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1 *or 319(g) of the Agricultural Adjustment Act of 1938*
2 *(7 U.S.C. 1314b(g), 1314e(g))—*

3 *(A) the person that sold and transferred the*
4 *quota or allotment shall have—*

5 *(i) the base quota level attributable to*
6 *the person reduced by the base quota level*
7 *attributable to the quota that is sold and*
8 *transferred; and*

9 *(ii) the lifetime limitation on pay-*
10 *ments established under paragraph (7) at-*
11 *tributable to the person reduced by the*
12 *product obtained by multiplying—*

13 *(I) the base quota level attrib-*
14 *utable to the quota; and*

15 *(II) \$8 per pound; and*

16 *(B) if the quota or allotment has never been*
17 *relinquished by a previous quota holder under*
18 *paragraph (2), the person that acquired the*
19 *quota shall have—*

20 *(i) the base quota level attributable to*
21 *the person increased by the base quota level*
22 *attributable to the quota that is sold and*
23 *transferred; and*

(ii) the lifetime limitation on payments established under paragraph (7) attributable to the person—

(I) increased by the product obtained by multiplying—

(aa) the base quota level attributable to the quota; and

(bb) \$8 per pound; but

(II) decreased by any payments under paragraph (5) for lost tobacco quota previously made that are attributable to the quota that is sold and transferred.

(10) SALE OR TRANSFER OF FARM.—On the sale or transfer of ownership of a farm that is owned by a quota holder, the base quota level established under subsection (c), the right to payments under paragraph (5), and the lifetime limitation on payments established under paragraph (7) shall transfer to the new owner of the farm to the same extent and in the same manner as those provisions applied to the previous quota holder.

(11) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—If a quota lessee or quota tenant that is entitled to payments under this subsection dies and is

1 *survived by a spouse or 1 or more dependents, the*
 2 *right to receive the payments shall transfer to the sur-*
 3 *living spouse or, if there is no surviving spouse, to*
 4 *the surviving dependents in equal shares.*

5 (12) *ACCELERATION OF PAYMENTS.—*

6 (A) *IN GENERAL.—On the occurrence of any*
 7 *of the events described in subparagraph (B), the*
 8 *Secretary shall make an accelerated lump sum*
 9 *payment for lost tobacco quota as established*
 10 *under paragraphs (5) and (6) to each quota*
 11 *holder, quota lessee, and quota tenant for any af-*
 12 *fected type of tobacco in accordance with sub-*
 13 *paragraph (C).*

14 (B) *TRIGGERING EVENTS.—The Secretary*
 15 *shall make accelerated payments under subpara-*
 16 *graph (A) if after the date of enactment of this*
 17 *Act—*

18 (i) *subject to subparagraph (D), for 3*
 19 *consecutive marketing years, the national*
 20 *marketing quota or national acreage allot-*
 21 *ment for a type of tobacco is less than 50*
 22 *percent of the national marketing quota or*
 23 *national acreage allotment for the type of*
 24 *tobacco for the 1998 marketing year; or*

1 (ii) Congress repeals or makes ineffec-
2 tive, directly or indirectly, any provision
3 of—

4 (I) section 316 of the Agricultural
5 Adjustment Act of 1938 (7 U.S.C.
6 1314b);

7 (II) section 319 of the Agricul-
8 tural Adjustment Act of 1938 (7 U.S.C.
9 1314e);

10 (III) section 106 of the Agricul-
11 tural Act of 1949 (7 U.S.C. 1445);

12 (IV) section 106A of the Agricul-
13 tural Act of 1949 (7 U.S.C. 1445-1);
14 or

15 (V) section 106B of the Agricul-
16 tural Act of 1949 (7 U.S.C. 1445-2).

17 (C) AMOUNT.—The amount of the acceler-
18 ated payments made to each quota holder, quota
19 lessee, and quota tenant under this subsection
20 shall be equal to—

21 (i) the amount of the lifetime limita-
22 tion established for the quota holder, quota
23 lessee, or quota tenant under paragraph (7);
24 less

(ii) any payments for lost tobacco quota received by the quota holder, quota lessee, or quota tenant before the occurrence of any of the events described in subparagraph (B).

(D) REFERENDUM VOTE NOT A TRIGGERING EVENT.—A referendum vote of producers for any type of tobacco that results in the national marketing quota or national acreage allotment not being in effect for the type of tobacco shall not be considered a triggering event under this paragraph:

(13) BAN ON SUBSEQUENT SALE OR LEASING OF FARM MARKETING QUOTA OR FARM ACREAGE ALLOTMENT TO QUOTA HOLDERS EXERCISING OPTION TO RELINQUISH QUOTA.—No quota holder that exercises the option to relinquish a farm marketing quota or farm acreage allotment for any type of tobacco under paragraph (2) shall be eligible to acquire a farm marketing quota or farm acreage allotment for the type of tobacco, or to obtain the lease or transfer of a farm marketing quota or farm acreage allotment for the type of tobacco, for a period of 25 crop years after the date on which the quota or allotment was relinquished.

1 (e) *PAYMENTS FOR LOST TOBACCO QUOTA FOR FLUE-*
 2 *CURED TOBACCO.—*

3 (1) *ALLOCATION OF FUNDS.—Of the amounts*
 4 *made available under section 1011(d)(1) for payments*
 5 *for lost tobacco quota, the Secretary shall make avail-*
 6 *able for payments under this subsection an amount*
 7 *that bears the same ratio to the amounts made avail-*
 8 *able as—*

9 (A) *the sum of all national marketing*
 10 *quotas for flue-cured tobacco during the 1995*
 11 *through 1997 marketing years; bears to*

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

15 (2) *RELINQUISHMENT OF QUOTA.—*

16 (A) *IN GENERAL.—Each quota holder of*
 17 *flue-cured tobacco during the 1998 marketing*
 18 *year shall relinquish the farm marketing quota*
 19 *or farm acreage allotment in exchange for a pay-*
 20 *ment made under paragraph (3) or (4).*

21 (B) *NOTIFICATION.—The Secretary shall*
 22 *notify the quota holders of the relinquishment of*
 23 *their quota or allotment at such time and in*
 24 *such manner as the Secretary may require, but*
 25 *not later than November 15, 1998.*

1 (3) *PAYMENTS FOR LOST FLUE-CURED TOBACCO*
2 *QUOTA TO QUOTA HOLDERS THAT RELINQUISH*
3 *QUOTA.—*

4 (A) *IN GENERAL.—For each of fiscal years*
5 *1999 through 2008, the Secretary shall make an-*
6 *ual payments for lost flue-cured tobacco to each*
7 *quota holder that has relinquished the farm mar-*
8 *keting quota or farm acreage allotment of the*
9 *quota holder under paragraph (2).*

10 (B) *AMOUNT.—The amount of a payment*
11 *made to a quota holder described in subpara-*
12 *graph (A) for a marketing year shall equal $\frac{1}{10}$*
13 *of the lifetime limitation established under para-*
14 *graph (6).*

15 (C) *TIMING.—The Secretary shall begin*
16 *making annual payments under this paragraph*
17 *for the marketing year in which the farm mar-*
18 *keting quota or farm acreage allotment is relin-*
19 *quished.*

20 (D) *ADDITIONAL PAYMENTS.—The Sec-*
21 *retary may increase annual payments under this*
22 *paragraph in accordance with paragraph (7)(E)*
23 *to the extent that funding is available.*

1 (4) *PAYMENTS FOR LOST FLUE-CURED TOBACCO*
 2 *QUOTA TO QUOTA LESSEES AND QUOTA TENANTS*
 3 *THAT HAVE NOT RELINQUISHED PERMITS.—*

4 (A) *IN GENERAL.—Except as otherwise pro-*
 5 *vided in this subsection, during any marketing*
 6 *year in which the national marketing quota for*
 7 *flue-cured tobacco is less than the average na-*
 8 *tional marketing quota for the 1995 through*
 9 *1997 marketing years, the Secretary shall make*
 10 *payments for lost tobacco quota to each quota*
 11 *lessee or quota tenant that—*

12 (i) *is eligible under subsection (b);*

13 (ii) *has been issued an individual to-*
 14 *bacco production permit under section*
 15 *317A(b) of the Agricultural Adjustment Act*
 16 *of 1938; and*

17 (iii) *has not exercised an option to re-*
 18 *linquish the permit.*

19 (B) *AMOUNT.—The amount of a payment*
 20 *made to a quota holder described in subpara-*
 21 *graph (A) for a marketing year shall be equal to*
 22 *the product obtained by multiplying—*

23 (i) *the number of pounds by which the*
 24 *individual marketing limitation established*

1 *for the permit is less than twice the base*
2 *quota level for the quota holder; and*

3 *(ii) \$2 per pound.*

4 (5) *PAYMENTS FOR LOST FLUE-CURED TOBACCO*
5 *QUOTA TO QUOTA LESSEES AND QUOTA TENANTS*
6 *THAT HAVE RELINQUISHED PERMITS.—*

7 (A) *IN GENERAL.—For each of fiscal years*
8 *1999 through 2008, the Secretary shall make an-*
9 *annual payments for lost flue-cured tobacco quota*
10 *to each quota lessee and quota tenant that has*
11 *relinquished an individual tobacco production*
12 *permit under section 317A(b)(5) of the Agricul-*
13 *tural Adjustment Act of 1938.*

14 (B) *AMOUNT.—The amount of a payment*
15 *made to a quota holder described in subpara-*
16 *graph (A) for a marketing year shall be equal to*
17 *$\frac{1}{10}$ of the lifetime limitation established under*
18 *paragraph (6).*

19 (C) *TIMING.—The Secretary shall begin*
20 *making annual payments under this paragraph*
21 *for the marketing year in which the individual*
22 *tobacco production permit is relinquished.*

23 (D) *ADDITIONAL PAYMENTS.—The Sec-*
24 *retary may increase annual payments under this*

1 *paragraph in accordance with paragraph (7)(E)*
 2 *to the extent that funding is available.*

3 (E) *PROHIBITION AGAINST PERMIT EXPAN-*
 4 *SION.—A quota lessee or quota tenant that re-*
 5 *ceives a payment under this paragraph shall be*
 6 *ineligible to receive any new or increased tobacco*
 7 *production permit from the county production*
 8 *pool established under section 317A(b)(8) of the*
 9 *Agricultural Adjustment Act of 1938.*

10 (6) *LIFETIME LIMITATION ON PAYMENTS.—Ex-*
 11 *cept as otherwise provided in this subsection, the total*
 12 *amount of payments made under this subsection to a*
 13 *quota holder, quota lessee, or quota tenant during the*
 14 *lifetime of the quota holder, quota lessee, or quota ten-*
 15 *ant shall not exceed the product obtained by multiply-*
 16 *ing—*

17 (A) *the base quota level for the quota holder,*
 18 *quota lessee, or quota tenant; and*

19 (B) *\$8 per pound.*

20 (7) *LIMITATIONS ON AGGREGATE ANNUAL PAY-*
 21 *MENTS.—*

22 (A) *IN GENERAL.—Except as otherwise pro-*
 23 *vided in this paragraph, the total amount pay-*
 24 *able under this subsection for any marketing*

1 year shall not exceed the amount made available
2 under paragraph (1).

3 (B) *ACCELERATED PAYMENTS.*—Paragraph
4 (1) shall not apply if accelerated payments for
5 lost flue-cured tobacco quota are made in accord-
6 ance with paragraph (9).

7 (C) *REDUCTIONS.*—If the sum of the
8 amounts determined under paragraphs (3), (4),
9 and (5) for a marketing year exceeds the amount
10 made available under paragraph (1), the Sec-
11 retary shall make a pro rata reduction in the
12 amounts payable under paragraph (4) to quota
13 lessees and quota tenants under this subsection to
14 ensure that the total amount of payments for lost
15 flue-cured tobacco quota does not exceed the
16 amount made available under paragraph (1).

17 (D) *ROLLOVER OF PAYMENTS FOR LOST*
18 *FLUE-CURED TOBACCO QUOTA.*—Subject to sub-
19 paragraph (A), if the Secretary makes a reduc-
20 tion in accordance with subparagraph (C), the
21 amount of the reduction shall be applied to the
22 next marketing year and added to the payments
23 for lost flue-cured tobacco quota for the market-
24 ing year.

1 (E) *ADDITIONAL PAYMENTS TO QUOTA*
 2 *HOLDERS EXERCISING OPTION TO RELINQUISH*
 3 *QUOTAS OR PERMITS, OR TO QUOTA LESSEES OR*
 4 *QUOTA TENANTS RELINQUISHING PERMITS.—If*
 5 *the amount made available under paragraph (1)*
 6 *exceeds the sum of the amounts determined under*
 7 *paragraphs (3), (4), and (5) for a marketing*
 8 *year, the Secretary shall distribute the amount of*
 9 *the excess pro rata to quota holders by increasing*
 10 *the amount payable to each such holder under*
 11 *paragraphs (3) and (5).*

12 (8) *DEATH OF QUOTA HOLDER, QUOTA LESSEE,*
 13 *OR QUOTA TENANT.—If a quota holder, quota lessee or*
 14 *quota tenant that is entitled to payments under para-*
 15 *graph (4) or (5) dies and is survived by a spouse or*
 16 *1 or more descendants, the right to receive the pay-*
 17 *ments shall transfer to the surviving spouse or, if*
 18 *there is no surviving spouse, to the surviving descend-*
 19 *ants in equal shares.*

20 (9) *ACCELERATION OF PAYMENTS.—*

21 (A) *IN GENERAL.—On the occurrence of any*
 22 *of the events described in subparagraph (B), the*
 23 *Secretary shall make an accelerated lump sum*
 24 *payment for lost flue-cured tobacco quota as es-*
 25 *tablished under paragraphs (3), (4), and (5) to*

1 *each quota holder, quota lessee, and quota tenant*
2 *for flue-cured tobacco in accordance with sub-*
3 *paragraph (C).*

4 (B) *TRIGGERING EVENTS.—The Secretary*
5 *shall make accelerated payments under subpara-*
6 *graph (A) if after the date of enactment of this*
7 *Act—*

8 (i) *subject to subparagraph (D), for 3*
9 *consecutive marketing years, the national*
10 *marketing quota or national acreage allot-*
11 *ment for flue-cured tobacco is less than 50*
12 *percent of the national marketing quota or*
13 *national acreage allotment for flue-cured to-*
14 *bacco for the 1998 marketing year; or*

15 (ii) *Congress repeals or makes ineffec-*
16 *tive, directly or indirectly, any provision*
17 *of—*

18 (I) *section 316 of the Agricultural*
19 *Adjustment Act of 1938 (7 U.S.C.*
20 *1314b);*

21 (II) *section 319 of the Agricul-*
22 *tural Adjustment Act of 1938 (7 U.S.C.*
23 *1314e);*

24 (III) *section 106 of the Agricul-*
25 *tural Act of 1949 (7 U.S.C. 1445);*

1 (IV) section 106A of the Agricul-
2 tural Act of 1949 (7 U.S.C. 1445-1);

3 (V) section 106B of the Agricul-
4 tural Act of 1949 (7 U.S.C. 1445-2);
5 or

6 (VI) section 317A of the Agricul-
7 tural Adjustment Act of 1938.

8 (C) *AMOUNT*.—The amount of the acceler-
9 ated payments made to each quota holder, quota
10 lessee, and quota tenant under this subsection
11 shall be equal to—

12 (i) the amount of the lifetime limita-
13 tion established for the quota holder, quota
14 lessee, or quota tenant under paragraph (6);
15 less

16 (ii) any payments for lost flue-cured
17 tobacco quota received by the quota holder,
18 quota lessee, or quota tenant before the oc-
19 currence of any of the events described in
20 subparagraph (B).

21 (D) *REFERENDUM VOTE NOT A TRIGGERING*
22 *EVENT*.—A referendum vote of producers for flue-
23 cured tobacco that results in the national mar-
24 keting quota or national acreage allotment not
25 being in effect for flue-cured tobacco shall not be

1 *considered a triggering event under this para-*
2 *graph.*

3 **SEC. 1022. INDUSTRY PAYMENTS FOR ALL DEPARTMENT**
4 **COSTS ASSOCIATED WITH TOBACCO PRODUC-**
5 **TION.**

6 (a) *IN GENERAL.*—*The Secretary shall use such*
7 *amounts as are necessary from the Trust Fund at the end*
8 *of each fiscal year to reimburse the Secretary for—*

9 (1) *costs associated with the administration of*
10 *programs established under this title and amendments*
11 *made by this title;*

12 (2) *costs associated with the administration of*
13 *the tobacco quota and price support programs admin-*
14 *istered by the Secretary;*

15 (3) *costs to the Federal Government of carrying*
16 *out crop insurance programs for tobacco;*

17 (4) *costs associated with all agricultural re-*
18 *search, extension, or education activities associated*
19 *with tobacco;*

20 (5) *costs associated with the administration of*
21 *loan association and cooperative programs for tobacco*
22 *producers, as approved by the Secretary; and*

23 (6) *any other costs incurred by the Department*
24 *of Agriculture associated with the production of to-*
25 *bacco.*

1 (b) *LIMITATIONS.*—Amounts made available under
2 subsection (a) may not be used—

3 (1) to provide direct benefits to quota holders,
4 quota lessees, or quota tenants; or

5 (2) in a manner that results in a decrease, or an
6 increase relative to other crops, in the amount of the
7 crop insurance premiums assessed to participating to-
8 bacco producers under the Federal Crop Insurance
9 Act (7 U.S.C. 1501 et seq.).

10 (c) *DETERMINATIONS.*—Not later than September 30,
11 1998, and each fiscal year thereafter, the Secretary shall
12 determine—

13 (1) the amount of costs described in subsection
14 (a); and

15 (2) the amount that will be provided under this
16 section as reimbursement for the costs.

17 **SEC. 1023. TOBACCO COMMUNITY ECONOMIC DEVELOP-**
18 **MENT GRANTS.**

19 (a) *AUTHORITY.*—The Secretary shall make grants to
20 tobacco-growing States in accordance with this section to
21 enable the States to carry out economic development initia-
22 tives in tobacco-growing communities.

23 (b) *APPLICATION.*—To be eligible to receive payments
24 under this section, a State shall prepare and submit to the
25 Secretary an application at such time, in such manner, and

1 containing such information as the Secretary may require,
2 including—

3 (1) a description of the activities that the State
4 will carry out using amounts received under the
5 grant;

6 (2) a designation of an appropriate State agency
7 to administer amounts received under the grant; and

8 (3) a description of the steps to be taken to en-
9 sure that the funds are distributed in accordance with
10 subsection (e).

11 (c) AMOUNT OF GRANT.—

12 (1) IN GENERAL.—From the amounts available
13 to carry out this section for a fiscal year, the Sec-
14 retary shall allot to each State an amount that bears
15 the same ratio to the amounts available as the total
16 farm income of the State derived from the production
17 of tobacco during the 1995 through 1997 marketing
18 years (as determined under paragraph (2)) bears to
19 the total farm income of all States derived from the
20 production of tobacco during the 1995 through 1997
21 marketing years.

22 (2) TOBACCO INCOME.—For the 1995 through
23 1997 marketing years, the Secretary shall determine
24 the amount of farm income derived from the produc-
25 tion of tobacco in each State and in all States.

1 (d) *PAYMENTS.*—

2 (1) *IN GENERAL.*—A State that has an applica-
3 tion approved by the Secretary under subsection (b)
4 shall be entitled to a payment under this section in
5 an amount that is equal to its allotment under sub-
6 section (c).

7 (2) *FORM OF PAYMENTS.*—The Secretary may
8 make payments under this section to a State in in-
9 stallments, and in advance or by way of reimburse-
10 ment, with necessary adjustments on account of over-
11 payments or underpayments, as the Secretary may
12 determine.

13 (3) *REALLOTMENTS.*—Any portion of the allot-
14 ment of a State under subsection (c) that the Sec-
15 retary determines will not be used to carry out this
16 section in accordance with an approved State appli-
17 cation required under subsection (b), shall be reallocot-
18 ted by the Secretary to other States in proportion to
19 the original allotments to the other States.

20 (e) *USE AND DISTRIBUTION OF FUNDS.*—

21 (1) *IN GENERAL.*—Amounts received by a State
22 under this section shall be used to carry out economic
23 development activities, including—

24 (A) rural business enterprise activities de-
25 scribed in subsections (c) and (e) of section 310B

1 *of the Consolidated Farm and Rural Develop-*
2 *ment Act (7 U.S.C. 1932);*

3 *(B) down payment loan assistance pro-*
4 *grams that are similar to the program described*
5 *in section 310E of the Consolidated Farm and*
6 *Rural Development Act (7 U.S.C. 1935);*

7 *(C) activities designed to help create pro-*
8 *ductive farm or off-farm employment in rural*
9 *areas to provide a more viable economic base*
10 *and enhance opportunities for improved incomes,*
11 *living standards, and contributions by rural in-*
12 *dividuals to the economic and social development*
13 *of tobacco communities;*

14 *(D) activities that expand existing infra-*
15 *structure, facilities, and services to capitalize on*
16 *opportunities to diversify economies in tobacco*
17 *communities and that support the development*
18 *of new industries or commercial ventures;*

19 *(E) activities by agricultural organizations*
20 *that provide assistance directly to participating*
21 *tobacco producers to assist in developing other*
22 *agricultural activities that supplement tobacco-*
23 *producing activities;*

1 (F) initiatives designed to create or expand
 2 locally owned value-added processing and mar-
 3 keting operations in tobacco communities;

4 (G) technical assistance activities by per-
 5 sons to support farmer-owned enterprises, or ag-
 6 riculture-based rural development enterprises, of
 7 the type described in section 252 or 253 of the
 8 Trade Act of 1974 (19 U.S.C. 2342, 2343); and

9 (H) initiatives designed to partially com-
 10 pensate tobacco warehouse owners for lost reve-
 11 nues and assist the tobacco warehouse owners in
 12 establishing successful business enterprises.

13 (2) TOBACCO-GROWING COUNTIES.—Assistance
 14 may be provided by a State under this section only
 15 to assist a county in the State that has been deter-
 16 mined by the Secretary to have in excess of \$100,000
 17 in income derived from the production of tobacco dur-
 18 ing 1 or more of the 1995 through 1997 marketing
 19 years.

20 (3) DISTRIBUTION.—

21 (A) ECONOMIC DEVELOPMENT ACTIVI-
 22 TIES.—Not less than 20 percent of the amounts
 23 received by a State under this section shall be
 24 used to carry out—

(i) *economic development activities described in subparagraph (E) or (F) of paragraph (1); or*

(ii) *agriculture-based rural development activities described in paragraph (1)(G).*

(B) *TECHNICAL ASSISTANCE ACTIVITIES.—*
Not less than 4 percent of the amounts received by a State under this section shall be used to carry out technical assistance activities described in paragraph (1)(G).

(C) *TOBACCO WAREHOUSE OWNER INITIATIVES.—*

(i) *IN GENERAL.—Not less than 6 percent of the amounts received by a State under this section during each of fiscal years 1999 through 2008 shall be used to carry out initiatives described in paragraph (1)(H).*

(ii) *DIRECT PAYMENTS.—Of the amount made available under clause (i), not less than 80 percent of the amount shall be used to provide direct payments to tobacco warehouse owners based on any decline in the annual volume of tobacco sales*

1 *as compared to the volume of tobacco sales*
2 *during the 1998 marketing year.*

3 (D) *TOBACCO-GROWING COUNTIES.*—*To be*
4 *eligible to receive payments under this section, a*
5 *State shall demonstrate to the Secretary that*
6 *funding will be provided, during each 5-year pe-*
7 *riod for which funding is provided under this*
8 *section, for activities in each county in the State*
9 *that has been determined under paragraph (2) to*
10 *have in excess of \$100,000 in income derived*
11 *from the production of tobacco, in amounts that*
12 *are at least equal to the product obtained by*
13 *multiplying—*

14 (i) *the ratio that the tobacco produc-*
15 *tion income in the county determined under*
16 *paragraph (2) bears to the total tobacco*
17 *production income for the State determined*
18 *under subsection (c); and*

19 (ii) *50 percent of the total amounts re-*
20 *ceived by a State under this section during*
21 *the 5-year period.*

22 (f) *PREFERENCES IN HIRING.*—*A State may require*
23 *recipients of funds under this section to provide a preference*
24 *in employment to—*

25 (1) *an individual who—*

1 (A) during the 1998 calendar year, was em-
2 ployed in the manufacture, processing, or
3 warehousing of tobacco or tobacco products, or
4 resided, in a county described in subsection
5 (e)(2); and

6 (B) is eligible for assistance under the to-
7 bacco worker transition program established
8 under section 1031; or
9 (2) an individual who—

10 (A) during the 1998 marketing year, car-
11 ried out tobacco quota or relevant tobacco pro-
12 duction activities in a county described in sub-
13 section (e)(2);

14 (B) is eligible for a farmer opportunity
15 grant under subpart 9 of part A of title IV of
16 the Higher Education Act of 1965; and

17 (C) has successfully completed a course of
18 study at an institution of higher education.

19 (g) MAINTENANCE OF EFFORT.—

20 (1) IN GENERAL.—Subject to paragraph (2), a
21 State shall provide an assurance to the Secretary that
22 the amount of funds expended by the State and all
23 counties in the State described in subsection (e)(2) for
24 any activities funded under this section for a fiscal
25 year is not less than 90 percent of the amount of

1 *funds expended by the State and counties for the ac-*
 2 *tivities for the preceding fiscal year.*

3 (2) *REDUCTION OF GRANT AMOUNT.—If a State*
 4 *does not provide an assurance described in paragraph*
 5 *(1), the Secretary shall reduce the amount of the*
 6 *grant determined under subsection (c) by an amount*
 7 *equal to the amount by which the amount of funds ex-*
 8 *pended by the State and counties for the activities is*
 9 *less than 90 percent of the amount of funds expended*
 10 *by the State and counties for the activities for the*
 11 *preceding fiscal year, as determined by the Secretary.*

12 (3) *FEDERAL FUNDS.—For purposes of this sub-*
 13 *section, the amount of funds expended by a State or*
 14 *county shall not include any amounts made available*
 15 *by the Federal Government.*

16 **SEC. 1024. FLUE-CURED TOBACCO PRODUCTION PERMITS.**

17 *The Agricultural Adjustment Act of 1938 is amended*
 18 *by inserting after section 317 (7 U.S.C. 1314c) the follow-*
 19 *ing:*

20 **“SEC. 317A. FLUE-CURED TOBACCO PRODUCTION PERMITS.**

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

22 “(1) *INDIVIDUAL ACREAGE LIMITATION.—The*
 23 *term ‘individual acreage limitation’ means the num-*
 24 *ber of acres of flue-cured tobacco that may be planted*

1 *by the holder of a permit during a marketing year,*
 2 *calculated—*

3 *“(A) prior to—*

4 *“(i) any increase or decrease in the*
 5 *number due to undermarketings or over-*
 6 *marketings; and*

7 *“(ii) any reduction under subsection*
 8 *(i); and*

9 *“(B) in a manner that ensures that—*

10 *“(i) the total of all individual acreage*
 11 *limitations is equal to the national acreage*
 12 *allotment, less the reserve provided under*
 13 *subsection (h); and*

14 *“(ii) the individual acreage limitation*
 15 *for a marketing year bears the same ratio*
 16 *to the individual acreage limitation for the*
 17 *previous marketing year as the ratio that*
 18 *the national acreage allotment for the mar-*
 19 *keting year bears to the national acreage al-*
 20 *lotment for the previous marketing year,*
 21 *subject to adjustments by the Secretary to*
 22 *account for any reserve provided under sub-*
 23 *section (h).*

24 *“(2) INDIVIDUAL MARKETING LIMITATION.—The*
 25 *term ‘individual marketing limitation’ means the*

1 *number of pounds of flue-cured tobacco that may be*
 2 *marketed by the holder of a permit during a market-*
 3 *ing year, calculated—*

4 “(A) prior to—

5 “(i) any increase or decrease in the
 6 *number due to undermarketings or over-*
 7 *marketings; and*

8 “(ii) any reduction under subsection
 9 (i); and

10 “(B) in a manner that ensures that—

11 “(i) the total of all individual market-
 12 *ing limitations is equal to the national*
 13 *marketing quota, less the reserve provided*
 14 *under subsection (h); and*

15 “(ii) the individual marketing limita-
 16 *tion for a marketing year is obtained by*
 17 *multiplying the individual acreage limita-*
 18 *tion by the permit yield, prior to any ad-*
 19 *justment for undermarketings or over-*
 20 *marketings.*

21 “(3) *INDIVIDUAL TOBACCO PRODUCTION PER-*
 22 *MIT.—The term ‘individual tobacco production per-*
 23 *mit’ means a permit issued by the Secretary to a per-*
 24 *son authorizing the production of flue-cured tobacco*

1 *for any marketing year during which this section is*
2 *effective.*

3 “(4) *NATIONAL ACREAGE ALLOTMENT.*—*The term*
4 *‘national acreage allotment’ means the quantity deter-*
5 *mined by dividing—*

6 “(A) *the national marketing quota; by*

7 “(B) *the national average yield goal.*

8 “(5) *NATIONAL AVERAGE YIELD GOAL.*—*The*
9 *term ‘national average yield goal’ means the national*
10 *average yield for flue-cured tobacco during the 5 mar-*
11 *keting years immediately preceding the marketing*
12 *year for which the determination is being made.*

13 “(6) *NATIONAL MARKETING QUOTA.*—*For the*
14 *1999 and each subsequent crop of flue-cured tobacco,*
15 *the term ‘national marketing quota’ for a marketing*
16 *year means the quantity of flue-cured tobacco, as de-*
17 *termined by the Secretary, that is not more than 103*
18 *percent nor less than 97 percent of the total of—*

19 “(A) *the aggregate of the quantities of flue-*
20 *cured tobacco that domestic manufacturers of*
21 *cigarettes estimate that the manufacturers intend*
22 *to purchase on the United States auction mar-*
23 *kets or from producers during the marketing*
24 *year, as compiled and determined under section*
25 *320A;*

1 “(B) the average annual quantity of flue-
2 cured tobacco exported from the United States
3 during the 3 marketing years immediately pre-
4 ceding the marketing year for which the deter-
5 mination is being made; and

6 “(C) the quantity, if any, of flue-cured to-
7 bacco that the Secretary, in the discretion of the
8 Secretary, determines is necessary to increase or
9 decrease the inventory of the producer-owned co-
10 operative marketing association that has entered
11 into a loan agreement with the Commodity Cred-
12 it Corporation to make price support available
13 to producers of flue-cured tobacco to establish or
14 maintain the inventory at the reserve stock level
15 for flue-cured tobacco.

16 “(7) PERMIT YIELD.—The term ‘permit yield’
17 means the yield of tobacco per acre for an individual
18 tobacco production permit holder that is—

19 “(A) based on a preliminary permit yield
20 that is equal to the average yield during the 5
21 marketing years immediately preceding the mar-
22 keting year for which the determination is made
23 in the county where the holder of the permit is
24 authorized to plant flue-cured tobacco, as deter-

1 mined by the Secretary, on the basis of actual
2 yields of farms in the county; and

3 “(B) adjusted by a weighted national yield
4 factor calculated by—

5 “(i) multiplying each preliminary per-
6 mit yield by the individual acreage limita-
7 tion, prior to adjustments for overmarket-
8 ings, undermarketings, or reductions re-
9 quired under subsection (i); and

10 “(ii) dividing the sum of the products
11 under clause (i) for all flue-cured individual
12 tobacco production permit holders by the
13 national acreage allotment.

14 “(b) INITIAL ISSUANCE OF PERMITS.—

15 “(1) TERMINATION OF FLUE-CURED MARKETING
16 QUOTAS.—On approval through referendum under
17 subsection (c), farm marketing quotas as provided
18 under section 317 shall no longer be in effect for flue-
19 cured tobacco.

20 “(2) ISSUANCE OF PERMITS TO QUOTA HOLDERS
21 THAT WERE PRINCIPAL PRODUCERS.—

22 “(A) IN GENERAL.—On approval through a
23 referendum under subsection (c), each individual
24 quota holder under section 317 that was a prin-
25 cipal producer of flue-cured tobacco during the

1 1998 marketing year, as determined by the Sec-
2 retary, shall be issued an individual tobacco pro-
3 duction permit under this section.

4 “(B) NOTIFICATION.—The Secretary shall
5 notify the holder of each permit of the individual
6 acreage limitation and the individual marketing
7 limitation applicable to the holder for each mar-
8 keting year.

9 “(C) INDIVIDUAL ACREAGE LIMITATION FOR
10 1999 MARKETING YEAR.—In establishing the indi-
11 vidual acreage limitation for the 1999 marketing
12 year under this section, the farm acreage allot-
13 ment that was allotted to a farm owned by the
14 quota holder during the 1997 marketing year
15 shall be considered the individual acreage limita-
16 tion for the previous marketing year.

17 “(D) INDIVIDUAL MARKETING LIMITATION
18 FOR 1999 MARKETING YEAR.—In establishing the
19 individual marketing limitation for the 1999
20 marketing year under this section, the farm mar-
21 keting quota that was allotted to a farm owned
22 by the quota holder during the 1997 marketing
23 year shall be considered the individual market-
24 ing limitation for the previous marketing year.

1 “(3) QUOTA HOLDERS THAT WERE NOT PRIN-
2 CIPAL PRODUCERS.—

3 “(A) IN GENERAL.—*Except as provided in*
4 *subparagraph (B), on approval through a ref-*
5 *erendum under subsection (c)—*

6 “(i) *each person that was a quota hold-*
7 *er under section 317 but that was not a*
8 *principal producer of flue-cured tobacco*
9 *during the 1997 marketing year, as deter-*
10 *mined by the Secretary, shall not be eligible*
11 *to own a permit; and*

12 “(ii) *the Secretary shall not issue any*
13 *permit during the 25-year period beginning*
14 *on the date of enactment of this Act to any*
15 *person that was a quota holder and was not*
16 *the principal producer of flue-cured tobacco*
17 *during the 1997 marketing year.*

18 “(B) MEDICAL HARDSHIPS AND CROP DIS-
19 ASTERS.—*Subparagraph (A) shall not apply to*
20 *a person that would have been the principal pro-*
21 *ducer of flue-cured tobacco during the 1997 mar-*
22 *keting year but for a medical hardship or crop*
23 *disaster that occurred during the 1997 marketing*
24 *year.*

1 “(C) ADMINISTRATION.—The Secretary
2 shall issue regulations—

3 “(i) defining the term ‘person’ for the
4 purpose of this paragraph; and

5 “(ii) prescribing such rules as the Sec-
6 retary determines are necessary to ensure a
7 fair and reasonable application of the pro-
8 hibition established under this paragraph.

9 “(4) ISSUANCE OF PERMITS TO PRINCIPAL PRO-
10 DUCERS OF FLUE-CURED TOBACCO.—

11 “(A) IN GENERAL.—On approval through a
12 referendum under subsection (c), each individual
13 quota lessee or quota tenant (as defined in sec-
14 tion 1002 of the LEAF Act) that was the prin-
15 cipal producer of flue-cured tobacco during the
16 1997 marketing year, as determined by the Sec-
17 retary, shall be issued an individual tobacco pro-
18 duction permit under this section.

19 “(B) INDIVIDUAL ACREAGE LIMITATIONS.—
20 In establishing the individual acreage limitation
21 for the 1999 marketing year under this section,
22 the farm acreage allotment that was allotted to
23 a farm owned by a quota holder for whom the
24 quota lessee or quota tenant was the principal
25 producer of flue-cured tobacco during the 1997

1 *marketing year shall be considered the individ-*
 2 *ual acreage limitation for the previous market-*
 3 *ing year.*

4 *“(C) INDIVIDUAL MARKETING LIMITA-*
 5 *TIONS.—In establishing the individual market-*
 6 *ing limitation for the 1999 marketing year*
 7 *under this section, the individual marketing lim-*
 8 *itation for the previous year for an individual*
 9 *described in this paragraph shall be calculated*
 10 *by multiplying—*

11 *“(i) the farm marketing quota that*
 12 *was allotted to a farm owned by a quota*
 13 *holder for whom the quota lessee or quota*
 14 *holder was the principal producer of flue-*
 15 *cured tobacco during the 1997 marketing*
 16 *year, by*

17 *“(ii) the ratio that—*

18 *“(I) the sum of all flue-cured to-*
 19 *bacco farm marketing quotas for the*
 20 *1997 marketing year prior to adjusting*
 21 *for undermarketing and overmarketing;*
 22 *bears to*

23 *“(II) the sum of all flue-cured to-*
 24 *bacco farm marketing quotas for the*

1 1998 marketing year, after adjusting
2 for undermarketing and overmarketing.

3 “(D) SPECIAL RULE FOR TENANT OF
4 LEASED FLUE-CURED TOBACCO.—If the farm
5 marketing quota or farm acreage allotment of a
6 quota holder was produced pursuant to an agree-
7 ment under which a quota lessee rented land
8 from a quota holder and a quota tenant was the
9 primary producer, as determined by the Sec-
10 retary, of flue-cured tobacco pursuant to the
11 farm marketing quota or farm acreage allotment,
12 the farm marketing quota or farm acreage allot-
13 ment shall be divided proportionately between
14 the quota lessee and quota tenant for purposes of
15 issuing individual tobacco production permits
16 under this paragraph.

17 “(5) OPTION OF QUOTA LESSEE OR QUOTA TEN-
18 ANT TO RELINQUISH PERMIT.—

19 “(A) IN GENERAL.—Each quota lessee or
20 quota tenant that is issued an individual tobacco
21 production permit under paragraph (4) shall be
22 given the option of relinquishing the permit in
23 exchange for payments made under section
24 1021(e)(5) of the LEAF Act.

1 “(B) NOTIFICATION.—A quota lessee or
2 quota tenant that is issued an individual tobacco
3 production permit shall give notification of the
4 intention to exercise the option at such time and
5 in such manner as the Secretary may require,
6 but not later than 30 days after the permit is
7 issued.

8 “(C) REALLOCATION OF PERMIT.—The Sec-
9 retary shall add the authority to produce flue-
10 cured tobacco under the individual tobacco pro-
11 duction permit relinquished under this para-
12 graph to the county production pool established
13 under paragraph (8) for reallocation by the ap-
14 propriate county committee.

15 “(6) ACTIVE PRODUCER REQUIREMENT.—

16 “(A) REQUIREMENT FOR SHARING RISK.—
17 No individual tobacco production permit shall be
18 issued to, or maintained by, a person that does
19 not fully share in the risk of producing a crop
20 of flue-cured tobacco.

21 “(B) CRITERIA FOR SHARING RISK.—For
22 purposes of this paragraph, a person shall be
23 considered to have fully shared in the risk of pro-
24 duction of a crop if—

1 “(i) the investment of the person in the
2 production of the crop is not less than 100
3 percent of the costs of production associated
4 with the crop;

5 “(ii) the amount of the person’s return
6 on the investment is dependent solely on the
7 sale price of the crop; and

8 “(iii) the person may not receive any
9 of the return before the sale of the crop.

10 “(C) *PERSONS NOT SHARING RISK.*—

11 “(i) *FORFEITURE.*—Any person that
12 fails to fully share in the risks of production
13 under this paragraph shall forfeit an indi-
14 vidual tobacco production permit if, after
15 notice and opportunity for a hearing, the
16 appropriate county committee determines
17 that the conditions for forfeiture exist.

18 “(ii) *REALLOCATION.*—The Secretary
19 shall add the authority to produce flue-
20 cured tobacco under the individual tobacco
21 production permit forfeited under this sub-
22 paragraph to the county production pool es-
23 tablished under paragraph (8) for realloca-
24 tion by the appropriate county committee.

1 “(D) NOTICE.—Notice of any determination
2 made by a county committee under subpara-
3 graph (C) shall be mailed, as soon as practicable,
4 to the person involved.

5 “(E) REVIEW.—If the person is dissatisfied
6 with the determination, the person may request,
7 not later than 15 days after notice of the deter-
8 mination is received, a review of the determina-
9 tion by a local review committee under the pro-
10 cedures established under section 363 for farm
11 marketing quotas.

12 “(7) COUNTY OF ORIGIN REQUIREMENT.—For
13 the 1999 and each subsequent crop of flue-cured to-
14 bacco, all tobacco produced pursuant to an individual
15 tobacco production permit shall be produced in the
16 same county in which was produced the tobacco pro-
17 duced during the 1997 marketing year pursuant to
18 the farm marketing quota or farm acreage allotment
19 on which the individual tobacco production permit is
20 based.

21 “(8) COUNTY PRODUCTION POOL.—

22 “(A) IN GENERAL.—The authority to
23 produce flue-cured tobacco under an individual
24 tobacco production permit that is forfeited, relin-
25 quished, or surrendered within a county may be

1 *reallocated by the appropriate county committee*
2 *to tobacco producers located in the same county*
3 *that apply to the committee to produce flue-cured*
4 *tobacco under the authority.*

5 *“(B) PRIORITY.—In reallocating individual*
6 *tobacco production permits under this para-*
7 *graph, a county committee shall provide a prior-*
8 *ity to—*

9 *“(i) an active tobacco producer that*
10 *controls the authority to produce a quantity*
11 *of flue-cured tobacco under an individual*
12 *tobacco production permit that is equal to*
13 *or less than the average number of pounds*
14 *of flue-cured tobacco that was produced by*
15 *the producer during each of the 1995*
16 *through 1997 marketing years, as deter-*
17 *mined by the Secretary; and*

18 *“(ii) a new tobacco producer.*

19 *“(C) CRITERIA.—Individual tobacco pro-*
20 *duction permits shall be reallocated by the ap-*
21 *propriate county committee under this para-*
22 *graph in a fair and equitable manner after tak-*
23 *ing into consideration—*

24 *“(i) the experience of the producer;*

1 “(ii) the availability of land, labor,
2 and equipment for the production of to-
3 bacco;

4 “(iii) crop rotation practices; and

5 “(iv) the soil and other physical factors
6 affecting the production of tobacco.

7 “(D) MEDICAL HARDSHIPS AND CROP DIS-
8 ASTERS.—Notwithstanding any other provision
9 of this Act, the Secretary may issue an individ-
10 ual tobacco production permit under this para-
11 graph to a producer that is otherwise ineligible
12 for the permit due to a medical hardship or crop
13 disaster that occurred during the 1997 marketing
14 year.

15 “(c) REFERENDUM.—

16 “(1) ANNOUNCEMENT OF QUOTA AND ALLOT-
17 MENT.—Not later than December 15, 1998, the Sec-
18 retary pursuant to subsection (b) shall determine and
19 announce—

20 “(A) the quantity of the national marketing
21 quota for flue-cured tobacco for the 1999 market-
22 ing year; and

23 “(B) the national acreage allotment and na-
24 tional average yield goal for the 1999 crop of
25 flue-cured tobacco.

1 “(2) *SPECIAL REFERENDUM.*—Not later than 30
2 days after the announcement of the quantity of the
3 national marketing quota, the Secretary shall conduct
4 a special referendum of the producers that were the
5 principal producers of flue-cured tobacco of the 1997
6 crop to determine whether the producers approve or
7 oppose the establishment of individual tobacco pro-
8 duction permits on an acreage-poundage basis as pro-
9 vided in this section for the 1999 through 2001 mar-
10 keting years.

11 “(3) *APPROVAL OF PERMITS.*—If the Secretary
12 determines that more than $66\frac{2}{3}$ percent of the pro-
13 ducers voting in the special referendum approve the
14 establishment of individual tobacco production per-
15 mits on an acreage-poundage basis—

16 “(A) individual tobacco production permits
17 on an acreage-poundage basis as provided in this
18 section shall be in effect for the 1999 through
19 2001 marketing years; and

20 “(B) marketing quotas on an acreage-
21 poundage basis shall cease to be in effect for the
22 1999 through 2001 marketing years.

23 “(4) *DISAPPROVAL OF PERMITS.*—If individual
24 tobacco production permits on an acreage-poundage
25 basis are not approved by more than $66\frac{2}{3}$ percent of

1 *the producers voting in the referendum, no marketing*
2 *quotas on an acreage-poundage basis shall continue*
3 *in effect that were proclaimed under section 317 prior*
4 *to the referendum.*

5 *“(5) APPLICABLE MARKETING YEARS.—If indi-*
6 *vidual tobacco production permits have been made ef-*
7 *fective for flue-cured tobacco on an acreage-poundage*
8 *basis pursuant to this subsection, the Secretary shall,*
9 *not later than December 15 of any future marketing*
10 *year, announce a national marketing quota for that*
11 *type of tobacco for the next 3 succeeding marketing*
12 *years if the marketing year is the last year of 3 con-*
13 *secutive years for which individual tobacco produc-*
14 *tion permits previously proclaimed will be in effect.*

15 *“(d) ANNUAL ANNOUNCEMENT OF NATIONAL MARKET-*
16 *ING QUOTA.—The Secretary shall determine and announce*
17 *the national marketing quota, national acreage allotment,*
18 *and national average yield goal for the second and third*
19 *marketing years of any 3-year period for which individual*
20 *tobacco production permits are in effect on or before the*
21 *December 15 immediately preceding the beginning of the*
22 *marketing year to which the quota, allotment, and goal*
23 *apply.*

24 *“(e) ANNUAL ANNOUNCEMENT OF INDIVIDUAL TO-*
25 *BACCO PRODUCTION PERMITS.—If a national marketing*

1 *quota, national acreage allotment, and national average*
2 *yield goal are determined and announced, the Secretary*
3 *shall provide for the determination of individual tobacco*
4 *production permits, individual acreage limitations, and in-*
5 *dividual marketing limitations under this section for the*
6 *crop and marketing year covered by the determinations.*

7 “(f) *ASSIGNMENT OF TOBACCO PRODUCTION PER-*
8 *MITs.—*

9 “(1) *LIMITATION TO SAME COUNTY.—Each indi-*
10 *vidual tobacco production permit holder shall assign*
11 *the individual acreage limitation and individual*
12 *marketing limitation to 1 or more farms located with-*
13 *in the county of origin of the individual tobacco pro-*
14 *duction permit.*

15 “(2) *FILING WITH COUNTY COMMITTEE.—The as-*
16 *signment of an individual acreage limitation and in-*
17 *dividual marketing limitation shall not be effective*
18 *until evidence of the assignment, in such form as re-*
19 *quired by the Secretary, is filed with and determined*
20 *by the county committee for the county in which the*
21 *farm involved is located.*

22 “(3) *LIMITATION ON TILLABLE CROPLAND.—The*
23 *total acreage assigned to any farm under this sub-*
24 *section shall not exceed the acreage of cropland on the*
25 *farm.*

1 “(g) *PROHIBITION ON SALE OR LEASING OF INDIVID-*
2 *UAL TOBACCO PRODUCTION PERMITS.*—

3 “(1) *IN GENERAL.*—*Except as provided in para-*
4 *graphs (2) and (3), the Secretary shall not permit the*
5 *sale and transfer, or lease and transfer, of an individ-*
6 *ual tobacco production permit issued under this sec-*
7 *tion.*

8 “(2) *TRANSFER TO DESCENDANTS.*—

9 “(A) *DEATH.*—*In the case of the death of a*
10 *person to whom an individual tobacco produc-*
11 *tion permit has been issued under this section,*
12 *the permit shall transfer to the surviving spouse*
13 *of the person or, if there is no surviving spouse,*
14 *to surviving direct descendants of the person.*

15 “(B) *TEMPORARY INABILITY TO FARM.*—*In*
16 *the case of the death of a person to whom an in-*
17 *dividual tobacco production permit has been*
18 *issued under this section and whose descendants*
19 *are temporarily unable to produce a crop of to-*
20 *bacco, the Secretary may hold the license in the*
21 *name of the descendants for a period of not more*
22 *than 18 months.*

23 “(3) *VOLUNTARY TRANSFERS.*—*A person that is*
24 *eligible to obtain an individual tobacco production*
25 *permit under this section may at any time transfer*

1 *all or part of the permit to the person's spouse or di-*
2 *rect descendants that are actively engaged in the pro-*
3 *duction of tobacco.*

4 “(h) *RESERVE.*—

5 “(1) *IN GENERAL.*—For each marketing year for
6 *which individual tobacco production permits are in*
7 *effect under this section, the Secretary may establish*
8 *a reserve from the national marketing quota in a*
9 *quantity equal to not more than 1 percent of the na-*
10 *tional marketing quota to be available for—*

11 “(A) *making corrections of errors in indi-*
12 *vidual acreage limitations and individual mar-*
13 *keting limitations;*

14 “(B) *adjusting inequities; and*

15 “(C) *establishing individual tobacco produc-*
16 *tion permits for new tobacco producers (except*
17 *that not less than two-thirds of the reserve shall*
18 *be for establishing such permits for new tobacco*
19 *producers).*

20 “(2) *ELIGIBLE PERSONS.*—To be eligible for a
21 *new individual tobacco production permit, a producer*
22 *must have owned a farm on which tobacco was not*
23 *produced or considered produced during the imme-*
24 *diately preceding 5 years.*

1 “(3) *APPORTIONMENT FOR NEW PRODUCERS.*—

2 *The part of the reserve held for apportionment to new*
 3 *individual tobacco producers shall be allotted on the*
 4 *basis of—*

5 “(A) *land, labor, and equipment available*
 6 *for the production of tobacco;*

7 “(B) *crop rotation practices;*

8 “(C) *soil and other physical factors affect-*
 9 *ing the production of tobacco; and*

10 “(D) *the past tobacco-producing experience*
 11 *of the producer.*

12 “(4) *PERMIT YIELD.*—*The permit yield for any*
 13 *producer for which a new individual tobacco produc-*
 14 *tion permit is established shall be determined on the*
 15 *basis of available productivity data for the land in-*
 16 *volved and yields for similar farms in the same coun-*
 17 *ty.*

18 “(i) *PENALTIES.*—

19 “(1) *PRODUCTION ON OTHER FARMS.*—*If any*
 20 *quantity of tobacco is marketed as having been pro-*
 21 *duced under an individual acreage limitation or in-*
 22 *dividual marketing limitation assigned to a farm but*
 23 *was produced on a different farm, the individual*
 24 *acreage limitation or individual marketing limitation*
 25 *for the following marketing year shall be forfeited.*

1 “(2) *FALSE REPORT.*—If a person to which an
2 individual tobacco production permit is issued files,
3 or aids or acquiesces in the filing of, a false report
4 with respect to the assignment of an individual acre-
5 age limitation or individual marketing limitation for
6 a quantity of tobacco, the individual acreage limita-
7 tion or individual marketing limitation for the fol-
8 lowing marketing year shall be forfeited.

9 “(j) *MARKETING PENALTIES.*—

10 “(1) *IN GENERAL.*—When individual tobacco
11 production permits under this section are in effect,
12 provisions with respect to penalties for the marketing
13 of excess tobacco and the other provisions contained in
14 section 314 shall apply in the same manner and to
15 the same extent as they would apply under section
16 317(g) if farm marketing quotas were in effect.

17 “(2) *PRODUCTION ON OTHER FARMS.*—If a pro-
18 ducer falsely identifies tobacco as having been pro-
19 duced on or marketed from a farm to which an indi-
20 vidual acreage limitation or individual marketing
21 limitation has been assigned, future individual acre-
22 age limitations and individual marketing limitations
23 shall be forfeited.”.

1 **SEC. 1025. MODIFICATIONS IN FEDERAL TOBACCO PRO-**
2 **GRAMS.**

3 (a) *PROGRAM REFERENDA.*—Section 312(c) of the Ag-
4 ricultural Adjustment Act of 1938 (7 U.S.C. 1312(c)) is
5 amended—

6 (1) by striking “(c) Within thirty” and inserting
7 the following:

8 “(c) *REFERENDA ON QUOTAS.*—

9 “(1) *IN GENERAL.*—Not later than 30”; and

10 (2) by adding at the end the following:

11 “(2) *REFERENDA ON PROGRAM CHANGES.*—

12 “(A) *IN GENERAL.*—In the case of any type
13 of tobacco for which marketing quotas are in ef-
14 fect, on the receipt of a petition from more than
15 5 percent of the producers of that type of tobacco
16 in a State, the Secretary shall conduct a state-
17 wide referendum on any proposal related to the
18 lease and transfer of tobacco quota within a
19 State requested by the petition that is authorized
20 under this part.

21 “(B) *APPROVAL OF PROPOSALS.*—If a ma-
22 jority of producers of the type of tobacco in the
23 State approve a proposal in a referendum con-
24 ducted under subparagraph (A), the Secretary
25 shall implement the proposal in a manner that

1 *applies to all producers and quota holders of that*
 2 *type of tobacco in the State.”.*

3 (b) *PURCHASE REQUIREMENTS.—Section 320B of the*
 4 *Agricultural Adjustment Act of 1938 (7 U.S.C. 1314h) is*
 5 *amended—*

6 (1) *in subsection (c)—*

7 (A) *by striking “(c) The amount” and in-*
 8 *serting “(c) AMOUNT OF PENALTY.—For the*
 9 *1998 and subsequent marketing years, the*
 10 *amount”; and*

11 (B) *by striking paragraph (1) and inserting*
 12 *the following:*

13 “*(1) 105 percent of the average market price for*
 14 *the type of tobacco involved during the preceding*
 15 *marketing year; and”; and*

16 (2) *by striking subsection (d) and inserting the*
 17 *following:*

18 “*(d) USE OF PENALTY PAYMENTS.—An amount equiv-*
 19 *alent to each penalty collected by the Secretary under this*
 20 *section shall be transmitted by the Secretary to the Sec-*
 21 *retary of the Treasury for deposit in the Tobacco Commu-*
 22 *nity Revitalization Trust Fund established under section*
 23 *1011 of the LEAF Act.”.*

24 (c) *ELIMINATION OF TOBACCO MARKETING ASSESS-*
 25 *MENT.—*

1 (1) *IN GENERAL.*—Section 106 of the *Agricul-*
 2 *tural Act of 1949* (7 U.S.C. 1445) is amended by
 3 striking subsection (g).

4 (2) *CONFORMING AMENDMENT.*—Section 422(c)
 5 of the *Uruguay Round Agreements Act* (Public Law
 6 103-465; 7 U.S.C. 1445 note) is amended by striking
 7 “section 106(g), 106A, or 106B of the *Agricultural*
 8 *Act of 1949* (7 U.S.C. 1445(g), 1445-1, or 1445-2)”
 9 and inserting “section 106A or 106B of the *Agricul-*
 10 *tural Act of 1949* (7 U.S.C. 1445-1, 1445-2)”.

11 (d) *ADJUSTMENT FOR LAND RENTAL COSTS.*—Section
 12 106 of the *Agricultural Act of 1949* (7 U.S.C. 1445) is
 13 amended by adding at the end the following:

14 “(h) *ADJUSTMENT FOR LAND RENTAL COSTS.*—For
 15 each of the 1999 and 2000 marketing years for flue-cured
 16 tobacco, after consultation with producers, State farm orga-
 17 nizations and cooperative associations, the Secretary shall
 18 make an adjustment in the price support level for flue-cured
 19 tobacco equal to the annual change in the average cost per
 20 pound to flue-cured producers, as determined by the Sec-
 21 retary, under agreements through which producers rent
 22 land to produce flue-cured tobacco.”.

23 (e) *FIRE-CURED AND DARK AIR-CURED TOBACCO*
 24 *PROGRAMS.*—

1 (1) *LIMITATION ON TRANSFERS.*—Section 318(g)
 2 of the Agricultural Adjustment Act of 1938 (7 U.S.C.
 3 1314d(g)) is amended—

4 (A) by striking “ten” and inserting “30”;
 5 and

6 (B) by inserting “during any crop year”
 7 after “transferred to any farm”.

8 (2) *LOSS OF ALLOTMENT OR QUOTA THROUGH*
 9 *UNDERPLANTING.*—Section 318 of the Agricultural
 10 Adjustment Act of 1938 (7 U.S.C. 1314d) is amended
 11 by adding at the end the following:

12 “(k) *LOSS OF ALLOTMENT OR QUOTA THROUGH*
 13 *UNDERPLANTING.*—Effective for the 1999 and subsequent
 14 marketing years, no acreage allotment or acreage-poundage
 15 quota, other than a new marketing quota, shall be estab-
 16 lished for a farm on which no fire-cured or dark air-cured
 17 tobacco was planted or considered planted during at least
 18 2 of the 3 crop years immediately preceding the crop year
 19 for which the acreage allotment or acreage-poundage quota
 20 would otherwise be established.”.

21 (f) *EXPANSION OF TYPES OF TOBACCO SUBJECT TO*
 22 *NO NET COST ASSESSMENT.*—

23 (1) *NO NET COST TOBACCO FUND.*—Section
 24 106A(d)(1)(A) of the Agricultural Act of 1949 (7
 25 U.S.C. 1445–1(d)(1)(A)) is amended—

(A) in clause (ii), by inserting after “Burley quota tobacco” the following: “and fire-cured and dark air-cured quota tobacco”; and

(B) in clause (iii)—

(i) in the matter preceding subclause (I), by striking “Flue-cured or Burley tobacco” and inserting “each kind of tobacco for which price support is made available under this Act, and each kind of like tobacco,”; and

(ii) by striking subclause (II) and inserting the following:

“(II) the sum of the amount of the per pound producer contribution and purchaser assessment (if any) for the kind of tobacco payable under clauses (i) and (ii); and”.

(2) NO NET COST TOBACCO ACCOUNT.—Section 106B(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445–2(d)(1)) is amended—

(A) in subparagraph (B), by inserting after “Burley quota tobacco” the following: “and fire-cured and dark air-cured tobacco”; and

(B) in subparagraph (C), by striking “Flue-cured and Burley tobacco” and inserting “each

1 *kind of tobacco for which price support is made*
2 *available under this Act, and each kind of like*
3 *tobacco,”.*

4 ***Subtitle C—Farmer and Worker***
5 ***Transition Assistance***

6 **SEC. 1031. TOBACCO WORKER TRANSITION PROGRAM.**

7 ***(a) GROUP ELIGIBILITY REQUIREMENTS.—***

8 ***(1) CRITERIA.—****A group of workers (including*
9 *workers in any firm or subdivision of a firm involved*
10 *in the manufacture, processing, or warehousing of to-*
11 *bacco or tobacco products) shall be certified as eligible*
12 *to apply for adjustment assistance under this section*
13 *pursuant to a petition filed under subsection (b) if the*
14 *Secretary of Labor determines that a significant*
15 *number or proportion of the workers in the workers’*
16 *firm or an appropriate subdivision of the firm have*
17 *become totally or partially separated, or are threat-*
18 *ened to become totally or partially separated, and—*

19 ***(A)*** *the sales or production, or both, of the*
20 *firm or subdivision have decreased absolutely;*
21 *and*

22 ***(B)*** *the implementation of the national to-*
23 *bacco settlement contributed importantly to the*
24 *workers’ separation or threat of separation and*

1 to the decline in the sales or production of the
2 firm or subdivision.

3 (2) *DEFINITION OF CONTRIBUTED IMPOR-*
4 *TANTLY.*—In paragraph (1)(B), the term “contributed
5 importantly” means a cause that is important but
6 not necessarily more important than any other cause.

7 (3) *REGULATIONS.*—The Secretary shall issue
8 regulations relating to the application of the criteria
9 described in paragraph (1) in making preliminary
10 findings under subsection (b) and determinations
11 under subsection (c).

12 (b) *PRELIMINARY FINDINGS AND BASIC ASSIST-*
13 *ANCE.*—

14 (1) *FILING OF PETITIONS.*—A petition for cer-
15 tification of eligibility to apply for adjustment assist-
16 ance under this section may be filed by a group of
17 workers (including workers in any firm or subdivi-
18 sion of a firm involved in the manufacture, process-
19 ing, or warehousing of tobacco or tobacco products) or
20 by their certified or recognized union or other duly
21 authorized representative with the Governor of the
22 State in which the workers’ firm or subdivision there-
23 of is located.

24 (2) *FINDINGS AND ASSISTANCE.*—On receipt of a
25 petition under paragraph (1), the Governor shall—

1 (A) notify the Secretary that the Governor
2 has received the petition;

3 (B) within 10 days after receiving the peti-
4 tion—

5 (i) make a preliminary finding as to
6 whether the petition meets the criteria de-
7 scribed in subsection (a)(1); and

8 (ii) transmit the petition, together with
9 a statement of the finding under clause (i)
10 and reasons for the finding, to the Secretary
11 for action under subsection (c); and

12 (C) if the preliminary finding under sub-
13 paragraph (B)(i) is affirmative, ensure that
14 rapid response and basic readjustment services
15 authorized under other Federal laws are made
16 available to the workers.

17 (c) *REVIEW OF PETITIONS BY SECRETARY; CERTIFI-*
18 *CATIONS.—*

19 (1) *IN GENERAL.—*The Secretary, within 30
20 days after receiving a petition under subsection
21 (b)(2)(B)(ii), shall determine whether the petition
22 meets the criteria described in subsection (a)(1). On
23 a determination that the petition meets the criteria,
24 the Secretary shall issue to workers covered by the pe-

1 *tition a certification of eligibility to apply for the as-*
2 *stance described in subsection (d).*

3 (2) *DENIAL OF CERTIFICATION.—On the denial*
4 *of a certification with respect to a petition under*
5 *paragraph (1), the Secretary shall review the petition*
6 *in accordance with the requirements of other applica-*
7 *ble assistance programs to determine if the workers*
8 *may be certified under the other programs.*

9 (d) *COMPREHENSIVE ASSISTANCE.—*

10 (1) *IN GENERAL.—Workers covered by a certifi-*
11 *cation issued by the Secretary under subsection (c)(1)*
12 *shall be provided with benefits and services described*
13 *in paragraph (2) in the same manner and to the*
14 *same extent as workers covered under a certification*
15 *under subchapter A of title II of the Trade Act of*
16 *1974 (19 U.S.C. 2271 et seq.), except that the total*
17 *amount of payments under this section for any fiscal*
18 *year shall not exceed \$25,000,000.*

19 (2) *BENEFITS AND SERVICES.—The benefits and*
20 *services described in this paragraph are the following:*

21 (A) *Employment services of the type de-*
22 *scribed in section 235 of the Trade Act of 1974*
23 *(19 U.S.C. 2295).*

24 (B) *Training described in section 236 of the*
25 *Trade Act of 1974 (19 U.S.C. 2296), except that*

1 *notwithstanding the provisions of section*
2 *236(a)(2)(A) of that Act, the total amount of*
3 *payments for training under this section for any*
4 *fiscal year shall not exceed \$12,500,000.*

5 *(C) Tobacco worker readjustment allow-*
6 *ances, which shall be provided in the same man-*
7 *ner as trade readjustment allowances are pro-*
8 *vided under part I of subchapter B of chapter 2*
9 *of title II of the Trade Act of 1974 (19 U.S.C.*
10 *2291 et seq.), except that—*

11 *(i) the provisions of sections*
12 *231(a)(5)(C) and 231(c) of that Act (19*
13 *U.S.C. 2291(a)(5)(C), 2291(c)), authorizing*
14 *the payment of trade readjustment allow-*
15 *ances on a finding that it is not feasible or*
16 *appropriate to approve a training program*
17 *for a worker, shall not be applicable to pay-*
18 *ment of allowances under this section; and*

19 *(ii) notwithstanding the provisions of*
20 *section 233(b) of that Act (19 U.S.C.*
21 *2293(b)), in order for a worker to qualify*
22 *for tobacco readjustment allowances under*
23 *this section, the worker shall be enrolled in*
24 *a training program approved by the Sec-*
25 *retary of the type described in section*

1 236(a) of that Act (19 U.S.C. 2296(a)) by
2 the later of—

3 (I) the last day of the 16th week
4 of the worker's initial unemployment
5 compensation benefit period; or

6 (II) the last day of the 6th week
7 after the week in which the Secretary
8 issues a certification covering the
9 worker.

10 In cases of extenuating circumstances relat-
11 ing to enrollment of a worker in a training
12 program under this section, the Secretary
13 may extend the time for enrollment for a
14 period of not to exceed 30 days.

15 (D) Job search allowances of the type de-
16 scribed in section 237 of the Trade Act of 1974
17 (19 U.S.C. 2297).

18 (E) Relocation allowances of the type de-
19 scribed in section 238 of the Trade Act of 1974
20 (19 U.S.C. 2298).

21 (e) *INELIGIBILITY OF INDIVIDUALS RECEIVING PAY-*
22 *MENTS FOR LOST TOBACCO QUOTA.*—No benefits or services
23 may be provided under this section to any individual who
24 has received payments for lost tobacco quota under section
25 1021.

1 (f) *FUNDING.*—Of the amounts in the Trust Fund, the
 2 Secretary may use not to exceed \$25,000,000 for each of
 3 fiscal years 1999 through 2008 to provide assistance under
 4 this section.

5 (g) *EFFECTIVE DATE.*—This section shall take effect
 6 on the date that is the later of—

7 (1) October 1, 1998; or

8 (2) the date of enactment of this Act.

9 (h) *TERMINATION DATE.*—No assistance, vouchers, al-
 10 lowances, or other payments may be provided under this
 11 section after the date that is the earlier of—

12 (1) the date that is 10 years after the effective
 13 date of this section under subsection (g); or

14 (2) the date on which legislation establishing a
 15 program providing dislocated workers with com-
 16 prehensive assistance substantially similar to the as-
 17 sistance provided by this section becomes effective.

18 **SEC. 1032. FARMER OPPORTUNITY GRANTS.**

19 Part A of title IV of the Higher Education Act of 1965
 20 (20 U.S.C. 1070 et seq.) is amended by adding at the end
 21 the following:

22 **“Subpart 9—Farmer Opportunity Grants**

23 **“SEC. 420D. STATEMENT OF PURPOSE.**

24 *“It is the purpose of this subpart to assist in making*
 25 *available the benefits of postsecondary education to eligible*

1 *students (determined in accordance with section 420F) in*
 2 *institutions of higher education by providing farmer oppor-*
 3 *tunity grants to all eligible students.*

4 **“SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETER-**
 5 **MINATIONS; APPLICATIONS.**

6 *“(a) PROGRAM AUTHORITY AND METHOD OF DIS-*
 7 *TRIBUTION.—*

8 *“(1) PROGRAM AUTHORITY.—From amounts*
 9 *made available under section 1011(d)(5) of the LEAF*
 10 *Act, the Secretary, during the period beginning July*
 11 *1, 1999, and ending September 30, 2024, shall pay to*
 12 *each eligible institution such sums as may be nec-*
 13 *essary to pay to each eligible student (determined in*
 14 *accordance with section 420F) for each academic year*
 15 *during which that student is in attendance at an in-*
 16 *stitution of higher education, as an undergraduate, a*
 17 *farmer opportunity grant in the amount for which*
 18 *that student is eligible, as determined pursuant to*
 19 *subsection (b). Not less than 85 percent of the sums*
 20 *shall be advanced to eligible institutions prior to the*
 21 *start of each payment period and shall be based on*
 22 *an amount requested by the institution as needed to*
 23 *pay eligible students, except that this sentence shall*
 24 *not be construed to limit the authority of the Sec-*

1 retary to place an institution on a reimbursement
2 system of payment.

3 “(2) *CONSTRUCTION.*—Nothing in this section
4 shall be construed to prohibit the Secretary from pay-
5 ing directly to students, in advance of the beginning
6 of the academic term, an amount for which the stu-
7 dents are eligible, in cases where the eligible institu-
8 tion elects not to participate in the disbursement sys-
9 tem required by paragraph (1).

10 “(3) *DESIGNATION.*—Grants made under this
11 subpart shall be known as ‘farmer opportunity
12 grants’.

13 “(b) *AMOUNT OF GRANTS.*—

14 “(1) *AMOUNTS.*—

15 “(A) *IN GENERAL.*—The amount of the
16 grant for a student eligible under this subpart
17 shall be—

18 “(i) \$1,700 for each of the academic
19 years 1999–2000 through 2003–2004;

20 “(ii) \$2,000 for each of the academic
21 years 2004–2005 through 2008–2009;

22 “(iii) \$2,300 for each of the academic
23 years 2009–2010 through 2013–2014;

24 “(iv) \$2,600 for each of the academic
25 years 2014–2015 through 2018–2019; and

1 “(v) \$2,900 for each of the academic
2 years 2019–2020 through 2023–2024.

3 “(B) *PART-TIME RULE.*—In any case where
4 a student attends an institution of higher edu-
5 cation on less than a full-time basis (including
6 a student who attends an institution of higher
7 education on less than a half-time basis) during
8 any academic year, the amount of the grant for
9 which that student is eligible shall be reduced in
10 proportion to the degree to which that student is
11 not so attending on a full-time basis, in accord-
12 ance with a schedule of reductions established by
13 the Secretary for the purposes of this subpara-
14 graph, computed in accordance with this sub-
15 part. The schedule of reductions shall be estab-
16 lished by regulation and published in the Federal
17 Register.

18 “(2) *MAXIMUM.*—No grant under this subpart
19 shall exceed the cost of attendance (as described in
20 section 472) at the institution at which that student
21 is in attendance. If, with respect to any student, it
22 is determined that the amount of a grant exceeds the
23 cost of attendance for that year, the amount of the
24 grant shall be reduced to an amount equal to the cost
25 of attendance at the institution.

1 “(3) *PROHIBITION.*—No grant shall be awarded
2 under this subpart to any individual who is incarcerated
3 in any Federal, State, or local penal institution.

4 “(c) *PERIOD OF ELIGIBILITY FOR GRANTS.*—

5 “(1) *IN GENERAL.*—The period during which a
6 student may receive grants shall be the period re-
7 quired for the completion of the first undergraduate
8 baccalaureate course of study being pursued by that
9 student at the institution at which the student is in
10 attendance, except that any period during which the
11 student is enrolled in a noncredit or remedial course
12 of study as described in paragraph (2) shall not be
13 counted for the purpose of this paragraph.

14 “(2) *CONSTRUCTION.*—Nothing in this section
15 shall be construed to—

16 “(A) exclude from eligibility courses of
17 study that are noncredit or remedial in nature
18 and that are determined by the institution to be
19 necessary to help the student be prepared for the
20 pursuit of a first undergraduate baccalaureate
21 degree or certificate or, in the case of courses in
22 English language instruction, to be necessary to
23 enable the student to utilize already existing
24 knowledge, training, or skills; and

1 “(B) *exclude from eligibility programs of*
2 *study abroad that are approved for credit by the*
3 *home institution at which the student is enrolled.*

4 “(3) *PROHIBITION.—No student is entitled to re-*
5 *ceive farmer opportunity grant payments concur-*
6 *rently from more than 1 institution or from the Sec-*
7 *retary and an institution.*

8 “(d) *APPLICATIONS FOR GRANTS.—*

9 “(1) *IN GENERAL.—The Secretary shall from*
10 *time to time set dates by which students shall file ap-*
11 *plications for grants under this subpart. The filing of*
12 *applications under this subpart shall be coordinated*
13 *with the filing of applications under section 401(c).*

14 “(2) *INFORMATION AND ASSURANCES.—Each stu-*
15 *dent desiring a grant for any year shall file with the*
16 *Secretary an application for the grant containing*
17 *such information and assurances as the Secretary*
18 *may deem necessary to enable the Secretary to carry*
19 *out the Secretary's functions and responsibilities*
20 *under this subpart.*

21 “(e) *DISTRIBUTION OF GRANTS TO STUDENTS.—Pay-*
22 *ments under this section shall be made in accordance with*
23 *regulations promulgated by the Secretary for such purpose,*
24 *in such manner as will best accomplish the purpose of this*
25 *section. Any disbursement allowed to be made by crediting*

1 *the student's account shall be limited to tuition and fees*
2 *and, in the case of institutionally owned housing, room and*
3 *board. The student may elect to have the institution provide*
4 *other such goods and services by crediting the student's ac-*
5 *count.*

6 “(f) *INSUFFICIENT FUNDING.—If, for any fiscal year,*
7 *the funds made available to carry out this subpart from*
8 *the Tobacco Community Revitalization Trust Fund are in-*
9 *sufficient to satisfy fully all grants for students determined*
10 *to be eligible under section 420F, the amount of the grant*
11 *provided under subsection (b) shall be reduced on a pro rata*
12 *basis among all eligible students.*

13 “(g) *TREATMENT OF INSTITUTIONS AND STUDENTS*
14 *UNDER OTHER LAWS.—Any institution of higher education*
15 *that enters into an agreement with the Secretary to disburse*
16 *to students attending that institution the amounts those stu-*
17 *dents are eligible to receive under this subpart shall not be*
18 *deemed, by virtue of the agreement, to be a contractor main-*
19 *taining a system of records to accomplish a function of the*
20 *Secretary. Recipients of farmer opportunity grants shall*
21 *not be considered to be individual grantees for purposes of*
22 *the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et*
23 *seq.).*

1 **"SEC. 420F. STUDENT ELIGIBILITY.**

2 “(a) *IN GENERAL.*—*In order to receive any grant*
3 *under this subpart, a student shall—*

4 “(1) *be a member of a tobacco farm family in*
5 *accordance with subsection (b);*

6 “(2) *be enrolled or accepted for enrollment in a*
7 *degree, certificate, or other program (including a pro-*
8 *gram of study abroad approved for credit by the eligi-*
9 *ble institution at which the student is enrolled) lead-*
10 *ing to a recognized educational credential at an insti-*
11 *tution of higher education that is an eligible institu-*
12 *tion in accordance with section 487, and not be en-*
13 *rolled in an elementary or secondary school;*

14 “(3) *if the student is presently enrolled at an in-*
15 *stitution of higher education, be maintaining satisfac-*
16 *tory progress in the course of study the student is*
17 *pursuing in accordance with subsection (c);*

18 “(4) *not owe a refund on grants previously re-*
19 *ceived at any institution of higher education under*
20 *this title, or be in default on any loan from a student*
21 *loan fund at any institution provided for in part D,*
22 *or a loan made, insured, or guaranteed by the Sec-*
23 *retary under this title for attendance at any institu-*
24 *tion;*

25 “(5) *file with the institution of higher education*
26 *that the student intends to attend, or is attending, a*

1 document, that need not be notarized, but that shall
2 include—

3 “(A) a statement of educational purpose
4 stating that the money attributable to the grant
5 will be used solely for expenses related to attend-
6 ance or continued attendance at the institution;
7 and

8 “(B) the student’s social security number;
9 and

10 “(6) be a citizen of the United States.

11 “(b) TOBACCO FARM FAMILIES.—

12 “(1) IN GENERAL.—For the purpose of subsection
13 (a)(1), a student is a member of a tobacco farm fam-
14 ily if during calendar year 1998 the student was—

15 “(A) an individual who—

16 “(i) is a participating tobacco pro-
17 ducer (as defined in section 1002 of the
18 LEAF Act); or

19 “(ii) is otherwise actively engaged in
20 the production of tobacco;

21 “(B) a spouse, son, daughter, stepson, or
22 stepdaughter of an individual described in sub-
23 paragraph (A);

24 “(C) an individual—

1 “(i) who was a brother, sister, step-
2 brother, stepsister, son-in-law, or daughter-
3 in-law of an individual described in sub-
4 paragraph (A); and

5 “(ii) whose principal place of residence
6 was the home of the individual described in
7 subparagraph (A); or

8 “(D) an individual who was a dependent
9 (within the meaning of section 152 of the Inter-
10 nal Revenue Code of 1986) of an individual de-
11 scribed in subparagraph (A).

12 “(2) ADMINISTRATION.—On request, the Sec-
13 retary of Agriculture shall provide to the Secretary
14 such information as is necessary to carry out this
15 subsection.

16 “(c) SATISFACTORY PROGRESS.—

17 “(1) IN GENERAL.—For the purpose of subsection
18 (a)(3), a student is maintaining satisfactory progress
19 if—

20 “(A) the institution at which the student is
21 in attendance reviews the progress of the student
22 at the end of each academic year, or its equiva-
23 lent, as determined by the institution; and

24 “(B) the student has at least a cumulative
25 C average or its equivalent, or academic stand-

1 *ing consistent with the requirements for gradua-*
 2 *tion, as determined by the institution, at the end*
 3 *of the second such academic year.*

4 “(2) *SPECIAL RULE.*—Whenever a student fails
 5 to meet the eligibility requirements of subsection
 6 (a)(3) as a result of the application of this subsection
 7 and subsequent to that failure the student has aca-
 8 demic standing consistent with the requirements for
 9 graduation, as determined by the institution, for any
 10 grading period, the student may, subject to this sub-
 11 section, again be eligible under subsection (a)(3) for
 12 a grant under this subpart.

13 “(3) *WAIVER.*—Any institution of higher edu-
 14 cation at which the student is in attendance may
 15 waive paragraph (1) or (2) for undue hardship based
 16 on—

17 “(A) the death of a relative of the student;

18 “(B) the personal injury or illness of the
 19 student; or

20 “(C) special circumstances as determined by
 21 the institution.

22 “(d) *STUDENTS WHO ARE NOT SECONDARY SCHOOL*
 23 *GRADUATES.*—In order for a student who does not have a
 24 certificate of graduation from a school providing secondary
 25 education, or the recognized equivalent of the certificate, to

1 *be eligible for any assistance under this subpart, the student*
2 *shall meet either 1 of the following standards:*

3 “(1) *EXAMINATION.*—*The student shall take an*
4 *independently administered examination and shall*
5 *achieve a score, specified by the Secretary, dem-*
6 *onstrating that the student can benefit from the edu-*
7 *cation or training being offered. The examination*
8 *shall be approved by the Secretary on the basis of*
9 *compliance with such standards for development, ad-*
10 *ministration, and scoring as the Secretary may pre-*
11 *scribe in regulations.*

12 “(2) *DETERMINATION.*—*The student shall be de-*
13 *termined as having the ability to benefit from the*
14 *education or training in accordance with such process*
15 *as the State shall prescribe. Any such process de-*
16 *scribed or approved by a State for the purposes of this*
17 *section shall be effective 6 months after the date of*
18 *submission to the Secretary unless the Secretary dis-*
19 *approves the process. In determining whether to ap-*
20 *prove or disapprove the process, the Secretary shall*
21 *take into account the effectiveness of the process in en-*
22 *abling students without secondary school diplomas or*
23 *the recognized equivalent to benefit from the instruc-*
24 *tion offered by institutions utilizing the process, and*
25 *shall also take into account the cultural diversity, eco-*

1 *nomie circumstances, and educational preparation of*
 2 *the populations served by the institutions.*

3 “(e) *SPECIAL RULE FOR CORRESPONDENCE*
 4 *COURSES.—A student shall not be eligible to receive a grant*
 5 *under this subpart for a correspondence course unless the*
 6 *course is part of a program leading to an associate, bach-*
 7 *elor, or graduate degree.*

8 “(f) *COURSES OFFERED THROUGH TELECOMMUNI-*
 9 *CATIONS.—*

10 “(1) *RELATION TO CORRESPONDENCE*
 11 *COURSES.—A student enrolled in a course of instruc-*
 12 *tion at an eligible institution of higher education*
 13 *(other than an institute or school that meets the defi-*
 14 *nition in section 521(4)(C) of the Carl D. Perkins Vo-*
 15 *cational and Applied Technology Education Act (20*
 16 *U.S.C. 2471(4)(C))) that is offered in whole or in*
 17 *part through telecommunications and leads to a rec-*
 18 *ognized associate, bachelor, or graduate degree con-*
 19 *ferred by the institution shall not be considered to be*
 20 *enrolled in correspondence courses unless the total*
 21 *amount of telecommunications and correspondence*
 22 *courses at the institution equals or exceeds 50 percent*
 23 *of the courses.*

24 “(2) *RESTRICTION OR REDUCTIONS OF FINAN-*
 25 *CIAL AID.—A student’s eligibility to receive a grant*

1 *under this subpart may be reduced if a financial aid*
2 *officer determines under the discretionary authority*
3 *provided in section 479A that telecommunications in-*
4 *struction results in a substantially reduced cost of at-*
5 *tendance to the student.*

6 *“(3) DEFINITION.—For the purposes of this sub-*
7 *section, the term ‘telecommunications’ means the use*
8 *of television, audio, or computer transmission, includ-*
9 *ing open broadcast, closed circuit, cable, microwave,*
10 *or satellite, audio conferencing, computer conferenc-*
11 *ing, or video cassettes or discs, except that the term*
12 *does not include a course that is delivered using video*
13 *cassette or disc recordings at the institution and that*
14 *is not delivered in person to other students of that in-*
15 *stitution.*

16 *“(g) STUDY ABROAD.—Nothing in this subpart shall*
17 *be construed to limit or otherwise prohibit access to study*
18 *abroad programs approved by the home institution at*
19 *which a student is enrolled. An otherwise eligible student*
20 *who is engaged in a program of study abroad approved for*
21 *academic credit by the home institution at which the stu-*
22 *dent is enrolled shall be eligible to receive a grant under*
23 *this subpart, without regard to whether the study abroad*
24 *program is required as part of the student’s degree program.*

1 “(h) *VERIFICATION OF SOCIAL SECURITY NUMBER.*—

2 *The Secretary, in cooperation with the Commissioner of So-*
3 *cial Security, shall verify any social security number pro-*
4 *vided by a student to an eligible institution under sub-*
5 *section (a)(5)(B) and shall enforce the following conditions:*

6 “(1) *PENDING VERIFICATION.*—*Except as pro-*
7 *vided in paragraphs (2) and (3), an institution shall*
8 *not deny, reduce, delay, or terminate a student’s eligi-*
9 *bility for assistance under this subpart because social*
10 *security number verification is pending.*

11 “(2) *DENIAL OR TERMINATION.*—*If there is a de-*
12 *termination by the Secretary that the social security*
13 *number provided to an eligible institution by a stu-*
14 *dent is incorrect, the institution shall deny or termi-*
15 *nate the student’s eligibility for any grant under this*
16 *subpart until such time as the student provides docu-*
17 *mented evidence of a social security number that is*
18 *determined by the institution to be correct.*

19 “(3) *CONSTRUCTION.*—*Nothing in this subsection*
20 *shall be construed to permit the Secretary to take any*
21 *compliance, disallowance, penalty, or other regulatory*
22 *action against—*

23 “(A) *any institution of higher education*
24 *with respect to any error in a social security*

1 *number, unless the error was a result of fraud on*
 2 *the part of the institution; or*

3 “(B) *any student with respect to any error*
 4 *in a social security number, unless the error was*
 5 *a result of fraud on the part of the student.”.*

6 ***Subtitle D—Immunity***

7 ***SEC. 1041. GENERAL IMMUNITY FOR TOBACCO PRODUCERS*** 8 ***AND TOBACCO WAREHOUSE OWNERS.***

9 *Notwithstanding any other provision of this title, a*
 10 *participating tobacco producer, tobacco-related growers as-*
 11 *sociation, or tobacco warehouse owner or employee may not*
 12 *be subject to liability in any Federal or State court for any*
 13 *cause of action resulting from the failure of any tobacco*
 14 *product manufacturer, distributor, or retailer to comply*
 15 *with the National Tobacco Policy and Youth Smoking Re-*
 16 *duction Act.*

17 ***TITLE XI—MISCELLANEOUS***

18 ***Subtitle A—Prohibitions Relating*** 19 ***to Tobacco Products and Children***

20 ***SEC. 1101. SHORT TITLE.***

21 *This subtitle may be cited as the “Tobacco Use by Mi-*
 22 *nors Prevention Act”.*

1 **SEC. 1102. PROHIBITIONS RELATING TO TOBACCO PROD-**
2 **UCTS AND CHILDREN.**

3 *Chapter VIII of the Federal Food, Drug, and Cosmetic*
4 *Act is amended by adding at the end the following:*

5 **“SEC. 804. PROHIBITION ON SALE OR DISTRIBUTION OF TO-**
6 **BACCO PRODUCTS TO CHILDREN.**

7 *“(a) GENERAL RULE.—It shall be unlawful for any*
8 *domestic concern or any officer, director, employee, or agent*
9 *of such concern to make use of the mails or any means or*
10 *instrumentality of interstate commerce to cause or contrib-*
11 *ute, either directly or through a foreign subsidiary, joint*
12 *venture, affiliate, or licensee, to—*

13 *“(1) the sale or distribution of tobacco products*
14 *in a foreign country to children; or*

15 *“(2) the advertising or promotion of tobacco*
16 *products in a foreign country in a manner that does*
17 *not comply with Federal requirements for the adver-*
18 *tisement or promotion of tobacco products in the*
19 *United States*

20 *“(b) DEFENSE.—In an action brought to enforce sub-*
21 *section (a), it shall be an affirmative defense that the to-*
22 *bacco products involved were sold, distributed, advertised,*
23 *or promoted in the foreign country involved in a manner*
24 *that would be lawful if such conduct occurred in the United*
25 *States.*

1 **"SEC. 805. LABELING.**

2 *"It shall be unlawful for any domestic concern or any*
3 *officer, director, employee, or agent of such concern, either*
4 *directly or through a foreign subsidiary, joint venture, affil-*
5 *iate, or licensee, to make use of the mails or any means*
6 *or instrumentality of interstate commerce to cause or con-*
7 *tribute to the export from the United States or the sale or*
8 *distribution in, or export from, any other country any to-*
9 *bacco product the package of which does not contain a*
10 *warning label that—*

11 *"(1) is in the primary language or languages of*
12 *the country in which the tobacco product is sold or*
13 *distributed to consumers; and*

14 *"(2) except for the requirement of paragraph*
15 *(1)—*

16 *"(A) complies with Federal requirements for*
17 *labeling of similar tobacco products manufac-*
18 *tured, imported, or packaged for sale or distribu-*
19 *tion in the United States; or*

20 *"(B) complies with the labeling require-*
21 *ments of the foreign country in which the prod-*
22 *uct is sold or distributed to consumers and which*
23 *labeling requirements the Secretary determines*
24 *are substantially similar to Federal requirements*
25 *and are adequately enforced by such country."*

1 **SEC. 1103. ENFORCEMENT.**

2 *Section 301 of the Federal Food, Drug, and Cosmetic*
3 *Act (21 U.S.C. 331) is amended by adding at the end the*
4 *following:*

5 “(aa) *To carry out an act made unlawful by section*
6 *804 or 805.*”.

7 **SEC. 1104. REWARD.**

8 *Section 303(b)(5) of the Federal Food, Drug, and Cos-*
9 *metic Act (21 U.S.C. 333(b)(5)) is amended by adding at*
10 *the end the following: “If a person provides information*
11 *leading to the institution of a criminal proceeding against,*
12 *and conviction of, a person for a violation of section*
13 *301(aa), such person shall be entitled to one-half of the*
14 *criminal fine imposed and collected for such violation but*
15 *not more than \$125,000.*”.

16 **SEC. 1105. DEFINITIONS.**

17 *Section 201 of the Federal Food, Drug, and Cosmetic*
18 *Act (21 U.S.C. 321), as amended by section 101(a) of this*
19 *Act is amended by adding at the end the following:*

20 “(ll) *The term ‘domestic concern’ means—*

21 “(1) *any individual who is a citizen, national,*
22 *or resident of the United States; and*

23 “(2) *any corporation, partnership, association,*
24 *joint-stock company, business trust, unincorporated*
25 *organization, or sole proprietorship which has its*
26 *principal place of business in the United States or*

1 *which is organized under the laws of a State of the*
 2 *United States or a territory, possession, or common-*
 3 *wealth of the United States.*

4 “(mm) *The term ‘children’ means individuals under*
 5 *the age of 18.”.*

6 **SEC. 1106. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.**

7 (a) *IN GENERAL.—The Public Health Service Act (42*
 8 *U.S.C. 201 et seq.) is amended by adding at the end the*
 9 *following:*

10 **“TITLE XXVIII—NATIONAL EF-**
 11 **FORTS TO REDUCE YOUTH**
 12 **SMOKING**

13 **“Subtitle E—Reducing Youth Smok-**
 14 **ing and Tobacco-Related Dis-**
 15 **eases Through Research**

16 **“SEC. 2801. STUDY BY THE INSTITUTE OF MEDICINE.**

17 “(a) *CONTRACT.—Not later than 60 days after the date*
 18 *of enactment of the National Tobacco Policy and Youth*
 19 *Smoking Reduction Act, the Secretary shall enter into a*
 20 *contract with the Institute of Medicine for the conduct of*
 21 *a study on the framework for a research agenda and re-*
 22 *search priorities to be used by the National Tobacco Task*
 23 *Force established under section 2802.*

24 “(b) *CONSIDERATIONS.—*

1 “(1) *IN GENERAL.*—*In developing the framework*
2 *for the research agenda and research priorities under*
3 *subsection (a) the Institute of Medicine shall focus on*
4 *increasing knowledge concerning the biological, social,*
5 *behavioral, public health, and community factors in-*
6 *volved in the prevention of tobacco use, reduction of*
7 *tobacco use, and health consequences of tobacco use.*

8 “(2) *SPECIFIC CONSIDERATIONS.*—*In the study*
9 *conducted under subsection (a), the Institute of Medi-*
10 *cine shall specifically consider—*

11 “(A) *public health and community research*
12 *relating to tobacco use prevention methods, in-*
13 *cluding public education, media, community*
14 *strategies;*

15 “(B) *behavioral research relating to addic-*
16 *tion and tobacco use;*

17 “(C) *health services research relating to to-*
18 *bacco product prevention and cessation treat-*
19 *ment methodologies;*

20 “(D) *surveillance and epidemiology research*
21 *relating to tobacco;*

22 “(E) *biomedical, including clinical, re-*
23 *search relating to prevention and treatment of*
24 *tobacco-related diseases; and*

1 “(F) economic research relating to the re-
2 sponsiveness of youth smoking to price and other
3 economic factors.

4 “(c) *REPORT*.—Not later than 10 months after the date
5 on which the Secretary enters into the contract under sub-
6 section (a), the Institute of Medicine shall prepare and sub-
7 mit to the Secretary, the National Task Force, the Commit-
8 tee on Labor and Human Resources of the Senate, and the
9 Committee on Commerce of the House of Representatives,
10 a report that shall contain the findings and recommenda-
11 tions of the Institute for the purposes described in subsection
12 (b).

13 “(d) *AUTHORIZATION OF APPROPRIATIONS*.—There
14 are authorized to be appropriated \$750,000 to carry out
15 this section.

16 **“SEC. 2802. NATIONAL TOBACCO TASK FORCE.**

17 “(a) *ESTABLISHMENT*.—The Secretary shall establish
18 a National Tobacco Task Force (referred to in this subtitle
19 as the ‘National Task Force’) to foster coordination among
20 public health agencies, academic bodies, and community
21 groups that conduct or support tobacco-related biomedical,
22 clinical, behavioral, health services, public health and com-
23 munity, and surveillance and epidemiology research activi-
24 ties.

1 “(b) *COMPOSITION.*—*The National Task Force shall be*
2 *composed of—*

3 “(1) *the Surgeon General;*

4 “(2) *the Director of the Office of Smoking and*
5 *Health of the Centers for Disease Control and Preven-*
6 *tion;*

7 “(3) *the Administrator of the Agency for Health*
8 *Care Policy and Research;*

9 “(4) *the Director of the National Institutes of*
10 *Health;*

11 “(5) *two representatives from non-governmental*
12 *public health or tobacco control organizations; and*

13 “(6) *two representatives from State or local gov-*
14 *ernment public health agencies and offices.*

15 “(c) *CHAIR.*—*The National Task Force shall be*
16 *chaired by the Secretary, and shall be staffed by the Centers*
17 *for Disease Control and Prevention.*

18 “(d) *DUTIES.*—*The Task Force shall—*

19 “(1) *in accordance with research agenda rec-*
20 *ommended under section 2801, coordinate and advise*
21 *tobacco-related research activities among Federal pub-*
22 *lic health service agencies;*

23 “(2) *collect and make available to States and*
24 *communities, through publication and other appro-*
25 *priate means, evidence-based tobacco-related research*

1 *results and recommendations and the practical appli-*
 2 *cation of such results; and*

3 *“(3) report on a biennial basis to the Secretary*
 4 *and the Committee on Labor and Human Resources*
 5 *of the Senate, and the Committee on Commerce of the*
 6 *House of Representatives on the current and planned*
 7 *activities of participating Federal agencies;*

8 *“(e) RESEARCH ACTIVITIES.—The research activities*
 9 *referred to in subsection (a) shall be designed to address*
 10 *tobacco-related research priorities, and shall include—*

11 *“(1) the development of effective strategies to pre-*
 12 *vent the use of tobacco products among youth;*

13 *“(2) an outline of cost-effective, accessible, and*
 14 *successful methods for tobacco use cessation among*
 15 *adults and youths who want to quit;*

16 *“(3) the development of breakthroughs in the un-*
 17 *derstanding of the effects on the human body of nico-*
 18 *tine and other non-tobacco constituents of tobacco*
 19 *products; and*

20 *“(4) the development of an enhanced ability to*
 21 *prevent and treat tobacco-related diseases.*

22 **“SEC. 2803. RESEARCH ACTIVITIES OF THE CENTERS FOR**
 23 **DISEASE CONTROL AND PREVENTION.**

24 *“(a) FUNDING.—There are authorized to be appro-*
 25 *priated from the National Tobacco Settlement Trust Fund*

1 *established by section 401 of the National Tobacco Policy*
2 *and Youth Smoking Reduction Act, other than from*
3 *amounts in the State Litigation Settlement Account, the fol-*
4 *lowing amounts to carry out this section—*

5 “(1) \$450,000,000 for each of the first 3 fiscal
6 *years after the date of enactment of the National To-*
7 *bacco Policy and Youth Smoking Reduction Act;*

8 “(2) \$505,000,000 for each of the 4th and 5th fis-
9 *cal years after that date;*

10 “(3) \$405,000,000 for each of the 6th and 7th fis-
11 *cal years after that date;*

12 “(4) \$360,000,000 for each of the 8th and 9th fis-
13 *cal years after that date; and*

14 “(5) \$305,000,000 for the 10th fiscal year after
15 *that date.*

16 “(b) *DUTIES.*—*The Director of the Centers for Disease*
17 *Control and Prevention, working in consultation with Na-*
18 *tional Task Force, shall carry out tobacco-related surveil-*
19 *lance and epidemiologic studies and develop tobacco control*
20 *and prevention strategies under this section.*

21 “(c) *TRIGGER.*—*No expenditures shall be made under*
22 *this section during any fiscal year in which the annual*
23 *amount appropriated for the Centers for Disease Control*
24 *and Prevention is less than the amount so appropriated for*
25 *the prior fiscal year.*

1 **“SEC. 2804. RESEARCH ACTIVITIES OF THE NATIONAL IN-**
2 **STITUTES OF HEALTH.**

3 “(a) *FUNDING.*—*There are authorized to be appro-*
4 *priated, from amounts in the National Tobacco Settlement*
5 *Trust Fund established by section 401 of the National To-*
6 *bacco Policy and Youth Smoking Reduction Act, other than*
7 *from amounts in the State Litigation Settlement Account,*
8 *to carry out this section \$2,500,000,000 for each of the fiscal*
9 *years 1999 through 2008.*

10 “(b) *ESTABLISHMENT.*—*The Secretary shall establish,*
11 *within the Office of the Director of the National Institutes*
12 *of Health, a Tobacco-Related Research Initiative (referred*
13 *to in this section as the ‘tobacco initiative’) to be headed*
14 *by the Director.*

15 “(c) *EXPENDITURE OF FUNDS.*—*The Director of the*
16 *National Institutes of Health acting through the tobacco*
17 *initiative, and in consultation with the National Tobacco*
18 *Task Force, shall provide funds to conduct or support epide-*
19 *miological, behavioral, biomedical, and social science re-*
20 *search (including the training of researchers) related to the*
21 *prevention and treatment of tobacco addiction, and the pre-*
22 *vention and treatment of diseases associated with tobacco*
23 *use.*

24 “(d) *GUARANTEED MINIMUM.*—*Of the funds made*
25 *available to the National Institutes of Health under this*
26 *section, not less than 33 percent of such funds shall be used*

1 *to support epidemiological, behavioral, and social science*
2 *research related to the prevention and treatment of tobacco*
3 *addiction.*

4 “(e) *LIMITATION.—Except as may be necessary to*
5 *study one of the specific purposes described in subsection*
6 *(f), funds made available under subsection (d) shall not be*
7 *used to support neurobiological research, or research in*
8 *which the behavior of an organism is observed for the pur-*
9 *pose of determining activity at the cellular or molecular*
10 *level.*

11 “(f) *NATURE OF RESEARCH.—Funds made available*
12 *under subsection (d) shall be used to conduct or support*
13 *research with respect to one or more of the following—*

14 “(1) *the epidemiology of tobacco use;*

15 “(2) *the etiology of tobacco use;*

16 “(3) *risk factors for tobacco use by children;*

17 “(4) *prevention of tobacco use by children, in-*
18 *cluding school and community-based programs, and*
19 *alternative activities;*

20 “(5) *the relationship between tobacco use, alcohol*
21 *abuse and illicit drug abuse;*

22 “(6) *behavioral and pharmacological smoking*
23 *cessation methods and technologies, including relapse*
24 *prevention;*

1 “(7) *the toxicity of tobacco products and their*
2 *ingredients;*

3 “(8) *the relative harmfulness of different tobacco*
4 *products;*

5 “(9) *environmental exposure to tobacco smoke;*

6 “(10) *the impact of tobacco use by pregnant*
7 *women on their fetuses; and*

8 “(11) *the redesign of tobacco products to reduce*
9 *risks to public health and safety.*

10 “(g) *COORDINATION.—In carrying out tobacco-related*
11 *research under this section, the Director of the National In-*
12 *stitutes of Health, in coordination with the National To-*
13 *bacco Task Force, shall ensure appropriate coordination*
14 *with the research of other agencies, and shall avoid duplica-*
15 *tive efforts through all appropriate means, including*
16 *through the establishment of an Office of Tobacco-Related*
17 *Research.*

18 “(h) *OFFICE OF TOBACCO-RELATED RESEARCH.—*

19 “(1) *ESTABLISHMENT.—There is established*
20 *within the National Institutes of Health and Office of*
21 *Tobacco-Related Research (referred to in this sub-*
22 *section as the ‘Office’). The Office shall be headed by*
23 *a director to be appointed by the Secretary.*

24 “(2) *DUTIES.—The director of the Office shall—*

1 “(A) in coordination with the National To-
2 bacco Task Force, identify tobacco-related re-
3 search projects that should be conducted or sup-
4 ported by the research institutes, and develop
5 such projects in cooperation with such institutes;

6 “(B) coordinate tobacco-related research
7 that is conducted or supported by the National
8 Institutes of Health;

9 “(C) through the activities of the National
10 Tobacco Task Force, take steps to further co-
11 operation and collaboration between the insti-
12 tutes of the National Institutes of Health and
13 other Federal agencies with respect to tobacco-re-
14 lated research conducted or supported by such
15 agencies;

16 “(D) ensure compliance with the funding
17 levels described in subsection (d) and the limita-
18 tion described in subsection (e);

19 “(E) annually recommend to Congress the
20 allocation of anti-tobacco research funds among
21 the national research institutes; and

22 “(F) establish a clearinghouse for informa-
23 tion about tobacco-related research conducted by
24 governmental and non-governmental bodies.

1 “(3) *ADMINISTRATION.*—*The Director of the Na-*
 2 *tional Institutes of Health shall set-aside not less than*
 3 *1 percent and not more than 3 percent of the funds*
 4 *made available under subsection (d) to administer the*
 5 *Office.*

6 “(i) *TRIGGER.*—*No expenditure shall be made under*
 7 *subsection (a) during any fiscal year in which the annual*
 8 *amount appropriated for the National Institutes of Health*
 9 *is less than the amount so appropriated for the prior fiscal*
 10 *year.”.*

11 (b) *RESEARCH ON MINORITY SMOKING AND TOBACCO-*
 12 *RELATED DISEASES.*—

13 *Section 1707(b) of the Public Health Service Act (42*
 14 *U.S.C. 300u-6(b)) is amended by striking “(b) DUTIES.—*
 15 *The Secretary” and inserting the following:*

16 “(b) *DUTIES.*—

17 “(1) *IN GENERAL.*—

18 “(A) *INTERAGENCY COORDINATION.*—*With*
 19 *respect to minority health activities of the Public*
 20 *Health Service, and the National Institutes of*
 21 *Health, a representative of the Office of Minority*
 22 *Health within the Department of Health and*
 23 *Human Services, a representative of the Office of*
 24 *Minority Health within the National Institutes*

1 *of Health, and a representative of the Surgeon*
2 *General shall—*

3 “(i) *seek to assure coordination of re-*
4 *search, service delivery and inclusion of*
5 *community-based organizations related to*
6 *tobacco-related diseases, prevention, and ces-*
7 *sation programs for ethnic, socio-economic*
8 *and culturally-diverse populations;*

9 “(ii) *monitor and report to Congress*
10 *biannually the amount of Federal funds*
11 *targeted for research related to minority to-*
12 *bacco-related diseases, research into effective*
13 *smoking cessation programs that are cul-*
14 *turally and linguistically appropriate,*
15 *health service delivery, and for community-*
16 *based organizations providing smoking pre-*
17 *vention and cessation services, and report*
18 *biannually to the Congress the demonstrated*
19 *effectiveness of these programs.”.*

20 (c) *MEDICAID COVERAGE OF OUTPATIENT SMOKING*

21 *CESSATION AGENTS.—Paragraph (2) of section 1927(d) of*
22 *the Public Health Service Act (42 U.S.C. 1396r–8(d)) is*
23 *amended—*

1 (1) *by striking subparagraph (E) and redesignating subparagraphs (F) through (J) as subparagraphs (E) through (I); and*

2 (2) *by striking “drugs.” in subparagraph (F), as redesignated, and inserting “drugs, except agents, approved by the Food and Drug Administration, when used to promote smoking cessation.”.*

8 **SEC. 1107. BAN ON DISTRIBUTION OF TOBACCO PRODUCTS**
9 **PRODUCED BY CHILD LABOR.**

10 *Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended by inserting after “United States.” the following: “The provisions of this section apply with equal force to tobacco products produced or manufactured wholly or in part in any foreign country by child labor.”.*

15 **Subtitle B—Federal Licensing of**
16 **Tobacco Product Distribution**

17 **SEC. 1121. LICENSING OF TOBACCO PRODUCT DISTRIBUTION.**

18 (a) *IN GENERAL.*—*Except for any retailer licensed under section 224 of this Act, no domestic concern may engage in the manufacture, or distribution of tobacco products for sale, in the United States more than 1 year after the date of enactment of this Act, either directly or through its foreign subsidiaries, affiliates, joint ventures, or licensees, unless it is licensed to do so by the Secretary.*

1 (b) *FEE.*—

2 (1) *IN GENERAL.*—*The annual license fee shall be*
3 *\$1 per every 1000 cigarettes manufactured, or distrib-*
4 *uted for sale, by a domestic concern either directly or*
5 *through its foreign subsidiaries, affiliates, joint ven-*
6 *tures, or licensees and an equivalent amount, as es-*
7 *tablished by the Secretary, for other tobacco products.*

8 (2) *CREDIT.*—*In any year, a domestic concern*
9 *shall receive as a credit towards that portion of its li-*
10 *cence fee under clause (i) which is attributable to the*
11 *manufacture of tobacco products subject to the Federal*
12 *excise tax under section 5701 of the Internal Revenue*
13 *Code of 1986 the amount of tax it paid under that*
14 *section.*

15 (c) *REGULATIONS.*—*Within 6 months after the date of*
16 *the enactment of this Act, the Secretary shall promulgate*
17 *regulations to implement the requirements of this section.*

18 (d) *PENALTY.*—*Any domestic concern which engages*
19 *in the manufacture of cigarettes or other tobacco products*
20 *either directly or through its foreign subsidiaries, affiliates,*
21 *joint ventures, or licensees without the license required by*
22 *subsection (a) shall be considered to have committed a pro-*
23 *hibited act under section 301 of the Federal Food, Drug,*
24 *and Cosmetic Act (21 U.S.C. 331).*

1 (e) *DOMESTIC CONCERN DEFINED.*—*For purposes of*
 2 *this section, the term “domestic concern” means—*

3 (1) *any individual who is a citizen, national, or*
 4 *resident of the United States;*

5 (2) *any corporation, partnership, association,*
 6 *joint-stock company, business trust, unincorporated*
 7 *organization, or sole proprietorship which has its*
 8 *principal place of business in the United States or*
 9 *which is organized under the laws of a State of the*
 10 *United States or a territory, possession, or common-*
 11 *wealth of the United States; and*

12 (3) *includes any person engaged in the manufac-*
 13 *ture, or distribution for sale, of cigarettes or other to-*
 14 *bacco products on Indian lands.*

15 ***Subtitle C—International*** 16 ***Provisions***

17 ***SEC. 1131. INTERNATIONAL TOBACCO CONTROL TRUST*** 18 ***FUND.***

19 (a) *ESTABLISHMENT.*—*There is established in the*
 20 *Treasury an International Tobacco Control Trust Fund (re-*
 21 *ferred to as the “International Trust Fund”) which shall*
 22 *be funded by the license fees collected under section 1121.*

23 (b) *USE OF INTERNATIONAL TRUST FUND.*—*Funds*
 24 *from the International Trust Fund shall be available for*
 25 *use as follows:*

1 (1) *AMERICAN CENTER ON GLOBAL HEALTH AND*
 2 *TOBACCO.—Annual funds of \$150,000,000 may be*
 3 *used from the International Trust Fund for the Amer-*
 4 *ican Center on Global Health and Tobacco as pro-*
 5 *vided in appropriation Acts.*

6 (2) *HEALTH AND HUMAN SERVICES.—The Sec-*
 7 *retary of Health and Human Services may use the*
 8 *funds deposited in the International Trust Fund for*
 9 *grants and other forms of assistance to foreign gov-*
 10 *ernments, nongovernmental organizations, and inter-*
 11 *national organizations to support tobacco control ac-*
 12 *tivities in foreign countries as provided in appropria-*
 13 *tion Acts.*

14 (3) *ENFORCEMENT.—The Secretary may use*
 15 *funds deposited in the International Trust Fund for*
 16 *enforcement of any requirements related to the sale,*
 17 *distribution, marketing, or promotion of tobacco*
 18 *products internationally as provided in appropria-*
 19 *tion Acts.*

20 **SEC. 1132. AMERICAN CENTER ON GLOBAL HEALTH AND TO-**
 21 **BACCO.**

22 (a) *FINDINGS AND PURPOSE.—*

23 (1) *FINDINGS.—Congress makes the following*
 24 *findings:*

1 (A) Tobacco use is estimated to have caused
2 nearly 3,000,000 deaths a year worldwide in the
3 early 1990's, and is projected to cause in excess
4 of 10,000,000 additional deaths a year globally
5 by 2030, more than any single disease. More
6 than 70 percent of those deaths are expected in
7 developing countries.

8 (B) Many countries are unprepared to ad-
9 dress increases in tobacco deaths, including the
10 impact on health systems and health costs. While
11 tobacco consumption in the United States and
12 other established market economies has fallen
13 over the last decade, consumption is rising in
14 China, India, East Asia, and former socialist
15 economies. Tobacco companies in the United
16 States and elsewhere have increasingly targeted
17 those markets.

18 (C) Tobacco use markedly reduces good
19 health and threatens to erode the major health
20 gains in life expectancy of the last century. Only
21 HIV/AIDS infection and tobacco are large and
22 growing causes of death and disease worldwide.
23 The total projected deaths from tobacco over the
24 next 10 years likely will exceed deaths from HIV/

1 *AIDS, maternal and childhood conditions, and*
2 *tuberculosis combined.*

3 *(D) The United States consistently has pro-*
4 *vided leadership and funding to address the*
5 *world's most pressing public health needs, in-*
6 *cluding HIV/AIDS, hunger, maternal and child*
7 *health, and immunization.*

8 *(E) Through exports and overseas oper-*
9 *ations, United States tobacco companies sell*
10 *more cigarettes overseas than they do in the*
11 *United States. Foreign sales now account for*
12 *more than half of all sales for the 2 leading*
13 *United States tobacco product manufacturers.*

14 *(F) United States companies spend billions*
15 *of dollars on aggressive tobacco marketing cam-*
16 *paigns overseas that associate smoking with the*
17 *United States, affluence, freedom, and liberation.*
18 *In many markets, American companies reach*
19 *youthful audiences through television and radio*
20 *advertising, free samples, and other methods that*
21 *are outlawed in the United States.*

22 *(G) In light of the role the United States to-*
23 *bacco companies have played in spreading to-*
24 *bacco use globally, and in light of the large fi-*
25 *nancial benefits they continue to enjoy from to-*

1 *bacco exports, it is appropriate that this section*
2 *be enacted in order to provide assistance and*
3 *funding for international public education and*
4 *mass media programs to inform the public about*
5 *the hazards of tobacco use.*

6 *(H) Smoking in United States films is per-*
7 *vasive and influences persons in other countries*
8 *who seek to emulate “American activities” de-*
9 *picted in motion pictures. According to one*
10 *study, more than half of the top-grossing United*
11 *States films released between 1991 and 1996 ex-*
12 *hibited smoking. In these films, 80 percent of the*
13 *male lead characters and 27 percent of the fe-*
14 *male characters smoked. The motion picture in-*
15 *dustry is painting a distorted picture that smok-*
16 *ing is a truly American activity.*

17 *(2) PURPOSE.—The purpose of this section is to*
18 *establish the American Center on Global Health and*
19 *Tobacco (herein after referred to as “ACT”). ACT*
20 *shall assist organizations in other countries to reduce*
21 *and prevent the use of tobacco. Activities ACT shall*
22 *support include—*

23 *(A) public education programs that inform*
24 *the public about the hazards of tobacco use and*
25 *of environmental tobacco smoke;*

1 (B) mass media campaigns, including paid
 2 counter-tobacco advertisements, to reverse the
 3 image appeal of pro-tobacco messages, especially
 4 those that glamorize and “Westernize” tobacco
 5 use to young people; and

6 (C) education about the economic and soci-
 7 etal costs of tobacco use, and effective tobacco use
 8 prevention and cessation strategies that are ap-
 9 propriate for the country involved.

10 (b) *ESTABLISHMENT.*—

11 (1) *IN GENERAL.*—There is hereby established in
 12 the District of Columbia a private, nonprofit corpora-
 13 tion to be known as the American Center on Global
 14 Health and Tobacco. *ACT* shall—

15 (A) not be an agency or establishment of the
 16 United States; and

17 (B) except as otherwise provided in this sec-
 18 tion, be subject to, and have all the powers con-
 19 ferred upon a nonprofit corporation by the Dis-
 20 trict of Columbia Nonprofit Corporation Act
 21 (D.C. Code section 29–501 et seq.).

22 (2) *RELATION TO UNITED STATES.*—Nothing in
 23 this section shall be construed as making *ACT* an
 24 agency or establishment of the United States, or as

1 *making the members of the Board of ACT, or its em-*
2 *ployees, officers or employees of the United States.*

3 (3) *RELATION TO NONGOVERNMENTAL ORGANIZA-*
4 *TIONS.—ACT shall have a limited staff, and, to the*
5 *maximum extent practicable, utilize the available ex-*
6 *perience and talents of nongovernmental organiza-*
7 *tions with specialized experience in health, education,*
8 *media, and tobacco.*

9 (4) *GOVERNING BOARD.—ACT shall be governed*
10 *by a board of up to 25 members including—*

11 (A) *on a bipartisan basis, Members of the*
12 *Senate and of the House of Representatives;*

13 (B) *the heads of American public health or-*
14 *ganizations;*

15 (C) *the heads of American media, market-*
16 *ing, and other nongovernment institutions and*
17 *corporations; and*

18 (D) *individuals active in education, public*
19 *health, and other relevant activities.*

20 (5) *INTERNATIONAL ADVISORY COUNCIL.—An*
21 *International Advisory Council consisting of rep-*
22 *resentatives from key global, regional, and national*
23 *public health organizations, and leading individual*
24 *educators and health professionals shall provide advi-*
25 *sory assistance to ACT.*

1 (c) *FUNDING.*—

2 (1) *DEFINITION OF TRUST FUND.*—*In this sec-*
 3 *tion, the term “Trust Fund” means the National To-*
 4 *bacco Settlement Trust Fund established by section*
 5 *401 of this Act, other than amounts in the State Liti-*
 6 *gation Settlement Account.*

7 (2) *ESTABLISHMENT OF GLOBAL PUBLIC HEALTH*
 8 *AND EDUCATION RESOURCE ACCOUNT.*—*There is es-*
 9 *tablished within the Trust Fund the Global Public*
 10 *Health and Education Resource Account that shall be*
 11 *credited with \$150,000,000 for each fiscal year.*

12 (3) *TRANSFER AUTHORITY.*—*The Secretary of*
 13 *the Treasury shall on October 1 of each fiscal year be-*
 14 *ginning after the date of enactment of this section,*
 15 *transfer \$150,000,000 from the Global Public Health*
 16 *and Education Resource Account of the Trust Fund*
 17 *to the account of ACT to carry out the activities au-*
 18 *thorized under this section.*

19 (4) *TERMINATION OF TRANSFER AUTHORITY.*—
 20 *The authority of the Secretary of the Treasury to*
 21 *transfer funds from the Trust Fund shall expire with*
 22 *the expiration of the Trust Fund.*

23 (d) *REQUIREMENTS FOR ELIGIBILITY FOR ANNUAL*
 24 *TRANSFERS FROM THE TRUST FUND.*—

1 (1) *OVERSIGHT.*—*ACT and its grantees shall be*
2 *subject to the oversight and supervision of Congress,*
3 *and shall annually submit a report of its activities to*
4 *Congress in accordance with paragraph (5)(A)(iii).*

5 (2) *COMPLIANCE.*—

6 (A) *FUNDING CONTINGENT ON COMPLI-*
7 *ANCE.*—*Annual payments from the Trust Fund*
8 *may be made to ACT under this section only if*
9 *ACT complies with the requirements specified in*
10 *this section.*

11 (B) *USE OF FUNDS.*—*ACT may only fund*
12 *programs for private sector groups, and may not*
13 *carry out programs directly. ACT may provide*
14 *funding only for programs which are consistent*
15 *with the purposes of this section.*

16 (3) *SALARIES AND COMPENSATION.*—

17 (A) *NO OTHER SOURCE OF COMPENSA-*
18 *TION.*—*Officers and employees of ACT may not*
19 *receive any salary or other compensation from*
20 *any source other than ACT for services per-*
21 *formed for ACT.*

22 (B) *UNITED STATES OFFICERS AND EM-*
23 *PLOYEES.*—*An individual who is an officer or*
24 *employee of the United States who also serves on*
25 *the Board of Directors or as an officer or em-*

1 *ployee of ACT, may not receive any compensa-*
2 *tion or travel expenses in connection with serv-*
3 *ices performed for ACT.*

4 (4) *STOCKS AND DIVIDENDS.—ACT shall not*
5 *issue any shares of stock or declare or pay any divi-*
6 *dends.*

7 (5) *AUDITS.—*

8 (A) *INDEPENDENT PUBLIC ACCOUNTANTS.—*

9 (i) *IN GENERAL.—The accounts of ACT*
10 *shall be audited annually in accordance*
11 *with generally accepted auditing standards*
12 *by independent certified public accountants*
13 *or independent licensed public accountants*
14 *certified or licensed by a regulatory author-*
15 *ity of a State or other political subdivision*
16 *of the United States. The audits shall be*
17 *conducted at the place or places where the*
18 *accounts of ACT are normally kept. All*
19 *books, accounts, financial records, reports,*
20 *files, and all other papers, things, or prop-*
21 *erty belonging to or in use by ACT and nec-*
22 *essary to facilitate the audits shall be made*
23 *available to the person or persons conduct-*
24 *ing the audits, and full facilities for verify-*
25 *ing transactions with any assets held by de-*

1 *positories, fiscal agents, and custodians*
2 *shall be afforded to such person or persons.*

3 *(ii) CONTENT OF AUDIT.—The report*
4 *of each audit conducted under clause (i)*
5 *shall be included in the annual report re-*
6 *quired under this subsection. The audit re-*
7 *port shall set forth the scope of the audit*
8 *and include such statements as are nec-*
9 *essary to present fairly ACT's assets and li-*
10 *abilities, surplus or deficit, with an analy-*
11 *sis of the changes therein during the year,*
12 *supplemented in reasonable detail by a*
13 *statement of the income and expenses of*
14 *ACT during the year, and a statement of*
15 *the application of funds, together with the*
16 *independent auditor's opinion of those state-*
17 *ments.*

18 *(iii) REPORT.—Not later than Decem-*
19 *ber 31 of each year, ACT shall submit an*
20 *annual report for the preceding fiscal year*
21 *to the President for transmittal to Congress.*
22 *The report shall include a comprehensive*
23 *and detailed report of ACT's operations, ac-*
24 *tivities, financial condition, and accom-*
25 *plishments under this section and may in-*

1 *clude such recommendations as ACT deems*
2 *appropriate.*

3 *(B) COMPTROLLER GENERAL.—*

4 *(i) IN GENERAL.—The financial trans-*
5 *actions of ACT for each fiscal year may be*
6 *audited by the Comptroller General in ac-*
7 *cordance with such principles and proce-*
8 *dures and under such rules and regulations*
9 *as the Comptroller General may prescribe.*
10 *Any such audit shall be conducted at the*
11 *place or places where accounts of ACT are*
12 *normally kept. The Comptroller General*
13 *shall have access to all books, accounts,*
14 *records, reports, files, and all other papers,*
15 *things, or property belonging to or in use by*
16 *ACT pertaining to its financial trans-*
17 *actions and necessary to facilitate the audit.*
18 *All books, accounts, records, reports, files,*
19 *papers, and property of ACT shall remain*
20 *in the possession and custody of ACT.*

21 *(ii) REPORT.—A report of each audit*
22 *shall be made by the Comptroller General to*
23 *Congress. A copy of each report shall be fur-*
24 *nished to the President and to ACT at the*
25 *time the report is submitted to Congress.*

(6) *RECORDKEEPING.*—

(A) *IN GENERAL.*—ACT shall ensure that each recipient of assistance from ACT under this section keeps such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(B) *ACCESS.*—ACT shall ensure that it, or any of its duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of each recipient of assistance from ACT that are pertinent to assistance provided through ACT under this section.

**SEC. 1133. PROHIBITION ON USE OF FUNDS TO FACILITATE
THE EXPORTATION OR PROMOTION OF TO-
BACCO.**

(a) *IN GENERAL.*—Notwithstanding any other provision of law, no funds made available by appropriations or

1 otherwise made available may be used by any officer, em-
2 ployee, department, or agency of the United States—

3 (1) to promote or encourage the export, re-export,
4 sale, manufacture, advertising, promotion, distribu-
5 tion, or use of tobacco or tobacco products to or in a
6 foreign country; or

7 (2) to seek, through negotiation or otherwise, the
8 removal or reduction by any foreign country of any
9 restriction or proposed restriction in that country on
10 the importation, export, re-export, sale, manufacture,
11 advertising, promotion, distribution, packaging, label-
12 ing, use, content, imposition of tariffs, or taxation, of
13 tobacco or tobacco products.

14 (b) *EXCEPTION.*—Subsection (a)(2) shall not apply to
15 any restriction or proposed restriction by a foreign country
16 if—

17 (1) the restriction is applied in a manner which
18 constitutes a means of arbitrary or unjustifiable dis-
19 crimination between countries;

20 (2) the Secretary of Commerce certifies in writ-
21 ing to Congress that the restriction is being applied
22 in a manner that constitutes a means of arbitrary or
23 unjustifiable discrimination between countries; and

24 (3) the Secretary of Health and Human Services
25 certifies to Congress in writing that the restriction is

1 not a reasonable means of protecting the public
2 health.

3 (c) *DEFINITION.*—In this section, the term “arbitrary
4 or unjustifiable discrimination” means a restriction or pro-
5 posed restriction by a foreign country that—

6 (1) is arbitrary or unjustifiable; and

7 (2) does not adhere to the principle of national
8 treatment and applies less favorable treatment to
9 goods that are imported into that country than the
10 country applies to like goods that are the product,
11 growth, or manufacture of that country.

12 **SEC. 1134. HARMONIZATION WITH UNITED STATES INTER-**
13 **NATIONAL COMMITMENTS AND OBLIGA-**
14 **TIONS.**

15 *The United States Trade Representative shall report*
16 *to the Congress within 90 days after the date of enactment*
17 *of this Act on any provisions of this Act that are inconsis-*
18 *ent with obligations of the United States under treaties or*
19 *other international agreements to which it is a signatory,*
20 *including any treaty pending ratification, together with*
21 *recommendations as to how to implement or modify the*
22 *provision without violating international law.*

1 ***Subtitle D—Prevention of Tobacco***
2 ***Smuggling***

3 ***SEC. 1141. DEFINITIONS.***

4 (a) *INCORPORATION OF CERTAIN DEFINITIONS.—In*
5 *this subtitle, the terms “cigar”, “cigarette”, “person”, “pipe*
6 *tobacco”, “smokeless tobacco”, “State”, “tobacco product”,*
7 *and “United States” shall have the meanings given such*
8 *terms in sections 5702(a), 5702(b), 7701(a)(1), 5702(o),*
9 *5702(n)(1), 3306(j)(1), 5702(c), and 3306(j)(2) respectively*
10 *of the Internal Revenue Code of 1986.*

11 (b) *OTHER DEFINITIONS.—In this subtitle:*

12 (1) *AFFILIATE.—The term “affiliate” means any*
13 *one of 2 or more persons if 1 of such persons has ac-*
14 *tual or legal control, directly or indirectly, whether by*
15 *stock ownership or otherwise, of the other or others of*
16 *such persons, and any one of 2 or more persons sub-*
17 *ject to common control, actual or legal, directly or in-*
18 *directly, whether by stock ownership or otherwise.*

19 (2) *INTERSTATE OR FOREIGN COMMERCE.—The*
20 *term “interstate or foreign commerce” means com-*
21 *merce between any State and any place outside there-*
22 *of, or commerce within any Territory or the District*
23 *of Columbia, or between points within the same State*
24 *but through any place outside thereof.*

1 (3) *SECRETARY.*—The term “Secretary” means
2 the Secretary of the Treasury.

3 (4) *PACKAGE.*—The term “package” means the
4 innermost sealed container irrespective of the mate-
5 rial from which such container is made, in which a
6 tobacco product is placed by the manufacturer and in
7 which such tobacco product is offered for sale to a
8 member of the general public.

9 (5) *RETAILER.*—The term “retailer” means any
10 dealer who sells, or offers for sale, any tobacco product
11 to any person other than a wholesaler.

12 **SEC. 1142. TOBACCO PRODUCT LABELING REQUIREMENTS.**

13 (a) *IN GENERAL.*—It shall be unlawful for any person
14 to sell or ship or deliver for sale or shipment, or otherwise
15 introduce in interstate or foreign commerce, or to receive
16 therein, or to remove from customs custody for use, any to-
17 bacco product unless such product is packaged and labeled
18 in conformity with this section.

19 (b) *LABELING.*—

20 (1) *IDENTIFICATION.*—Not later than 1 year
21 after the date of enactment of this subtitle, the Sec-
22 retary shall promulgate regulations that require each
23 manufacturer of tobacco products to legibly print a
24 unique serial number on all packages of tobacco prod-
25 ucts manufactured for sale or distribution. Such se-

1 rial number shall be designed to enable the Secretary
2 to identify the manufacturer of the product, and the
3 location and date of manufacture. The Secretary shall
4 determine the size and location of the serial number.

5 (2) COUNTRY OF FINAL DESTINATION.—Each
6 package of a tobacco product that is exported shall be
7 labeled with the name of the country of final destina-
8 tion. The Secretary shall promulgate regulations to
9 determine the size and location of the label and under
10 what circumstances a waiver of this paragraph shall
11 be granted.

12 (c) PROHIBITION ON ALTERATION.—It shall be unlaw-
13 ful for any person to alter, mutilate, destroy, obliterate, or
14 remove any mark or label required under this subtitle upon
15 a tobacco product in or affecting commerce, except as au-
16 thorized by Federal law or except under regulations of the
17 Secretary authorizing relabeling for purposes of compliance
18 with the requirements of this section or of State law.

19 **SEC. 1143. REQUIREMENTS FOR THE TRACKING OF TO-**
20 **BACCO PRODUCTS.**

21 (a) POSTING OF BOND.—

22 (1) IN GENERAL.—It shall be unlawful for any
23 person to export any tobacco product unless such per-
24 son—

1 (A) has posted with the Secretary a tobacco
2 product bond in accordance with this section for
3 such product that contains a disclosure of the
4 country to which such product will be exported;
5 and

6 (B) receives a written statement from the
7 recipient of the tobacco products involved that
8 such person—

9 (i) will not knowingly and willfully
10 violate any law or regulation of such coun-
11 try with respect to such products; and

12 (ii) has never been convicted of any of-
13 fense with respect to tobacco products.

14 (2) *REGULATIONS.*—The Secretary shall promul-
15 gate regulations that determine the frequency and the
16 amount of each bond that must be posted under para-
17 graph (1), but in no case shall such amount be less
18 than an amount equal to the Federal tax imposed
19 under chapter 52 of the Internal Revenue Code of
20 1986 on the value of the shipment of the products in-
21 volved if such products were consumed within the
22 United States.

23 (b) *RETURN OF BOND.*—The Secretary shall return a
24 bond posted under subsection (a) upon a determination by
25 the Secretary (based on documentation provided by the per-

1 son who posted the bond in accordance with regulations
2 promulgated by the Secretary) that the tobacco products to
3 which the bond applies have been received in the country
4 of final destination as designated in the bond.

5 **SEC. 1144. TOBACCO PRODUCT PERMITS.**

6 (a) *IN GENERAL.*—Not later than 1 year after the date
7 of enactment of this Act, the Secretary shall establish a pro-
8 gram under which tobacco product permits are issued to
9 persons (desiring to sell or ship, or deliver for sale or ship-
10 ment, or otherwise introduce in interstate or foreign com-
11 merce, or to receive therein, or to remove from customs cus-
12 tody for use, any tobacco product).

13 (b) *CONDITIONS.*—The issuance of a permit to a to-
14 bacco product manufacturer under this section shall be con-
15 ditioned upon the compliance of the manufacturer with the
16 requirements of this subtitle.

17 (c) *REVOCATION, SUSPENSION, AND ANNULMENT.*—
18 The program established under subsection (a) shall permit
19 the Secretary to revoke, suspend, or annul a permit issued
20 under this section if the Secretary determines that the terms
21 or conditions of the permit have not been complied with.
22 Prior to any action under this subsection, the Secretary
23 shall provide the permittee with due notice and the oppor-
24 tunity for a hearing.

1 (d) *RECORDS AND AUDITS.*—*The Secretary shall,*
 2 *under the program established under subsection (a), require*
 3 *permit holders to keep records concerning the chain of cus-*
 4 *tody of the tobacco products that are the subject of the per-*
 5 *mit and make such records available to the Secretary for*
 6 *inspection and audit.*

7 (e) *RETAILERS.*—*This section shall not apply to retail-*
 8 *ers of tobacco products, except that retailers shall maintain*
 9 *commercial records of receipt, and such records shall be*
 10 *available to the Secretary for inspection and audit.*

11 **SEC. 1145. PROHIBITIONS.**

12 (a) *IMPORTATION AND SALE.*—*It shall be unlawful, ex-*
 13 *cept under a permit issued by the Secretary under section*
 14 *1144—*

15 (1) *to engage in the business of importing into*
 16 *the United States tobacco products; or*

17 (2) *for any person so engaged to sell, offer, or de-*
 18 *liver for sale, contract to sell, or ship, in or affecting*
 19 *commerce, directly or indirectly or through affiliate,*
 20 *tobacco products so imported.*

21 (b) *MANUFACTURE AND SALE.*—*It shall be unlawful,*
 22 *except under a permit issued by the Secretary under section*
 23 *1144—*

24 (1) *to engage in the business of manufacturing,*
 25 *packaging or warehousing tobacco products; or*

1 (2) *for any person so engaged to sell, offer, or de-*
2 *liver for sale, contract to sell, or ship, in interstate or*
3 *foreign commerce, directly or indirectly or through an*
4 *affiliate, tobacco products so manufactured, packaged*
5 *or warehoused.*

6 (c) *WHOLESALE.—It shall be unlawful, except under*
7 *a permit issued by the Secretary under section 1144—*

8 (1) *to engage in the business of purchasing for*
9 *resale at wholesale tobacco products, or, as a prin-*
10 *cipal or agent, to sell, offer for sale, negotiate for, or*
11 *hold out by solicitation, advertisement, or otherwise*
12 *as selling, providing, or arranging for, the purchase*
13 *for resale at wholesale of tobacco products; or*

14 (2) *for any person so engaged to receive or sell,*
15 *offer or deliver for sale, contract to sell, or ship, in*
16 *or affecting commerce, directly or indirectly or*
17 *through an affiliate, tobacco products so purchased.*

18 (d) *EFFECTIVE DATE.—The provisions of this section*
19 *shall become effective on the date that is 180 days after the*
20 *date of enactment of this Act.*

21 **SEC. 1146. PRICING AND LABELING OF PRODUCTS SOLD ON**
22 **MILITARY INSTALLATIONS OR BY NATIVE**
23 **AMERICANS.**

24 (a) *MILITARY INSTALLATIONS.—*

1 (1) *IN GENERAL.*—*The Secretary, in consultation*
2 *with the Secretary of Defense, shall promulgate regu-*
3 *lations that ensure that the price charged for a to-*
4 *bacco product sold on a military installation (as de-*
5 *fined in section 2801(c)(2) of title 10, United States*
6 *Code) is equal to—*

7 *(A) the average price for which such prod-*
8 *uct is sold in the metropolitan area immediately*
9 *bordering the military installation; or*

10 *(B) the highest price (inclusive of Federal or*
11 *State taxes) for which such product is sold on*
12 *military installations located in the United*
13 *States;*

14 *whichever is greater.*

15 (2) *LABEL.*—*The regulations under paragraph*
16 *(1) shall require that each package of a tobacco prod-*
17 *uct that is sold on a military installation be labeled*
18 *as such. Such regulations shall include requirements*
19 *for the size and location of the label.*

20 (b) *INDIAN TRIBES.*—*The Secretary, in consultation*
21 *with the Secretary of Interior, shall promulgate regulations*
22 *that require that each package of a tobacco product that*
23 *is sold on an Indian reservation (as defined in section*
24 *403(9) of the Indian Child Protection and Family Violence*
25 *Prevention Act (25 U.S.C. 3202(9))) be labeled as such.*

1 *Such regulations shall include requirements for the size and*
2 *location of the label.*

3 **SEC. 1147. PROHIBITION AGAINST SALE OF TOBACCO PROD-**
4 **UCTS IN OR TO DUTY-FREE SHOPS OR FOR-**
5 **WARDING THROUGH OR MANUFACTURE IN**
6 **TRADE ZONES.**

7 *(a) DUTY-FREE SHOPS.—It shall be unlawful for any*
8 *person to sell a tobacco product—*

9 *(1) in any duty-free shop located within the*
10 *United States; or*

11 *(2) to any duty-free shop.*

12 *(b) TRADE ZONES.—No person may forward through*
13 *or manufacture a tobacco product in any foreign trade zone,*
14 *as defined for purposes of the Act of June 18, 1934 (19*
15 *U.S.C. 81a et seq.).*

16 **SEC. 1148. JURISDICTION; PENALTIES; COMPROMISE OF LI-**
17 **ABILITY.**

18 *(a) JURISDICTION.—The District Courts of the United*
19 *States, and the United States court for any Territory, of*
20 *the District where the offense is committed or of which the*
21 *offender is an inhabitant or has its principal place of busi-*
22 *ness, are vested with jurisdiction of any suit brought by*
23 *the Attorney General in the name of the United States, to*
24 *prevent and restrain violations of any of the provisions of*
25 *this subtitle.*

1 (b) *PENALTIES.*—*The provisions of section 3571 of*
 2 *title 18, United States Code, shall apply to any person con-*
 3 *victed of violating any of the provisions of this subtitle as*
 4 *if such person were convicted of a felony under such title.*

5 (c) *COMPROMISE OF LIABILITY.*—*The Secretary is au-*
 6 *thorized, with respect to any violation of this subtitle, to*
 7 *compromise the liability arising with respect to a violation*
 8 *of this subtitle—*

9 (1) *upon payment of a sum not in excess of*
 10 *\$10,000 for each offense, to be collected by the Sec-*
 11 *retary and to be paid into the Treasury as mis-*
 12 *cellaneous receipts; and*

13 (2) *in the case of repetitious violations and in*
 14 *order to avoid multiplicity of criminal proceedings,*
 15 *upon agreement to a stipulation, that the United*
 16 *States may, on its own motion upon 5 days' notice*
 17 *to the violator, cause a consent decree to be entered*
 18 *by any court of competent jurisdiction enjoining the*
 19 *repetition of such violation.*

20 **SEC. 1149. AMENDMENTS TO THE CONTRABAND CIGARETTE**
 21 **TRAFFICKING ACT.**

22 (a) *DEFINITIONS.*—*Section 2341 of title 18, United*
 23 *States Code, is amended—*

24 (1) *in paragraph (2)—*

1 (A) by striking “60,000” and inserting
2 “30,000”; and

3 (B) by inserting after “payment of cigarette
4 taxes,” the following: “or in the case of a State
5 that does not require any such indication of tax
6 payment, if the person in possession of the ciga-
7 rettes is unable to provide any evidence that the
8 cigarettes are moving legally in interstate com-
9 merce,”; and

10 (2) in paragraph (4), by striking “and” at the
11 end;

12 (3) in paragraph (5), by striking the period and
13 inserting a semicolon; and

14 (4) by adding at the end the following:

15 “(6) the term ‘tobacco product’ means cigars,
16 cigarettes, smokeless tobacco, and pipe tobacco (as
17 such terms are defined in section 5701 of the Internal
18 Revenue Code of 1986); and

19 “(7) the term ‘contraband tobacco product’
20 means a quantity in excess of 30,000 of any tobacco
21 product that is manufactured, sold, shipped, deliv-
22 ered, transferred, or possessed in violation of Federal
23 laws relating to the distribution of tobacco products.”.

24 (b) *UNLAWFUL ACTS.*—Section 2342 of title 18, United
25 States Code, is amended—

1 (1) in subsection (a), by inserting “or contra-
2 band tobacco products” before the period;

3 (2) in subsection (b)—

4 (A) by striking “cigarettes” and inserting
5 “tobacco products”;

6 (B) by striking “60,000” and inserting
7 “30,000”; and

8 (C) by inserting before the period the follow-
9 ing: “or knowingly to fail to maintain distribu-
10 tion records, alter or obliterate required mark-
11 ings, or interfere with any inspection as required
12 with respect to such quantity of tobacco prod-
13 ucts”; and

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

15 “(c) It shall be unlawful for any person knowingly to
16 transport tobacco products under a false bill of lading or
17 without any bill of lading.”.

18 (c) *RECORDKEEPING*.—Section 2343 of title 18, United
19 States Code, is amended—

20 (1) by striking “cigarettes” each place that such
21 appears and inserting “tobacco products”;

22 (2) in subsection (a), by striking “60,000” and
23 inserting “30,000”;

24 (3) in subsection (b), by striking “60,000” and
25 inserting “30,000”.

1 (d) *PENALTIES*.—Section 2344 of title 18, United
2 States Code, is amended—

3 (1) in subsection (c), by inserting “or contra-
4 band tobacco products” after “cigarettes”; and

5 (2) by adding at the end the following:

6 “(d) Any proceeds from the unlawful distribution of
7 tobacco products shall be subject to seizure and forfeiture
8 under section 981(a)(1)(C).”.

9 **SEC. 1150. AUTHORIZATION OF APPROPRIATIONS.**

10 There are authorized to be appropriated such sums as
11 may be necessary to carry out this subtitle.

12 **Subtitle E—Antitrust Exemption**

13 **SEC. 1161. LIMITED ANTITRUST EXEMPTION.**

14 (a) *IN GENERAL*.—The antitrust laws of the United
15 States (as defined in section 1 of the Clayton Act (15 U.S.C.
16 12) and any other statute in pari materia, and any similar
17 law of a State, do not apply to the joint discussion, consid-
18 eration, review, action, agreement, or understanding by or
19 among any participating tobacco product manufacturers,
20 for the purposes of, and limited to—

21 (1) entering into and complying with the Proto-
22 col, Trust Agreement, or Consent Decree;

23 (2) refusing to deal with a distributor, retailer,
24 or other seller of tobacco products who distributes such
25 products for sale to, or offers for sale or sells such

1 products to, underage persons, or who otherwise fails
2 to comply with the applicable requirements of the Act,
3 the Protocol, or Consent Decree; or

4 (3) submitting an application relating to a plan
5 or program of the type referred to in subsection (b)
6 of this section or, entering into, complying with or
7 otherwise carrying out the terms of, any plan or pro-
8 gram that has been approved under subsection (b) of
9 this section.

10 (b) *APPROVAL BY ATTORNEY GENERAL.*—The Attorney
11 General of the United States is authorized to approve, upon
12 application by one or more participating tobacco product
13 manufacturers, plans, or programs to reduce the use of to-
14 bacco products by underage individuals. Before approving
15 any such plan or program, the Attorney General shall deter-
16 mine that approval is appropriate as part of the effort to
17 reduce the use of tobacco products by underage individuals
18 and will not have the effect of unduly restraining competi-
19 tion. The Attorney General shall approve or disapprove any
20 such application in writing within 90 days from the date
21 it is received by the Department of Justice. Upon written
22 withdrawal by the Attorney General of any approval under
23 this subsection, the provisions of subsection (a)(3) shall not
24 apply to any subsequent act or omission with respect to
25 the plan or program to which the approval related.

1 ***Subtitle F—Special Provisions Con-***
2 ***cerning Programs for Women,***
3 ***Minorities, and Others***

4 ***SEC. 1171. RESEARCH RELATED TO PATTERNS OF SMOKING***
5 ***BY WOMEN AND MINORITIES.***

6 (a) *RESEARCH DESIGN CRITERIA.*—Any research
7 funded under this Act, or under any amendment made by
8 this Act, that is conducted for the purpose of investigating
9 factors affecting tobacco use and patterns of smoking, shall
10 if appropriate to the scope and purpose of the investigation
11 include data and analysis with respect to different factors
12 that may be present in the case of women or minorities.

13 (b) *PATTERNS OF SMOKING.*—Research funded under
14 this Act, or under any amendment made by this Act, exam-
15 ining patterns of smoking among minorities should be con-
16 ducted in proportion to their prevalence in the smoking
17 population and shall be conducted at minority education
18 institutions, where available, or institutions that provide
19 the greatest amount of health care to minority populations
20 in a State.

21 ***SEC. 1172. COUNTER-ADVERTISING PROGRAMS.***

22 (a) *IN GENERAL.*—The Secretary shall carry out pro-
23 grams to reduce tobacco usage through media-based (such
24 as counter-advertising campaigns) and nonmedia-based
25 education, prevention, and cessation campaigns designed to

1 *discourage the use of tobacco products by individuals and*
2 *to encourage those who use such products to quit. Such pro-*
3 *grams shall target, in a culturally and linguistically appro-*
4 *priate manner, adults, children, women, and minorities*
5 *who have been targeted by tobacco industry advertising.*

6 (b) *ELIGIBILITY.*—*To be eligible to receive assistance*
7 *under this section an entity or individual shall prepare and*
8 *submit to the Secretary an application at such time, in*
9 *such manner, and containing such information as the Sec-*
10 *retary may require.*

11 (c) *USE OF FUNDS.*—*Amounts received by an individ-*
12 *ual or entity under this section shall be used to carry out*
13 *activities under the programs established under subsection*
14 *(a). Such amounts may be used to design and implement*
15 *such activities and to conduct research concerning the effec-*
16 *tiveness of such programs.*

17 (d) *FUNDING.*—*There are authorized to be appro-*
18 *priated from the National Tobacco Settlement Trust Fund*
19 *established by section 401, other than from amounts not in*
20 *the State Litigation Settlement Account, or otherwise obli-*
21 *gated under this Act such sums as are necessary to carry*
22 *out the provisions of this section.*

1 **SEC. 1173. PREVENTION ACTIVITIES OF COMMUNITY AND**
 2 **MIGRANT HEALTH CENTERS.**

3 (a) *FUNDING.*—*There are authorized to be appro-*
 4 *priated from the National Tobacco Settlement Trust Fund*
 5 *established by section 401, other than from amounts in the*
 6 *State Litigation Settlement Account, of this Act*
 7 *\$300,000,000 for each of the first 10 fiscal years beginning*
 8 *after the date of enactment of this Act to carry out the pro-*
 9 *visions of subsection (b).*

10 (b) *PROGRAM.*—*The Secretary shall make amounts*
 11 *made available under subsection (a) available to Commu-*
 12 *nity, Migrant, and Homeless Health Centers receiving*
 13 *grants under section 330 of the Public Health Service Act*
 14 *(42 U.S.C. 254c) to provide health services for diseases re-*
 15 *lated to tobacco and to prevent tobacco-related diseases.*

16 (c) *LIMITATION.*—*No amount may be expended or obli-*
 17 *gated under subsection (b) for any fiscal year in which the*
 18 *annual amount appropriated for Community, Migrant,*
 19 *and Homeless Health Centers is less than the amount ap-*
 20 *propriated for the previous fiscal year.*

21 **Subtitle G—Sense of the Senate**

22 **SEC. 1181. SENSE OF THE SENATE.**

23 *It is the sense of the Senate that the proceeds of this*
 24 *Act may be used for purposes including, but not limited*
 25 *to—*

1 (1) *reimbursing public health care financing*
2 *programs for tobacco-related costs, including Medi-*
3 *care;*

4 (2) *supporting tobacco use prevention and ces-*
5 *sation, particularly with respect to youth, including*
6 *counter-advertising at the Federal, State, Tribal, and*
7 *local level;*

8 (3) *supporting tobacco-related health services re-*
9 *search activities;*

10 (4) *assisting tobacco farmers and tobacco de-*
11 *pendent communities;*

12 (5) *creating, and fully and adequately funding,*
13 *a Tobacco Asbestos Trust to assist victims of the*
14 *unique harm that smoking causes to asbestos workers;*

15 (6) *settling with and reimbursing States for to-*
16 *bacco-related health care costs and damages, includ-*
17 *ing Medicaid;*

18 (7) *providing funding for the Federal Black*
19 *Lung Program;*

20 (8) *providing funding for child care and early*
21 *childhood development;*

22 (9) *providing funding for veterans' benefit pro-*
23 *grams; and*

24 (10) *providing funding for clinical trials at the*
25 *National Institutes of Health.*

1 ***Subtitle H—Ban On Sale Of To-***
 2 ***bacco Products Through The Use***
 3 ***Of Vending Machines***

4 ***SEC. 1191. BAN OF SALE OF TOBACCO PRODUCTS THROUGH***
 5 ***THE USE OF VENDING MACHINES.***

6 (a) *BAN OF SALE OF TOBACCO PRODUCTS THROUGH*
 7 *THE USE OF VENDING MACHINES.*—*Effective 12 months*
 8 *after the date of enactment of this Act, it shall be unlawful*
 9 *to sell tobacco products through the use of a vending ma-*
 10 *chine.*

11 (b) *COMPENSATION FOR BANNED VENDING MA-*
 12 *CHINES.*—

13 (1) *IN GENERAL.*—*The owners and operators of*
 14 *tobacco vending machines shall be reimbursed for the*
 15 *fair market value of their businesses, including the*
 16 *cost of banned vending machines, compensation for*
 17 *lost profits, unexpired contracts, and for the owner's*
 18 *or operator's plant and equipment related only to the*
 19 *production of tobacco vending machines.*

20 (2) *TOBACCO VENDING REIMBURMENT CORPORA-*
 21 *TION.*—

22 (A) *CORPORATION.*—*Reimbursment shall be*
 23 *directed through a private, nonprofit corporation*
 24 *established in the District of Columbia, known as*
 25 *the Tobacco Vending Reimburment Corporation*

1 *(in this section referred to as the “Corporation”).*

2 *The Corporation is—*

3 *(i) not an agency or establishment of*
4 *the United States; and*

5 *(ii) except as otherwise provided in*
6 *this section, is subject to, and has all the*
7 *powers conferred upon a nonprofit corpora-*
8 *tion by the District of Columbia Nonprofit*
9 *Corporation Act (D.C. Code section 29-501*
10 *et seq.).*

11 *(B) DUTIES.—The Corporation shall—*

12 *(i) disburse compensation funds to*
13 *vending companies under this section;*

14 *(ii) verify operational machines; and*

15 *(iii) maintain complete records of ma-*
16 *chine verification and accountings of dis-*
17 *bursements and administration of the com-*
18 *pensation fund established under paragraph*
19 *(4).*

20 *(3) MANAGEMENT OF CORPORATION.—*

21 *(A) BOARD OF DIRECTORS.—The Corpora-*
22 *tion shall be managed by a Board of Directors*
23 *that—*

1 (i) consists of distinguished Americans
2 with experience in finance, public policy, or
3 fund management;

4 (ii) includes at least 1 member of the
5 United States tobacco vending machine in-
6 dustry;

7 (iii) shall be paid an annual salary on
8 an individualized basis of \$40,000 out of
9 amounts transferred to the Corporation
10 under paragraph (4)(A);

11 (iv) shall appoint a President to man-
12 age the day-to-day activities of the Corpora-
13 tion;

14 (v) shall develop guidelines by which
15 the President shall direct the Corporation;

16 (vi) shall retain a national accounting
17 firm to verify the distribution of funds and
18 audit the compensation fund established
19 under paragraph (4);

20 (vii) shall retain such legal, manage-
21 ment, or consulting assistance as is nec-
22 essary and proper; and

23 (viii) shall periodically report to Con-
24 gress regarding the activities of the Cor-
25 poration.

1 (B) *DUTIES OF THE PRESIDENT OF THE*
2 *CORPORATION.—The President of the Corpora-*
3 *tion shall—*

4 (i) *hire appropriate staff;*

5 (ii) *prepare the report of the Board of*
6 *Directors of the Corporation required under*
7 *subparagraph (A)(viii); and*

8 (iii) *oversee Corporation functions, in-*
9 *cluding verification of machines, adminis-*
10 *tration and disbursement of funds, mainte-*
11 *nance of complete records, operation of ap-*
12 *peals procedures, and other directed func-*
13 *tions.*

14 (4) *COMPENSATION FUND.—*

15 (A) *TRANSFER OF FUNDS FROM TOBACCO*
16 *INDUSTRY PAYMENTS.—The Secretary of the*
17 *Treasury shall transfer to the Corporation, out of*
18 *funds in the National Tobacco Settlement Trust*
19 *Fund, other than from amounts in the State*
20 *Litigation Settlement Account, such sums as are*
21 *necessary to make due compensation to owners*
22 *and operators of tobacco vending machines and*
23 *to carry out the duties of the Corporation. Not*
24 *later than 1 year after such date on which the*
25 *first transfer is made under this subparagraph,*

1 *the Secretary of the Treasury shall transfer to*
2 *the Corporation out of funds paid to the United*
3 *States by the tobacco industry, such additional*
4 *sums as may be necessary for such purposes.*

5 *(B) RULES FOR DISBURSEMENT OF*
6 *FUNDS.—*

7 *(i) PAYMENTS TO OWNERS AND OPERA-*
8 *TORS.—The Corporation shall disburse*
9 *funds to compensate the owners and opera-*
10 *tors of tobacco vending machines in accord-*
11 *ance with the following:*

12 *(I) The fair market value of each*
13 *tobacco vending machine verified by*
14 *the Corporation President in accord-*
15 *ance with subparagraph (C), and prov-*
16 *en to have been in operation before Au-*
17 *gust 10, 1995, shall be disbursed to the*
18 *owner of the machine seeking com-*
19 *ensation.*

20 *(II) No compensation shall be*
21 *made for a spiral glass front vending*
22 *machine.*

23 *(ii) OTHER PAYMENTS.—Funds trans-*
24 *ferred to the Corporation under subpara-*
25 *graph (A) may be used to pay the adminis-*

1 trative costs of the Corporation that are
2 necessary and proper or required by law.
3 The total amount paid by the Corporation
4 for administrative and overhead costs, in-
5 cluding accounting fees, legal fees, consult-
6 ant fees, and associated administrative costs
7 shall not exceed 5 percent of the total
8 amount transferred to the Corporation
9 under subparagraph (A).

10 (C) VERIFICATION OF VENDING MA-
11 CHINES.—Verification of vending machines shall
12 be based on copies of official State vending li-
13 censes, company computerized or handwritten
14 sales records, or physical inspection by the Cor-
15 poration President or by an inspection agent
16 designated by the President. The Corporation
17 President and the Board of Directors of the Cor-
18 poration shall work vigorously to prevent and
19 prosecute any fraudulent claims submitted for
20 compensation.

21 (D) RETURN OF ACCOUNT FUNDS NOT DIS-
22 TRIBUTED TO VENDORS.—The Corporation shall
23 be dissolved on the date that is 4 years after the
24 date of enactment of this Act. Any funds not dis-
25 persed or allocated to claims pending as of that

1 *date shall be transferred to a public anti-smok-*
 2 *ing trust, or used for such other purposes as Con-*
 3 *gress may designate.*

4 (c) *SETTLEMENT OF LEGAL CLAIMS PENDING*
 5 *AGAINST THE UNITED STATES.*—Acceptance of a com-
 6 *pensation payment from the Corporation by a vending ma-*
 7 *chine owner or operator shall settle all pending and future*
 8 *claims of the owner or operator against the United States*
 9 *that are based on, or related to, the ban of the use of tobacco*
 10 *vending machines imposed under this section and any other*
 11 *laws or regulations that limit the use of tobacco vending*
 12 *machines.*

13 (d) *AUTHORIZATION OF APPROPRIATIONS.*—There are
 14 *authorized to be appropriated from the National Tobacco*
 15 *Settlement Trust Fund, other than from amounts in the*
 16 *Senate Litigation Settlement Account, such sums as may*
 17 *be necessary to carry out this section.*

18 **TITLE XII—TOBACCO ASBESTOS** 19 **TRUST FUND**

20 **SEC. 1201. DEFINITIONS.**

21 *In this title:*

22 (1) *ASBESTOS CLAIM.*—The term “asbestos
 23 *claim” means a claim brought or capable of being*
 24 *brought in a court of competent jurisdiction by a per-*
 25 *son for personal injury, wrongful death, loss of con-*

1 *sortium, or other damages arising from occupational*
2 *exposure to asbestos or asbestos containing products,*
3 *including claims by spouses or household members*
4 *who were exposed to asbestos through the occupational*
5 *exposure of another person.*

6 (2) *ASBESTOS CLAIMANT.*—*The term “asbestos*
7 *claimant” means a person who brings an asbestos*
8 *claim.*

9 (3) *ASBESTOS DEFENDANT.*—*The term “asbestos*
10 *defendant” means a person or existing entity (includ-*
11 *ing a partnership or corporation) who as part of its*
12 *operations is defending asbestos claims on the date of*
13 *enactment of this Act.*

14 (4) *ASBESTOS/TOBACCO CLAIM.*—*The term “as-*
15 *bestos/tobacco claim” means a legally justiciable as-*
16 *bestos claim of a person who also claims injury, dis-*
17 *ease, or death arising from exposure to tobacco.*

18 (5) *ASBESTOS/TOBACCO CLAIMANT.*—*The term*
19 *“asbestos/tobacco claimant” means a person who has*
20 *an asbestos/tobacco claim.*

21 (6) *ASBESTOS TRUST.*—*The term “asbestos*
22 *trust” means a court-supervised trust that was estab-*
23 *lished to resolve asbestos claims arising directly or in-*
24 *directly from exposure to asbestos or asbestos contain-*
25 *ing products of an asbestos defendant, including a*

1 *trust created under the bankruptcy laws of the United*
2 *States, or Rule 23 of the Federal Rules of Civil Proce-*
3 *dure.*

4 (7) *EXPOSURE TO TOBACCO.*—*The term “expo-*
5 *sure to tobacco” means any instance in which a per-*
6 *son consumes, inhales, ingests, or uses a tobacco prod-*
7 *uct.*

8 (8) *TOBACCO.*—*The term “tobacco” means to-*
9 *bacco in its manufactured form, including cigars,*
10 *cigarettes, cigarillos, cigarette tobacco, little cigars,*
11 *pipe tobacco, and smokeless tobacco.*

12 (9) *TOBACCO COMPANY.*—*The term “tobacco com-*
13 *pany” means any person, including any repacker, or*
14 *relabeler, who manufactures, fabricates, assembles,*
15 *processes, or labels a finished tobacco product.*

16 (10) *TRUST FUND.*—*The term “trust fund”*
17 *means the Tobacco Asbestos Trust Fund established*
18 *under section 1202.*

19 **SEC. 1202. TOBACCO ASBESTOS TRUST FUND.**

20 (a) *ESTABLISHMENT.*—

21 (1) *IN GENERAL.*—*There is established in the*
22 *Treasury of the United States a trust fund to be*
23 *known as the “Tobacco Asbestos Trust Fund”, consist-*
24 *ing of such amounts as may be appropriated or cred-*
25 *ited to the trust fund.*

1 (2) *DIVISION.*—

2 (A) *IN GENERAL.*—*The trust fund shall be*
3 *composed of 2 funds to be known as “Fund I”*
4 *and “Fund II”. Each such fund shall meet the*
5 *requirements of this title.*

6 (B) *FUND I.*—

7 (i) *ADMINISTRATION.*—*Fund I shall be*
8 *administered by the trustees appointed*
9 *under paragraphs (1) and (3) of subsection*
10 *(b). Fund I shall be considered to be a des-*
11 *ignated settlement fund within the meaning*
12 *of section 468B of the Internal Revenue*
13 *Code of 1986.*

14 (ii) *PURPOSE AND USE.*—*The purpose*
15 *of Fund I shall be for the reimbursement of*
16 *asbestos trusts and asbestos defendants for*
17 *payments made by such trust and defend-*
18 *ants for the tobacco-caused portion of asbes-*
19 *tos/tobacco claims. Fund I shall be used to*
20 *allocate credits to asbestos trusts and asbes-*
21 *tos defendants who settled and paid the civil*
22 *claims of individuals who had exposure to*
23 *tobacco and asbestos. Such credits may be*
24 *used to direct the payment of funds by the*

1 *trustees to pay asbestos claims and asbestos/*
2 *tobacco claims, as described in section 1203.*

3 *(C) FUND II.—*

4 *(i) ADMINISTRATION.—Fund II shall*
5 *be administered by the trustees appointed*
6 *under paragraphs (2) and (3) of subsection*
7 *(b). Fund II shall be considered to be a des-*
8 *ignated settlement fund within the meaning*
9 *of section 468B of the Internal Revenue*
10 *Code of 1986.*

11 *(ii) PURPOSE.—The purpose of Fund*
12 *II shall be to pay asbestos/tobacco claims*
13 *brought after the date of enactment of this*
14 *Act for the tobacco-caused portion of the*
15 *claimant's harm, as described in section*
16 *1204.*

17 *(3) SEPARATE OPERATIONS.—The operations of*
18 *each Fund shall be conducted separately. Upon ma-*
19 *jority vote of the trustees of Fund I and upon major-*
20 *ity vote of the trustees of Fund II, the Funds may,*
21 *in the interest of efficiency and economy, conduct cer-*
22 *tain tasks as a single operation.*

23 *(b) TRUSTEES.—Not later than 60 days after the date*
24 *of enactment of this Act—*

1 (1) *the Secretary shall appoint 2 individuals to*
2 *serve as trustees of the trust fund, of which—*

3 (A) *1 individual shall represent asbestos*
4 *trusts; and*

5 (B) *1 individual shall represent asbestos de-*
6 *fendants;*

7 (2) *the Secretary of Labor shall appoint 2 indi-*
8 *viduals to serve as trustees of the trust fund, of*
9 *which—*

10 (A) *1 individual shall represent asbestos*
11 *claimants; and*

12 (B) *1 individual shall represent labor orga-*
13 *nizations with asbestos claimants as members;*
14 *and*

15 (3) *the trustees appointed under paragraphs (1)*
16 *and (2) shall appoint an individual who shall be a*
17 *member of the health care profession with experience*
18 *in asbestos disease or disability to serve as a trustee.*

19 (c) *AUTHORIZATION AND ALLOCATIONS.—*

20 (1) *AUTHORIZATION.—There are appropriated,*
21 *out of amounts in the National Tobacco Settlement*
22 *Trust Fund established by section 401 (other than*
23 *amounts in the State Litigation Settlement Account*
24 *or otherwise obligated), to the trust fund the amounts*
25 *set forth in section 1205. The Secretary of the Treas-*

1 *ury shall transfer amounts appropriated under this*
 2 *paragraph to the trust fund.*

3 (2) *ALLOCATION BETWEEN FUNDS.—*

4 (A) *BASELINE ALLOCATION.—Of the*
 5 *amounts transferred under paragraph (1), 50*
 6 *percent shall be deposited into Fund I and 50*
 7 *percent shall be deposited into Fund II.*

8 (B) *TIMING ADJUSTMENT.—The trustees of*
 9 *Fund II may provide an advance to Fund I as*
 10 *a loan (to be repaid from proceeds of Fund I)*
 11 *from funds available in Fund II as may be nec-*
 12 *essary to further the purposes of Fund I.*

13 (d) *REPAYABLE ADVANCES.—*

14 (1) *AUTHORIZATION.—In addition to the*
 15 *amounts appropriated under subsection (c), there are*
 16 *authorized to be appropriated to the trust fund, as re-*
 17 *payable advances, such sums as may be necessary for*
 18 *fiscal year 1999 and each subsequent fiscal year to*
 19 *make the expenditures described in sections 1203 and*
 20 *1204.*

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

1 *ury determines that monies are available in the To-*
2 *bacco Asbestos Trust Fund to make the payments.*

3 (3) *RATE OF INTEREST.—Interest on an advance*
4 *made under this subsection shall be at a rate deter-*
5 *mined by the Secretary of the Treasury (as of the*
6 *close of the calendar month preceding the month in*
7 *which the advance is made) that is equal to the cur-*
8 *rent average market yield on outstanding marketable*
9 *obligations of the United States with remaining pe-*
10 *riod to maturity comparable to the anticipated period*
11 *during which the advance will be outstanding.*

12 (e) *USE OF TRUST FUND.—*

13 (1) *IN GENERAL.—The trust fund shall be used*
14 *as provided for in this title. No amount shall be ex-*
15 *pended or obligated from the trust fund unless the ex-*
16 *penditure or obligation is authorized by an appro-*
17 *priation Act.*

18 (2) *LIMITATION.—Amounts may only be made*
19 *available from the trust fund to, or for the direct ben-*
20 *efit of, asbestos claimants and asbestos/tobacco claim-*
21 *ants.*

22 (f) *AUTHORITY OF TRUSTEES.—*

23 (1) *DECISIONS BASED ON VOTES.—Except as*
24 *provided in this Act, the trustees of each Fund shall*

1 *make decisions with regard to the respective Funds*
2 *based on a majority vote.*

3 (2) *GENERAL AUTHORITY.*—*The trustees shall*
4 *have the authority to take such actions as may be nec-*
5 *essary to effectuate the purposes of the trust fund, in-*
6 *cluding—*

7 (A) *the investment of the trust fund assets*
8 *in a reasonable and prudent manner consistent*
9 *with the needs and purposes of the trust fund;*
10 *and*

11 (B) *commencing actions to enforce any pro-*
12 *visions or obligations imposed under this title.*

13 (3) *ADMINISTRATIVE AUTHORITY.*—*The trustees*
14 *shall have the authority to employ officers, adminis-*
15 *trators, claims analysts, attorneys, actuaries, invest-*
16 *ment specialists, and such other employees and agents*
17 *as may be required to administer the trust fund.*

18 (g) *ACCOUNTING FOR EXPENSES.*—*Except for the com-*
19 *pensation and expenses of the trustees, which shall be*
20 *charged equally to Fund I and Fund II, the trustees shall,*
21 *to the extent feasible, separately account for all salaries,*
22 *overhead, and other costs and expenses as between Fund I*
23 *and Fund II on the basis of activities conducted separately*
24 *with respect to each such Fund.*

1 (h) *EXPENDITURES FROM TRUST FUND.*—Amounts in
2 the trust fund, and each of its Funds, shall be made avail-
3 able in each fiscal year, as provided by appropriations Acts,
4 as necessary to make the expenditures and allocations pro-
5 vided for in sections 1203 and 1204.

6 **SEC. 1203. PAYMENTS FROM FUND I.**

7 (a) *IN GENERAL.*—Credits applying to the amounts
8 deposited into Fund I shall be allocated and disbursed as
9 provided for in this section.

10 (b) *DETERMINATION OF BASE.*—

11 (1) *NOTICE.*—Not later than 90 days after the
12 date on which the trustees for Fund I are appointed,
13 the trustees shall provide notice to all asbestos trusts
14 and asbestos defendants of the establishment of the
15 Fund.

16 (2) *REQUEST FOR INFORMATION.*—The notice
17 under paragraph (1) shall request that each asbestos
18 trust and asbestos defendant, within a reasonable pe-
19 riod of time, provide the trustees with information as
20 to the amount of payments or settlements made by or
21 on behalf of such trusts or defendants (and, in the
22 case of non-bankruptcy trusts, also made by or on be-
23 half of their predecessor organizations), and the
24 amount of any outstanding bonded judgments, on as-
25 bestos claims as of the date of enactment of this Act.

1 (3) *DETERMINATION.*—Based on the information
2 provided under paragraph (2), the trustees for Fund
3 I shall determine the total amount of payments and
4 settlements and outstanding bonded judgments (rea-
5 sonably adjusted for the probable resolution as of the
6 date the information is submitted under paragraph
7 (2)) on the asbestos claims of all asbestos trusts and
8 asbestos defendants that responded to the notice.

9 (c) *ALLOCATION OF CREDITS.*—

10 (1) *IN GENERAL.*—Upon review of the informa-
11 tion submitted under subsection (b)(2), the trustees for
12 Fund I shall provide a credit with respect to each as-
13 bestos trust and asbestos defendant submitting such
14 information.

15 (2) *AMOUNT.*—A credit under paragraph (1)
16 with respect to an asbestos trust or asbestos defendant
17 shall be based on the ratio of—

18 (A) the amount of settlement payments and
19 outstanding bonded judgments on asbestos claims
20 made by or on behalf of the trust or defendant;
21 and

22 (B) the total amount of settlement payments
23 and outstanding bonded judgments on asbestos
24 claims made by or on behalf of all asbestos trusts

1 *and asbestos defendants described in paragraph*
2 *(1).*

3 *(d) ADDITIONAL FACTORS.—*

4 *(1) INTEREST.—In making the allocation of*
5 *credits under this section, the trustees for Fund I*
6 *shall consider the timing of past cash payments and*
7 *include an appropriate interest factor in making*
8 *their allocation determinations.*

9 *(2) UNPAID SETTLEMENTS.—In making the allo-*
10 *cation of credits under this section, the trustees for*
11 *Fund I shall include the settlements of asbestos trusts*
12 *and asbestos defendants that have not been paid as of*
13 *the date of enactment of this Act in an amount not*
14 *to exceed 20 percent of the amount of such unpaid set-*
15 *tlements.*

16 *(3) LIMITATION.—The aggregate amount of Fund*
17 *I credits allocated to asbestos trusts or asbestos de-*
18 *fendants to account for unpaid settlements under*
19 *paragraph (2) shall not exceed an amount equal to 6*
20 *percent of the amounts contained in Fund I for the*
21 *year involved. Any necessary reductions from the ap-*
22 *plication of the limitation under this paragraph shall*
23 *be determined using the ratios described in subsection*
24 *(c).*

1 (4) *UNUSED CREDITS.*—*To the extent that any*
2 *asbestos trust or asbestos defendant has credits from*
3 *its allocation under this section that have not been the*
4 *subject of a request and direction to be paid for a pe-*
5 *riod of 2 years from the date on which such credits*
6 *are made available, such unused credits shall be re-*
7 *allocated proportionally to each asbestos trust and as-*
8 *bestos defendant submitting information under sub-*
9 *section (b)(2) according to the amount of the unpaid*
10 *settlements of such trust and defendants which remain*
11 *unpaid after making the allocations required by this*
12 *section.*

13 (e) *REVIEW OF DETERMINATIONS.*—

14 (1) *IN GENERAL.*—*Any dispute regarding a de-*
15 *termination made by the trustees for Fund I under*
16 *this section shall be resolved not later than 6 months*
17 *after the date on which notice of such dispute is pro-*
18 *vided to the trustees. Such resolution shall be under*
19 *final and binding arbitration under the rules of the*
20 *American Arbitration Association.*

21 (2) *SCOPE.*—*The scope of any review under*
22 *paragraph (1) shall be limited to determining whether*
23 *the determinations of the trustees were unsupported*
24 *by substantial evidence or were contrary to law.*

1 (3) *APPLICATION OF SECTION.*—During the
2 *pendency of any dispute resolution proceeding under*
3 *this subsection, the trustees may continue to imple-*
4 *ment the provisions of this section, reserving sufficient*
5 *monies as may be necessary in their judgment to sat-*
6 *isfy the resolution of such disputes.*

7 (f) *USE OF FUND I CREDITS.*—

8 (1) *FOR BENEFIT OF VICTIMS.*—All monies cred-
9 *ited to asbestos trusts and asbestos defendants under*
10 *this section shall be used solely for the payment of as-*
11 *bestos claims and asbestos/tobacco claims. None of the*
12 *credits allocated under this section to an asbestos*
13 *trust or asbestos defendant shall be used for the costs*
14 *of defending against an asbestos claims, for payment*
15 *of corporate dividends, for reimbursement of insurers,*
16 *or for any other corporate purpose.*

17 (2) *MECHANISM FOR PAYMENT OF VICTIMS.*—

18 (A) *ASBESTOS DEFENDANTS.*—An asbestos
19 *defendant that receives an allocation of credit*
20 *under this section may only use such credit to*
21 *direct that a payment be made from Fund I to*
22 *any asbestos claimant as compensation for an*
23 *asbestos claim or asbestos/tobacco claim. The*
24 *payment of such claimant shall be under a writ-*
25 *ten request submitted by the defendant to the*

1 *Fund. Such requests are not subject to approval*
 2 *by the Fund so long as they do not exceed the de-*
 3 *fendant's allocation of credit under this section.*

4 *(B) ASBESTOS TRUST.—All monies result-*
 5 *ing from credits allocated to an asbestos trust*
 6 *under this section shall be paid to such trust for*
 7 *use according to the rules of such trust with re-*
 8 *gard to the payment of asbestos claims and as-*
 9 *bestos/tobacco claims.*

10 **SEC. 1204. PAYMENTS FROM FUND II.**

11 *(a) IN GENERAL.—Amounts deposited into II shall be*
 12 *disbursed as provided for in this section.*

13 *(b) ESTABLISHMENT OF FUND.—The trustee for Fund*
 14 *II shall establish procedures and standards under subsection*
 15 *(c) for the payment, upon approval of an appropriate ap-*
 16 *plication, of a reasonable reimbursement for the costs, ex-*
 17 *penses, and fees incurred in connection with an asbestos*
 18 *claim or an asbestos/tobacco claim.*

19 *(c) PROCEDURES AND STANDARDS.—The procedures*
 20 *and standards established under this subsection for the pay-*
 21 *ment of compensation to asbestos claimants and asbestos/*
 22 *tobacco claimants, shall include—*

23 *(1) rules to ensure that compensation from Fund*
 24 *II is paid only for that portion of an asbestos claim-*

1 *ant's or an asbestos/tobacco claimant's harm caused*
2 *by exposure to tobacco;*

3 *(2) rules ensuring that—*

4 *(A) all present and future such claimants*
5 *are treated equitably in relationship to each*
6 *other; and*

7 *(B) if future demands against Fund II re-*
8 *quire limitations on current payment, that pri-*
9 *ority be given to payment of asbestos claimants*
10 *or asbestos/tobacco claimants with the most seri-*
11 *ous harm due to exposure to asbestos and to-*
12 *bacco;*

13 *(3) rules establishing application forms and pro-*
14 *cedures for the submission of claims and supporting*
15 *documentation;*

16 *(4) criteria establishing a minimum degree of as-*
17 *bestos disability or impairment that must be dem-*
18 *onstrated in order for a claimant to receive com-*
19 *ensation under this section;*

20 *(5) criteria for the coordination of the adminis-*
21 *tration of Fund II with the signatories to the Louisi-*
22 *ana Agreement Providing Administrative Alternatives*
23 *for Claimants with Asbestos Related Conditions to ex-*
24 *pand the agreement to include national coverage for*

1 *claimants who may not be compensated under the cri-*
2 *teria provided for under paragraph (4);*

3 *(6) rules requiring recipients of funds from Fund*
4 *II to execute a release of personal injury claims for*
5 *tobacco-caused harm; and*

6 *(7) rules to ensure that the administration of the*
7 *claims process, including attorney's fees, is fair and*
8 *equitable to asbestos claimants and asbestos/tobacco*
9 *claimants.*

10 *(d) PERIOD FOR FINAL DETERMINATIONS.—The trust-*
11 *ees for Fund II shall make a final determination with re-*
12 *spect to a claim submitted under this section not later than*
13 *120 days after the date on which the claim is submitted.*
14 *In the event that exigent circumstances exist with respect*
15 *to a such a claim, as verified by a competent medical pro-*
16 *fessional, such final determination shall be made as soon*
17 *as practicable, but in no case later than 60 days after the*
18 *date of the submission of such claim.*

19 *(e) NO LIMITATION ON RIGHT TO SUE.—Except as*
20 *provided in section 1206(b), nothing in this title shall be*
21 *construed to limit the rights of any individual to bring a*
22 *civil suit against a tobacco company.*

23 *(f) CLAIMS ADMINISTRATION.—The trustees for Fund*
24 *II may establish, or enter into a contract for the establish-*

1 *ment or operation of, a claims facility for the processing,*
2 *evaluation, and settlement of claims submitted to Fund II.*

3 (g) *REVIEW JURISDICTION.*—*The District Courts of*
4 *the United States shall have exclusive jurisdiction, without*
5 *regard to the amount in controversy or the citizenship of*
6 *the parties, to review a determination (or failure to make*
7 *a determination as required by section 1206(a)) by or on*
8 *behalf of the trustees with respect to compensation under*
9 *Fund II by an individual bringing a claim. No such deter-*
10 *mination may be overturned or remanded if it is supported*
11 *by substantial evidence. A claimant may not file a proceed-*
12 *ing under this subsection unless the plaintiff has provided*
13 *the trustees with a notice of intent of the plaintiff to file*
14 *such an action, at least 90 days prior to the filing of such*
15 *action.*

16 **SEC. 1205. TRANSFERS FROM NATIONAL TOBACCO SETTLE-**
17 **MENT TRUST FUND.**

18 (a) *SPECIAL ASBESTOS-TOBACCO VICTIM TRANS-*
19 *FERS.*—*Beginning with calendar year 1999, the Secretary*
20 *of the Treasury shall, for each calendar year, transfer from*
21 *the National Tobacco Settlement Trust Fund established*
22 *under section 401 (other than from amounts in the State*
23 *Litigation Settlement Account) the amounts sufficient to*
24 *provide the trust fund established by section 1202 the follow-*
25 *ing amounts:*

- 1 (1) *For calendar year 1999, \$1,000,000,000.*
- 2 (2) *For calendar year 2000, \$1,500,000,000.*
- 3 (3) *For calendar year 2001, \$3,000,000,000.*
- 4 (4) *For calendar year 2002, \$3,000,000,000.*
- 5 (5) *For calendar year 2003, \$3,000,000,000.*
- 6 (6) *For calendar year 2004, \$4,000,000,000.*
- 7 (7) *For each of the calendar years 2005 through*
8 *2014, \$550,000,000.*

9 (b) *PAYMENTS.—The Secretary of the Treasury shall*
10 *ensure that transfers are made under this section on a time-*
11 *ly basis.*

12 **SEC. 1206. RULES FOR CLAIMS AGAINST ASBESTOS TRUSTS,**
13 **ASBESTOS DEFENDANTS, AND TOBACCO COM-**
14 **PANIES.**

15 (a) *PURPOSE.—*

16 (1) *IN GENERAL.—It is the purpose of this title*
17 *to ensure that asbestos claimants and asbestos/tobacco*
18 *claimants who are eligible, by reason of harm result-*
19 *ing from exposure to asbestos and tobacco, to receive*
20 *compensation on a fair and timely basis.*

21 (2) *RULE OF CONSTRUCTION.—Nothing in this*
22 *title shall be construed to expand the rights of asbestos*
23 *claimants and asbestos/tobacco claimants in civil ac-*
24 *tions pending (or resolved) against asbestos defend-*

1 *ants or asbestos trusts on the date of enactment of this*
2 *Act.*

3 *(b) NON-BINDING SUBMISSION OF TOBACCO/ASBESTOS*
4 *CLAIMS TO FUND II.—*

5 *(1) IN GENERAL.—A civil action by an individ-*
6 *ual for harm caused by the combined effects of tobacco*
7 *and asbestos shall not proceed to trial or result in a*
8 *judgment against an asbestos defendant or asbestos*
9 *trust until a claim is submitted to Fund II by such*
10 *individual and finally resolved in accordance with*
11 *section 1204(c)(3) as determined by the trustees for*
12 *Fund II. For purposes of this paragraph, the term*
13 *“proceed to trial” means—*

14 *(A) in a jury trial, to commence voir dire;*
15 *and*

16 *(B) in a nonjury trial, to begin the trial.*

17 *(2) DENIAL OF CLAIM.—A claimant whose claim*
18 *under paragraph (1) is denied, or who rejects an offer*
19 *made by the trustees for Fund II, may proceed to*
20 *judgment or trial. All claimants shall receive a final*
21 *determination from Fund II within 120 days after*
22 *submission of a claim. In the event of exigent cir-*
23 *cumstances, verified by a competent medical profes-*
24 *sional, a claimant shall receive a final determination*

1 *from Fund II as soon as practicable, but in all events*
2 *within 60 days after submission.*

3 (c) *LIABILITY OF TOBACCO COMPANIES.—*

4 (1) *IN GENERAL.—The provisions of this sub-*
5 *section limiting the civil liability of tobacco compa-*
6 *nies shall remain in effect so long as the transfers and*
7 *deposits are made in accordance with the provisions*
8 *of this title.*

9 (2) *CLAIMS OF ASBESTOS-TOBACCO VICTIMS.—*
10 *Any claimant who receives a payment from Fund II,*
11 *shall execute a release of liability for all tobacco-*
12 *caused harm.*

13 (3) *CONTRIBUTION CLAIMS FOR PAST AMOUNTS*
14 *PAID.—Notwithstanding any other provision of law,*
15 *no tobacco company shall be liable for contribution,*
16 *indemnity, or otherwise to any asbestos trust or asbes-*
17 *tos defendant on any claim arising from payments or*
18 *obligations for payments to asbestos claimants and*
19 *asbestos/tobacco claimants made or incurred prior to*
20 *the date of enactment of this Act. All such claims by*
21 *asbestos defendants or asbestos trusts filed as of the*
22 *date of enactment of this Act are terminated.*

23 (4) *CONTRIBUTION CLAIMS FOR FUTURE*
24 *AMOUNTS.—Notwithstanding any other provision of*
25 *law, in any contribution or similar action against a*

1 tobacco company arising from the payments or obli-
2 gations for payments to asbestos claimants and asbes-
3 tos/tobacco claimants made or incurred after the date
4 of enactment of this Act, an asbestos trust or asbestos
5 defendant may aggregate and establish a claim based
6 on valid statistical proof on a consolidated basis. In
7 such an action, the assessment of damages to a to-
8 bacco company defendant shall be based upon the de-
9 gree of relative causation as between asbestos and to-
10 bacco based on statistical data applicable to relevant
11 disease categories.

12 (5) *RIGHTS RESERVED.*—Nothing in this sub-
13 section shall be construed to limit the rights of any
14 person that chooses not to receive compensation from
15 Fund II to commence a civil action against any to-
16 bacco company.

17 (d) *LIABILITY OF ASBESTOS TRUSTS AND ASBESTOS*
18 *DEFENDANTS.*—

19 (1) *ACCEPTANCE OF FUND II AWARD.*—A claim-
20 ant who accepts a payment from Fund II shall exe-
21 cute a release of liability for all tobacco-caused harm,
22 and shall not recover from an asbestos defendant in
23 any civil action any damages for any portion of the
24 harm caused by exposure to tobacco.

1 (2) *FUND II CLAIMANT'S RIGHT TO SUE.*—A
 2 *claimant, whose claim has been denied by the trustees*
 3 *for Fund II, or who has rejected the offer of a pay-*
 4 *ment from Fund II, may pursue a civil action*
 5 *against a tobacco defendant or asbestos defendant for*
 6 *personal injury attributable to both tobacco and as-*
 7 *bestos, to the extent that such action is otherwise per-*
 8 *missible under applicable law.*

9 (3) *SUCCESSION TO CLAIMANT'S RIGHTS.*—Any
 10 *asbestos defendant that pays a part or all of a judg-*
 11 *ment that includes damages for tobacco-caused harm*
 12 *may elect—*

13 (A) *to—*

14 (i) *succeed to the rights of the claimant*
 15 *involved, in the same proportion that the*
 16 *payment by the defendant in the action in-*
 17 *volved bears to the total amount of the judg-*
 18 *ment; and*

19 (ii) *to request compensation on behalf*
 20 *of the claimant from Fund II as in the*
 21 *same manner as if the claimant had made*
 22 *a timely and proper election to receive such*
 23 *compensation, and on the same basis as*
 24 *other claimants similarly situated; or*

1 (B) to pursue an action for indemnity or
2 contribution against any tobacco company.

3 (4) CONTRIBUTION CLAIMS AGAINST ASBESTOS
4 COMPANIES.—An asbestos trust or asbestos defendant
5 shall not be liable to a tobacco company for contribu-
6 tion, indemnity, or otherwise with respect to any
7 claim arising from payments or obligations for pay-
8 ments to asbestos claimants or for exposure to tobacco
9 and asbestos made or incurred either prior to or by
10 virtue of, the enactment of this Act. All such claims
11 filed as of the date of enactment of this Act are termi-
12 nated.

13 (e) PRESERVATION OF JOINT LIABILITY FOR ASBES-
14 TOS-CAUSED INJURY OR CONDITION.—Nothing in this title
15 shall be construed to—

16 (1) limit any joint liability under otherwise ap-
17 plicable law among asbestos defendants or asbestos
18 trusts for the portion of a claimant's harm caused by
19 asbestos;

20 (2) limit the ability of any individual to claim
21 that his or her harm was caused by asbestos; or

22 (3) delay the resolution of a claim brought by
23 any individual against an asbestos trust or asbestos
24 defendant for compensation for harm caused by asbes-
25 tos.

**TITLE XIII—VETERANS’
BENEFITS**

SEC. 1301. RECOVERY BY SECRETARY OF VETERANS AFFAIRS.

Title 38, United States Code, is amended by adding after part VI the following:

**“PART VII—RECOVERY OF COMPENSATION COSTS
FOR TOBACCO-RELATED DISABILITY OR DEATH**

**“CHAPTER 91—TORT LIABILITY FOR DISABILITY OR
DEATH DUE TO TOBACCO USE**

“Sec.

“9101. *Recovery by Secretary of Veterans Affairs*

“9102. *Regulations*

“9103. *Limitation or repeal of other provisions for recovery of compensation*

“9104. *Exemption from annual limitation on damages*

“§ 9101. *Recovery by Secretary of Veterans Affairs*

“(a) CONDITIONS; EXCEPTIONS; PERSONS LIABLE; AMOUNT OF RECOVERY; SUBROGATION.—In any case in which the Secretary is authorized or required by law to provide compensation under this title for disability or death from injury or disease attributable in whole or in part to the use of tobacco products by a veteran during the veterans active military, naval, or air service under circumstances creating a tort liability upon a participating tobacco product manufacturer, distributor, or retailer of a tobacco product (other than or in addition to the United States) to pay damages therefor, the Secretary shall have a right to recover

1 *(independent of the rights of the injured or diseased veteran)*
2 *from said participating tobacco product manufacturer, dis-*
3 *tributor, or retailer the cost of the compensation paid or*
4 *to be paid and shall, as to this right, be subrogated to any*
5 *right or claim that the injured or diseased veteran, his or*
6 *her guardian, personal representative, estate, dependents, or*
7 *survivors has against such third person to the extent of the*
8 *cost of the compensation paid or to be paid.*

9 “(b) *ENFORCEMENT PROCEDURE; INTERVENTION;*
10 *JOINDER OF PARTIES; STATE OR FEDERAL COURT PRO-*
11 *CEEDINGS.—The Secretary may, to enforce such right under*
12 *subsection (a) of this section:*

13 “(1) *intervene or join in any action or proceed-*
14 *ing brought by the injured or diseased veteran, his or*
15 *her guardian, personal representative, estate, depend-*
16 *ents, or survivors, against the participating tobacco*
17 *product manufacturer, distributor, or retailer of a to-*
18 *bacco product who is liable for the injury or disease;*
19 *or*

20 “(2) *if such action or proceeding is not com-*
21 *menced within six months after the first day on*
22 *which compensation is paid by the Secretary in con-*
23 *nection with the injury or disease involved, institute*
24 *and prosecute legal proceedings against the partici-*
25 *pating tobacco product manufacturer, distributor, or*

1 retailer of a tobacco product who is liable for the in-
2 jury or disease, in a State or Federal court, either
3 alone (in its own name or in the name of the injured
4 veteran, his or her guardian, personal representative,
5 estate, dependents, or survivors) or in conjunction
6 with the injured or diseased veteran, his or her guard-
7 ian, personal representative, estate, dependents, or
8 survivors.

9 “(c) CREDITS TO APPROPRIATIONS.—Any amount re-
10 covered or collected under this section for compensation
11 paid by the Secretary shall be credited to a revolving fund
12 established in the Treasury of the United States known as
13 the Department of Veterans Affairs Tobacco Recovery Fund
14 (hereafter called the Fund). The Fund shall be available to
15 the Secretary without fiscal year limitation for purposes
16 of veterans benefit programs, including administrative
17 costs. The Secretary may transfer such funds as deemed nec-
18 essary to the various Department of Veterans Affairs appro-
19 priations, which shall remain available until expended.

20 “(d) DEFINITION.—For purposes of this section, the
21 term participating tobacco product manufacturer, distribu-
22 tor, or retailer of a tobacco product means a manufacturer,
23 distributor, or retailer of tobacco products that has entered
24 into a consent decree as such term is defined in section 701
25 of the National Tobacco Policy and Youth Smoking Reduc-

1 *tion Act and that is a signatory to the Protocol as such*
2 *term is defined in section 6 of that Act.*

3 **“§ 9102. Regulations**

4 “(a) *DETERMINATION AND ESTABLISHMENT OF*
5 *PRESENT VALUE OF COMPENSATION TO BE PAID.—The Sec-*
6 *retary may prescribe regulations to carry out this chapter,*
7 *including regulations with respect to the determination and*
8 *establishment of the present value of compensation to be*
9 *paid to an injured or diseased veteran or his or her surviv-*
10 *ing spouse, child, or parent.*

11 “(b) *SETTLEMENT, RELEASE AND WAIVER OF*
12 *CLAIMS.—To the extent prescribed by regulations under*
13 *subsection (a) of this section, the Secretary may—*

14 “(1) *compromise, or settle and execute a release*
15 *of, any claim which the Secretary has by virtue of the*
16 *right established by section 9101 of this title; or*

17 “(2) *wave any such claim, in whole or in part,*
18 *for the convenience of the Government, or if he or she*
19 *determines that collection would result in undue*
20 *hardship upon the veteran who suffered the injury or*
21 *disease or his or her surviving spouse, child or parent*
22 *resulting in payment of compensation.*

23 “(c) *DAMAGES RECOVERABLE FOR PERSONAL INJURY*
24 *UNAFFECTED.—No action taken by the Secretary in connec-*
25 *tion with the rights afforded under this chapter shall oper-*

1 ate to deny to the injured veteran or his or her surviving
2 spouse, child or parent the recovery for that portion of his
3 or her damage not covered hereunder.

4 **“§ 9103. Limitation or repeal of other provisions for**
5 **recovery of compensation**

6 “This chapter does not limit or repeal any other provi-
7 sion of law providing for recovery by the Secretary of the
8 cost of compensation described in section 9101 of this title.

9 **“§ 9104. Exemption from annual limitation on dam-**
10 **ages**

11 “Any amount recovered under section 9101 of this title
12 for compensation paid or to be paid by the Secretary for
13 disability or death from injury or disease attributable in
14 whole or in part to the use of tobacco products by a veteran
15 during the veterans active military, naval, or air service
16 shall not be subject to the limitation on the annual amount
17 of damages for which the participating tobacco product
18 manufacturers, distributors, and retailers may be found lia-
19 ble as provided in the National Tobacco Policy and Youth
20 Smoking Reduction Act and shall not be counted in com-
21 puting the annual amount of damages for purposes of that
22 section.”.