of the tobacco manufacturer (as defined in paragraph (3)) bears to the average stock market capitalization of all tobacco manufacturers for 1996.

(2) ANNUAL ASSESSMENTS AND COLLECTION.—For each calendar year beginning with the first full calendar year following the year in which this Act is enacted, the Secretary shall assess each manufacturer an amount determined under subsection (b). Such assessments shall be collected in a manner similar to the manner in which excise taxes are collected under chapter 52 of the Internal Revenue Code of 1986.

(3) AVERAGE STOCK MARKET CAPITALIZATION.—For purposes of this subsection, the average stock market capitalization of a manufacturer for a year shall be determined by the Secretary of the Treasury based on data submitted by manufacturers and other appropriate data. Such determinations shall be made regardless of whether the manufacturer issues stock.

(b) ANNUAL ASSESSMENTS.—The Secretary shall assess each manufacturer (in accordance with regulations, relating to the timing and method of payment of assessments, to be promulgated by the Secretary of the Treasury) an amount in accordance with the following:

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

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

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

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

(2) LARGE CIGARETTES.—

(A) IN GENERAL.—With respect to a manufacturer of cigarettes weighing more than 3 pounds per thousand, the assessment shall equal—

(i) for cigarettes removed during calendar year 1999, $52.50 per thousand;

(ii) for cigarettes removed during calendar year 2000, $105 per thousand; and

(iii) for cigarettes removed during calendar year 2001, $157.50 per thousand.

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

(3) SMALL CIGARS.—With respect to a manufacturer of cigars weighing not more than 3 pounds per thousand, the assessment shall equal—

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

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

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

(4) LARGE CIGARS.—With respect to a manufacturer of cigars weighing more than 3 pounds per thousand, the assessment shall equal—

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

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

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

(5) SNUFF.—With respect to a manufacturer of snuff (as such term is defined for purposes of chapter 52 of the Internal Revenue Code of 1986) the assessment shall equal—

(A) for snuff removed during calendar year 1999, $6.67 per pound (and a proportionate assessment at the like rate on all fractional parts of a pound);

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

(C) for snuff removed during calendar year 2001, $20 per pound (and a proportionate assessment at the like rate on all fractional parts of a pound).

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

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

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

(C) for chewing tobacco removed during calendar year 2001, $8 per pound (and a proportionate assessment at the like rate on all fractional parts of a pound).

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

(A) for pipe tobacco removed during calendar year 1999, $5.33 per pound (and a proportionate assessment at the like rate on all fractional parts of a pound);

(B) for pipe tobacco removed during calendar year 2000, $10.67 per pound (and a proportionate assessment at the like rate on all fractional parts of a pound); and

(C) for pipe tobacco removed during calendar year 2001, $16.00 per pound (and a proportionate assessment at the like rate on all fractional parts of a pound).

(8) ROLL-YOUR-OWN TOBACCO.—With respect to a manufacturer of roll-your-own tobacco the assessment shall equal—

(A) for roll-your-own tobacco removed during calendar year 1999, $5.71 per pound (and a proportionate assessment at the like rate on all fractional parts of a pound);

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

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

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

(1) such dollar amount (or percentage), multiplied by

(2) the greater of—

(A) the medical consumer price percentage increase for such calendar year as determined in the same manner as the adjustment is determined under section 1(f)(3) of the Internal Revenue Code of 1986 for such calendar year by substituting "the second preceding calendar year" for "calendar year 1992" in subparagraph (B) thereof; or

(B) 3 percent.

(d) ASSESSMENTS APPLICABLE TO FLOOR STOCKS.—

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

(A) the assessment which would be imposed under subsection (b) on the product if the product had been removed on such date, over

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

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

(A) LIABILITY FOR ASSESSMENT.—A person holding cigarettes on any assessment date, to which any assessment imposed under paragraph (1) applies shall be liable for such assessment.

(B) METHOD OF PAYMENT.—The assessment imposed under paragraph (1) shall be paid in such manner as the Secretary of the Treasury shall prescribe by regulations.

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

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

(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such product before such date; or

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

(4) ASSESSMENT DATE.—The term "assessment date" means January 1.

(e) NO TAX BENEFIT.—

(1) IN GENERAL.—The initial payment described in subsection (a)(1) shall not be considered to be an ordinary and necessary expense in carrying on a trade or business for purposes of the Internal Revenue Code of 1986 and shall not be tax deductible.

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

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

(1) in subparagraph (F)(iii), by striking "or" at the end;

(2) in subparagraph (G), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(H) a payment, an assessment, or a penalty to be paid into the Health Enhancement and Lowered Tobacco Hazards for Young Kids Trust Fund under section 102 (or any other section) of the Healthy Kids Act.".

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

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

(i) NONAPPLICATION TO CERTAIN MANUFACTURERS.—

(1) IN GENERAL.—A manufacturer described in paragraph (2) shall be exempt from the requirements of this section relating to—

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

(B) the payment of that portion of the annual assessments under this section that will be provided under paragraphs (1) through (4) of section 101(d) to States with which such manufacturer has settled tobacco-related civil actions as of the date of enactment of this Act. For any such manufacturer, the Secretary shall determine the percentage of the annual assessment of such manufacturer that would be paid to such States under such section and deduct such amount from the aggregate assessment due.

(2) MANUFACTURER.—A manufacturer described in this section is a manufacturer that has resolved tobacco-related civil actions with more than 25 States prior to January 1, 1998 through judicial consent decrees.

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

the extent that such cigarettes constitute less than 3 percent of all cigarettes manufactured and distributed for consumers in any year.

SEC. 103. LICENSING OF MANUFACTURERS.

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

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

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

(2) to be eligible to receive the protections provided under subtitle A of title VII.

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

(d) REVOCATION AND SUSPENSION.—The Secretary shall promulgate regulations to provide for the enforcement of the program established under section (a). Such regulations shall provide for the revocation or suspension of a license for nonpayment of required assessments.

SEC. 104. ENFORCEMENT.

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

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

(c) NONCOMPLIANCE PERIOD.—For purposes of this section, the term "noncompliance period" means, with respect to any failure to pay an assessment under section 102, the period—

(1) beginning on the due date for such payment; and

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

Subtitle B—Payments

CHAPTER 1—TO STATES

SEC. 111. PAYMENTS TO STATES.

(a) AVAILABILITY OF FUNDS.—

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

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

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

(b) REIMBURSEMENT.—

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

(2) AMOUNT.—

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

State is eligible under paragraph (1) shall be based on the ratio of the total Federal payments to the State under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for the fiscal year involved to the total Federal payments to all States under such title for such fiscal year.

(B) SPECIAL PAYMENT RULE.—In the case of a State that, as of the date of the enactment of this Act, has resolved tobacco-related civil actions through judicial consent decrees with a manufacturer described in section 102(i), the amount determined under subparagraph (A) shall be reduced by an amount equal to the amount by which such manufacturer's payment under section 102(a)(2) is reduced under section 102(i) as a result of such settlement.

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

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

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

(5) USE OF FUNDS.—

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

(i) to reimburse the State for expenses incurred by the State under the State program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) relating to the treatment of tobacco-related illnesses or conditions;

(ii) to reimburse the State for other expenses incurred by the State in providing directly, or reimbursing others for the provision of, treatment for tobacco-related illnesses or conditions; and

(iii) to provide funds to local governmental entities as provided for in subsection (d).

(B) LIMITATION.—A State may not use amounts provided under this subsection for programs or projects not approved of by the Secretary.

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

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

(2) prepare and submit to the Secretary a description of the manner in which the State will comply with the requirements of subsection (d) and a certification that all actions described in paragraph (1) have been dismissed; and

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

(d) FUNDS FOR LOCAL GOVERNMENTAL ENTITIES.—To be eligible to receive funds under subsection (b), a State shall have adopted procedures to provide an equitable portion of such funds to local governmental entities within the State that can demonstrate that such entities incurred tobacco-related health costs through—

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

(2) the provision of indigent care;

(3) the provision of health care coverage to governmental employees; or

(4) the implementation of tobacco product enforcement or tobacco product regulatory requirements in accordance with this Act.

CHAPTER 2—FEDERAL HEALTH PROGRAMS

SEC. 121. NATIONAL INSTITUTES OF HEALTH TRUST FUND FOR HEALTH RESEARCH.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "National Institutes of Health Trust Fund for Health Research" (hereafter referred to in this section as the "Trust Fund"), consisting of such amounts as may be appropriated or transferred to the Trust Fund as provided in this section.

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

(c) OBLIGATIONS FROM TRUST FUND.—

(1) IN GENERAL.—Subject to the provisions of paragraph (4), with respect to the amounts made available in the Trust Fund in a fiscal year, the Secretary shall distribute during any fiscal year—

(A) 2 percent of such amounts to the Office of the Director of the National Institutes of Health to be allocated at the Director's discretion—

(i) for carrying out the responsibilities of the Office of the Director, including the Office of Research on Women's Health and the Office of Research on Minority Health, the Office of Alternative Medicine, the Office of Rare Disease Research, the Office of Behavioral and Social Sciences Research (for use for efforts to reduce tobacco use), the Office of Dietary Supplements, and the Office for Disease Prevention; and

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

(B) 2 percent of such amounts for transfer to the National Center for Research Resources to carry out section 1502 of the National Institutes of Health Revitalization Act of 1993 concerning Biomedical and Behavioral Research Facilities;

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

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

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

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

(G) the remainder of such amounts to member institutes and centers, including the Office of AIDS Research, of the National Institutes of Health in the same proportion to such remainder, as the amount of annual appropriations under appropriations Acts for each member institute and center for the fiscal year bears to the total amount of appropriations under appropriations Acts for all member institutes and centers of the National Institutes of Health for the fiscal year.

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

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

(3) GRANTS AND CONTRACTS FULLY FUNDED IN FIRST YEAR.—With respect to any grant or contract funded by amounts distributed under paragraph (1), the full amount of the total obligation of such grant or contract shall be funded in the first year of such grant or contract, and shall remain available until expended.

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

(A) TRIGGER AND RELEASE.—No expenditure shall be made under paragraph (1) during any fiscal year in which the annual amount appropriated for the National Institutes of Health is less than the amount so appropriated for fiscal year 1999.

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

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

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

(iii) 75 percent of the amount in the Trust Fund is distributed in the third fiscal year for which funds are available; and

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

(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 Congressional Budget Act of 1974 or the Balanced Budget and 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-

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

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

SEC. 132. IMPROVING ELEMENTARY EDUCATION.

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

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

(1) the use of funds by the State, including the awarding of grants to local educational agencies;

(2) teacher preparation and certification; and

(3) accountability for improved student achievement.

(c) STATE PLAN.—

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

(2) CONTENTS.—Each State plan shall demonstrate to the satisfaction of the Secretary of Education that—

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

(B) the State will use the funds made available under this section to reduce class size for students in grades 1 through 3 in elementary schools throughout the State, focusing on using the funds to train, recruit, and hire teachers for elementary schools serving communities with the least available resources for such activities and the largest class sizes in those grades; and

(C) of the funds that are made available to the State under this section, the State will make available to each local educational agency that serves children in grades 1 through 3 and in which at least 30 percent of the children are from families below the Federal poverty level, at least as great a percentage of such funds as the percentage of funds provided to that local educational agency as compared to other local educational agencies in the State under part A of title I of the Elementary and Secondary Education Act of 1965.

(3) APPROVAL.—The Secretary shall approve a State plan submitted under paragraph (1) if the State plan meets the requirements of this subsection.

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

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

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

"(A) administrative costs of eligibility determinations that (but for the enactment of this section) would not be incurred; and

"(B) outreach activities to enroll uninsured children in a State plan approved under this title or title XXI."; and

(2) by striking paragraphs (3) and (4) and inserting the following:

"(3) LIMITATION.—

"(A) IN GENERAL.—Beginning with fiscal year 1998, the total amount of additional Federal funds that are expended as a result of the application of this subsection shall not exceed $525,000,000.

"(B) AVAILABILITY OF APPROPRIATION.—Any amount appropriated in accordance with this paragraph shall remain available until expended.

"(C) EQUITABLE DISTRIBUTION OF FUNDS.—In applying this paragraph, the Secretary shall ensure the equitable distribution of additional funds among the States.".

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

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

(A) in subparagraph (A)(i))—

(i) by striking "or (II)" and inserting ", (II)"; and

(ii) by inserting ", or (III) is an elementary school or secondary school, as such terms are defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), is a child care resource and referral agency, a child support enforcement agency, or is authorized to determine the eligibility of a child for obtaining child health assistance under title XXI that is in the form of coverage that meets the requirements of section 2103" before the semicolon; and

(B) in subparagraph (C), by striking "limiting the classes of" and inserting "imposing limitations on".

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

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

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

(1) IN GENERAL.—Section 2104(d) of the Social Security Act (42 U.S.C. 1397dd(d)) is amended to read as follows:

"(d) CERTAIN MEDICAID EXPENDITURES COUNTED AGAINST INDIVIDUAL STATE ALLOTMENTS.—The amount of the allotment otherwise provided to a State under subsection (b) or (c) for a fiscal year shall be reduced by the amount (if any) of the payments made to that State under section 1903(a) for expenditures claimed by the State during such fiscal year that is attributable to the provision of medical assistance to a child for which payment is made under section 1903(a)(1) on the basis of an enhanced FMAP under the fourth sentence of section 1905(b).".

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

(d) MEDICAID AND STATE CHILDREN'S HEALTH INSURANCE PROGRAM ELIGIBILITY FOR LEGAL IMMIGRANT CHILDREN WHO ENTERED THE UNITED STATES AFTER AUGUST 1996.—

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

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

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

"(2) medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.), if the individual is an optional targeted low-income child described in section 1905(u)(2)(B) of such Act (42 U.S.C. 1396d(u)(2)(B)).".

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

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

(A) in the matter preceding subparagraph (A), by striking "Qualified" and inserting "Except as provided in subparagraphs (A), (E), (F), and (G), qualified"; and

(B) by adding at the end the following:

"(G) MEDICAID EXCEPTION FOR CERTAIN CHILDREN.—With respect to eligibility for benefits for the program described in section 403(e)(2), paragraph (1) shall not apply to any individual described in that section.".

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

(e) ANNUAL PERFORMANCE BONUS FOR REDUCTION IN MEDICAID ELIGIBLE BUT UNENROLLED CHILDREN..—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end the following:

"(x) PERFORMANCE BONUS FOR REDUCTION IN ELIGIBLE BUT UNENROLLED CHILDREN.—

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

"(2) PERFORMANCE BONUS.—

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

"(i) the excess baseline enrollment for the State for the fiscal year;

"(ii) the average per child expenditures by the State under this title for the fiscal year; and

"(iii) the enhanced FMAP for the State for the fiscal year described in section 2105(b).

"(B) DETERMINATION OF THE EXCESS BASELINE ENROLLMENT.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(i), the excess baseline enrollment for a State for a fiscal year is the difference between (I) the actual number of full year equivalent children enrolled under the State plan and (II) the baseline number of full year equivalent children that would be enrolled under the State plan in the absence of the performance bonus outreach efforts of the State.

"(ii) DETERMINATION OF THE BASELINE NUMBER OF FULL YEAR EQUIVALENT CHILDREN.—For purposes of clause (i)(II), the baseline number of full year equivalent children that would be enrolled under the State plan in the absence of the performance bonus outreach efforts of the State is—

"(I) in the case of fiscal year 1999, the actual number of full year equivalent children enrolled under the State plan in fiscal year 1998, increased by the national percentage increase for fiscal year 1999 in the number of full year equivalent children enrolled in all State plans under this title, as projected by the Congressional Budget Office in January 1998; and

"(II) in the case of any succeeding fiscal year, the baseline number of full year equivalent children that would be enrolled under the State plan in the absence of the performance bonus outreach efforts of the State determined for the preceding fiscal year, increased by the national percentage increase for that succeeding fiscal year in the number of full year equivalent children enrolled in all State plans under this title, as projected by the Congressional Budget Office in January 1998.

"(C) DETERMINATION OF AVERAGE PER CHILD EXPENDITURES.—For purposes of subparagraph (A)(ii), the average per child expenditures by a State under this title for a fiscal year is—

"(i) the total amount paid to the State under subsection (a)(1) that is attributable to medical assistance provided to children under the State plan; divided by "(ii) the actual number of full year equivalent children enrolled under the State plan in that fiscal year.

"(3) DATA REQUIREMENTS.—Each State shall submit to the Secretary such data, at such time and in such manner, as the Secretary determines is necessary to make the payments required under this subsection. The Secretary shall ensure that data is provided under this subsection in a manner that is consistent with other data reporting requirements for information required to be submitted by a State under this title and title XXI, and that avoids duplication of reporting requirements.

"(4) STATES WITH SIGNIFICANTLY HIGHER INCREASED ACTUAL ENROLLMENT THAN THE EXPECTED NATIONAL INCREASE.—For any fiscal year, if a State's actual full year equivalent children enrollment percentage increase over the preceding fiscal year is at least twice the estimated national percentage increase in such enrollment for that fiscal year, as projected by the Congressional Budget Office in January 1998, the State shall submit such additional information as the Secretary determines is necessary to verify that the increase is the result of the State reducing the number of unenrolled children who are eligible for medical assistance under this title in the State.

"(5) TIMING OF PERFORMANCE BONUS PAYMENTS; RECONCILIATION.—The Secretary shall pay the performance bonuses required under this subsection for a fiscal year not later than September 30 of the succeeding fiscal year based on reporting data that reflects each State's actual number of full year equivalent children enrolled under the State plan and average per child expenditures. A State shall provide the Secretary with access to any records or information relevant to the payment of a performance bonus under this subsection for the purposes of review or audit.

"(6) WAIVERS.—The provisions of this subsection apply to a State providing medical assistance under this title under waiver authority in the same manner as they apply to a State with an approved plan under this title.".

SEC. 134. MEDICARE CANCER PATIENT DEMONSTRATION PROJECT; EVALUATION AND REPORT TO CONGRESS.

(a) ESTABLISHMENT.—The Secretary shall establish a 3-year demonstration project which provides for payment under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) of routine patient care costs—

(1) which are provided to an individual diagnosed with cancer and enrolled in the medicare program under such title as part of the individual's participation in an approved clinical trial program; and

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

(b) APPLICATION.—The beneficiary cost sharing provisions under the medicare program, such as deductibles, coinsurance, and copayment amounts, shall apply to any individual participating in a demonstration project conducted under this section.

(c) APPROVED CLINICAL TRIAL PROGRAM.—For purposes of this section, the term "approved clinical trial program" means a clinical trial program which is approved by—

(1) the National Institutes of Health;

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

(3) the Food and Drug Administration (in the form of an investigational new drug or device exemption);

(4) the Department of Veterans Affairs;

(5) the Department of Defense; or

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

(d) ROUTINE PATIENT CARE COSTS.—

(1) IN GENERAL.—For purposes of this section, "routine patient care costs" shall include the costs associated with the provision of items and services that—

(A) would otherwise be covered under the medicare program if such items and services were not provided in connection with an approved clinical trial program; and

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

(2) EXCLUSION.—For purposes of this section, "routine patient care costs" shall not include the costs associated with the provision of—

(A) an investigational drug or device, unless the Secretary has authorized the manufacturer of such drug or device to charge for such drug or device; or

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

(e) STUDY.—The Secretary shall study the impact on the medicare program under title XVIII of the Social Security Act of covering routine patient care costs for individuals with a diagnosis of cancer and other diagnoses, who are entitled to benefits under such title and who are enrolled in an approved clinical trial program.

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

(g) FUNDING.—The shall use amounts made available under section 101(d)(8)(A) for a fiscal year to carry out this section.