

105TH CONGRESS
1ST SESSION

S. 1343

To amend the Internal Revenue Code of 1986 to increase the excise tax rate on tobacco products and deposit the resulting revenues into a Public Health and Education Resource Trust Fund, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 29, 1997

Mr. LAUTENBERG introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to increase the excise tax rate on tobacco products and deposit the resulting revenues into a Public Health and Education Resource Trust Fund, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Public Health and Education Resource (PHAER) Act”.

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

Sec. 1. Short title; table of contents.

TITLE I—IMPOSITION OF INCREASED TAXES ON TOBACCO
PRODUCTS

Sec. 101. Increase in excise tax rate on tobacco products in addition to such increase contained in the Balanced Budget Act of 1997.

Sec. 102. Tax treatment for certain tobacco-related expenses.

TITLE II—PHAER TRUST FUND

Sec. 201. Public Health and Education Resource Trust Fund.

TITLE III—FEDERAL STANDARDS WITH RESPECT TO TOBACCO
PRODUCTS

Sec. 301. Federal standards with respect to tobacco products.

TITLE IV—SENSE OF THE SENATE

Sec. 401. Sense of the Senate regarding comprehensive tobacco legislation.

1 TITLE I—IMPOSITION OF IN-
2 CREASED TAXES ON TO-
3 BACCO PRODUCTS

4 SEC. 101. INCREASE IN EXCISE TAX RATE ON TOBACCO
5 PRODUCTS IN ADDITION TO SUCH INCREASE
6 CONTAINED IN THE BALANCED BUDGET ACT
7 OF 1997.

8 (a) CIGARETTES.—Subsection (b) of section 5701 of
9 the Internal Revenue Code of 1986 is amended—

10 (1) by striking “\$12 per thousand (\$10 per
11 thousand on cigarettes removed during 1991 or
12 1992);” in paragraph (1) and inserting “the applica-
13 ble rate per thousand determined in accordance with
14 the following table:

“In the case of cigarettes removed during:	The applicable rate is:
1998	\$12.00
1999	\$37.00
2000	\$67.00
2001	\$92.00
2002	\$94.50.”;

1 and

2 (2) by striking paragraph (2) and inserting the
3 following:

4 “(2) LARGE CIGARETTES.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B), on cigarettes, weighing more
7 than 3 pounds per thousand, the applicable rate
8 per thousand determined in accordance with the
9 following table:

“In the case of cigarettes removed during:	The applicable rate is:
1998	\$25.20
1999	\$77.70
2000	\$140.70
2001	\$193.20
2002	\$198.45.

10 “(B) EXCEPTION.—On cigarettes more
11 than 6½ inches in length, at the rate pre-
12 scribed for cigarettes weighing not more than 3
13 pounds per thousand, counting each 2¾ inches,
14 or fraction thereof, of the length of each as one
15 cigarette.”

16 (b) CIGARS.—Subsection (a) of section 5701 of such
17 Code is amended—

18 (1) by striking “\$1.125 cents per thousand
19 (93.75 cents per thousand on cigars removed during
20 1991 or 1992),” in paragraph (1) and inserting “the

1 applicable rate per thousand determined in accord-
 2 ance with the following table:

“In the case of cigars removed during:	The applicable rate is:
1998	\$1.125 cents
1999	\$3.4687 cents
2000	\$6.2822 cents
2001	\$8.6264 cents
2002	\$8.8588 cents.”;

3 and

4 (2) by striking paragraph (2) and inserting the
 5 following:

6 “(2) LARGE CIGARS.—On cigars, weighing more
 7 than 3 pounds per thousand, the applicable percent-
 8 age of the price for which sold but not more than the
 9 applicable rate per thousand determined in accord-
 10 ance with the following table:

In the case of cigars removed during:	The applicable percentage is:	The applicable rate is:
1998	12.750%	\$30.00
1999	39.312%	\$92.50
2000	71.189%	\$167.50
2001	97.753%	\$230.00
2002	100.407%	\$236.25.”

11 (c) CIGARETTE PAPERS.—Subsection (c) of section
 12 5701 of such Code is amended to read as follows:

13 “(c) CIGARETTE PAPERS.—

14 “(1) IN GENERAL.—Except as provided in para-
 15 graph (2), on each book or set of cigarette papers
 16 containing more than 25 papers, manufactured in or
 17 imported into the United States, there shall be im-

1 posed a tax of the applicable rate for each 50 papers
 2 or fractional part thereof as determined in accord-
 3 ance with the following table:

“In the case of cigarette papers removed during:	The applicable rate is:
199875 cent
1999	2.31 cents
2000	4.18 cents
2001	5.74 cents
2002	5.91 cents.

4 “(2) EXCEPTION.—If cigarette papers measure
 5 more than 6½ inches in length, such cigarette pa-
 6 pers shall be taxable at the rate prescribed, counting
 7 each 2¾ inches, or fraction thereof, of the length of
 8 each as one cigarette paper.”

9 (d) CIGARETTE TUBES.—Subsection (d) of section
 10 5701 of such Code is amended to read as follows:

11 “(d) CIGARETTE TUBES.—

12 “(1) IN GENERAL.—Except as provided in para-
 13 graph (2), on cigarette tubes, manufactured in or
 14 imported into the United States, there shall be im-
 15 posed a tax of the applicable rate for each 50 tubes
 16 or fractional part thereof as determined in accord-
 17 ance with the following table:

“In the case of cigarette tubes re- moved during:	The applicable rate is:
1998	1.50 cents
1999	4.62 cents
2000	8.39 cents
2001	11.53 cents
2002	11.82 cents.

1 “(2) EXCEPTION.—If cigarette tubes measure
 2 more than 6½ inches in length, such cigarette tubes
 3 shall be taxable at the rate prescribed, counting each
 4 2¾ inches, or fraction thereof, of the length of each
 5 as one cigarette tube.”

6 (e) SMOKELESS TOBACCO.—Paragraphs (1) and (2)
 7 of subsection (e) of section 5701 of such Code are is
 8 amended to read as follows:

9 “(1) SNUFF.—On snuff, the applicable rate per
 10 pound determined in accordance with the following
 11 table (and a proportionate tax at the like rate on all
 12 fractional parts of a pound):

“In the case of snuff removed dur- ing:	The applicable rate is:
1998	36 cents
1999	\$1.11
2000	\$2.01
2001	\$2.76
2002	\$2.835 cents.

13 “(2) CHEWING TOBACCO.—On chewing tobacco,
 14 the applicable rate per pound determined in accord-
 15 ance with the following table (and a proportionate
 16 tax at the like rate on all fractional parts of a
 17 pound):

“In the case of chewing tobacco removed during:	The applicable rate is:
1998	12 cents
1999	37 cents
2000	67 cents
2001	92 cents
2002	94.5 cents.”

1 (f) PIPE TOBACCO.—Subsection (f) of section 5701
 2 of such Code is amended to read as follows:

3 “(f) PIPE TOBACCO.—On pipe tobacco, manufac-
 4 tured in or imported into the United States, there shall
 5 be imposed a tax of the applicable rate per pound deter-
 6 mined in accordance with the following table (and a pro-
 7 portionate tax at the like rate on all fractional parts of
 8 a pound):

“In the case of pipe tobacco re- moved during:	The applicable rate is:
1998	67.5 cents
1999	\$2.0812 cents
2000	\$3.7705 cents
2001	\$5.1774 cents
2002	\$5.3157 cents.”

9 (g) IMPOSITION OF EXCISE TAX ON MANUFACTURE
 10 OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.—

11 (1) IN GENERAL.—Section 5701 of such Code
 12 (relating to rate of tax) is amended by redesignating
 13 subsection (g) as subsection (h) and by inserting
 14 after subsection (f) the following new subsection:

15 “(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own
 16 tobacco, manufactured in or imported into the United
 17 States, there shall be imposed a tax of the applicable rate
 18 per pound determined in accordance with the following
 19 table (and a proportionate tax at the like rate on all frac-
 20 tional parts of a pound):

“In the case of roll-your-own to- bacco removed during:	The applicable rate is:
1998	67.5 cents
1999	\$2.0812 cents

2000	\$3.7705 cents
2001	\$5.1774 cents
2002	\$5.3157 cents.”

1 (2) ROLL-YOUR-OWN TOBACCO.—Section 5702
2 of such Code (relating to definitions) is amended by
3 adding at the end the following new subsection:

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

9 (3) TECHNICAL AMENDMENTS.—

10 (A) Subsection (c) of section 5702 of such
11 Code is amended by striking “and pipe to-
12 bacco” and inserting “pipe tobacco, and roll-
13 your-own tobacco”.

14 (B) Subsection (d) of section 5702 of such
15 Code is amended—

16 (i) in the material preceding para-
17 graph (1), by striking “or pipe tobacco”
18 and inserting “pipe tobacco, or roll-your-
19 own tobacco”, and

20 (ii) by striking paragraph (1) and in-
21 serting the following new paragraph:

22 “(1) a person who produces cigars, cigarettes,
23 smokeless tobacco, pipe tobacco, or roll-your-own to-

1 bacco solely for the person’s own personal consump-
 2 tion or use, and”.

3 (C) The chapter heading for chapter 52 of
 4 such Code is amended to read as follows:

5 **“CHAPTER 52—TOBACCO PRODUCTS AND**
 6 **CIGARETTE PAPERS AND TUBES”.**

7 (D) The table of chapters for subtitle E of
 8 such Code is amended by striking the item re-
 9 lating to chapter 52 and inserting the following
 10 new item:

“CHAPTER 52. Tobacco products and cigarette papers and tubes.”

11 (h) INFLATION ADJUSTMENT OF RATES AND FLOOR
 12 STOCKS TAXES.—Section 5701 of such Code, as amended
 13 by subsection (g), is amended by redesignating subsection
 14 (h) as subsection (j) and by inserting after subsection (g)
 15 the following:

16 “(h) INFLATION ADJUSTMENT.—In the case of a cal-
 17 endar year after 2002, the dollar amount contained in the
 18 table in each of the preceding subsections (and the per-
 19 centage contained in the table contained in subsection
 20 (b)(2)) applicable to the preceding calendar year (after the
 21 application of this subsection) shall be increased by an
 22 amount equal to—

23 “(1) such dollar amount (or percentage), multi-
 24 plied by

25 “(2) the greatest of—

1 “(A) the cost-of-living adjustment deter-
 2 mined under section 1(f)(3) for such calendar
 3 year by substituting ‘the second preceding cal-
 4 endar year’ for ‘calendar year 1992’ in subpara-
 5 graph (B) thereof,

6 “(B) the medical consumer price index for
 7 such calendar year determined in the same
 8 manner as the adjustment described in sub-
 9 paragraph (A), or

10 “(C) 3 percent.

11 “(j) FLOOR STOCKS TAXES.—

12 “(1) IMPOSITION OF TAX.—On tobacco prod-
 13 ucts and cigarette papers and tubes manufactured in
 14 or imported into the United States which are re-
 15 moved before any tax increase date, and held on
 16 such date for sale by any person, there is hereby im-
 17 posed a tax in an amount equal to the excess of—

18 “(A) the tax which would be imposed
 19 under any preceding subsection of this section
 20 on the article if the article had been removed
 21 on such date, over

22 “(B) the prior tax (if any) imposed under
 23 such subsection on such article.

24 “(2) LIABILITY FOR TAX AND METHOD OF PAY-
 25 MENT.—

1 “(A) LIABILITY FOR TAX.—A person hold-
2 ing cigarettes on any tax increase date, to
3 which any tax imposed by paragraph (1) applies
4 shall be liable for such tax.

5 “(B) METHOD OF PAYMENT.—The tax im-
6 posed by paragraph (1) shall be paid in such
7 manner as the Secretary shall prescribe by reg-
8 ulations.

9 “(C) TIME FOR PAYMENT.—The tax im-
10 posed by paragraph (1) shall be paid on or be-
11 fore April 1 following any tax increase date.

12 “(3) ARTICLES IN FOREIGN TRADE ZONES.—
13 Notwithstanding the Act of June 18, 1934 (48 Stat.
14 998, 19 U.S.C. 81a) and any other provision of law,
15 any article which is located in a foreign trade zone
16 on any tax increase date, shall be subject to the tax
17 imposed by paragraph (1) if—

18 “(A) internal revenue taxes have been de-
19 termined, or customs duties liquidated, with re-
20 spect to such article before such date pursuant
21 to a request made under the 1st proviso of sec-
22 tion 3(a) of such Act, or

23 “(B) such article is held on such date
24 under the supervision of a customs officer pur-
25 suant to the 2d proviso of such section 3(a).

1 “(4) TAX INCREASE DATE.—The term “tax in-
2 crease date” means January 1.

3 “(5) CONTROLLED GROUPS.—Rules similar to
4 the rules of section 5061(e)(3) shall apply for pur-
5 poses of this subsection.

6 “(6) OTHER LAWS APPLICABLE.—All provisions
7 of law, including penalties, applicable with respect to
8 the taxes imposed by the preceding subsections of
9 this section shall, insofar as applicable and not in-
10 consistent with the provisions of this subsection,
11 apply to the floor stocks taxes imposed by paragraph
12 (1), to the same extent as if such taxes were im-
13 posed by such subsections. The Secretary may treat
14 any person who bore the ultimate burden of the tax
15 imposed by paragraph (1) as the person to whom a
16 credit or refund under such provisions may be al-
17 lowed or made.”

18 (i) MODIFICATIONS OF CERTAIN TOBACCO TAX PRO-
19 VISIONS.—

20 (1) EXEMPTION FOR EXPORTED TOBACCO
21 PRODUCTS AND CIGARETTE PAPERS AND TUBES TO
22 APPLY ONLY TO ARTICLES MARKED FOR EXPORT.—

23 (A) Subsection (b) of section 5704 of such
24 Code is amended by adding at the end the fol-
25 lowing new sentence: “Tobacco products and

1 cigarette papers and tubes may not be trans-
2 ferred or removed under this subsection unless
3 such products or papers and tubes bear such
4 marks, labels, or notices as the Secretary shall
5 by regulations prescribe.”

6 (B) Section 5761 of such Code is amended
7 by redesignating subsections (c) and (d) as sub-
8 sections (d) and (e), respectively, and by insert-
9 ing after subsection (b) the following new sub-
10 section:

11 “(c) SALE OF TOBACCO PRODUCTS AND CIGARETTE
12 PAPERS AND TUBES FOR EXPORT.—Except as provided
13 in subsections (b) and (d) of section 5704—

14 “(1) every person who sells, relands, or receives
15 within the jurisdiction of the United States any to-
16 bacco products or cigarette papers or tubes which
17 have been labeled or shipped for exportation under
18 this chapter,

19 “(2) every person who sells or receives such re-
20 landed tobacco products or cigarette papers or tubes,
21 and

22 “(3) every person who aids or abets in such
23 selling, relanding, or receiving,
24 shall, in addition to the tax and any other penalty provided
25 in this title, be liable for a penalty equal to the greater

1 of \$1,000 or 5 times the amount of the tax imposed by
 2 this chapter. All tobacco products and cigarette papers
 3 and tubes relanded within the jurisdiction of the United
 4 States, and all vessels, vehicles, and aircraft used in such
 5 relanding or in removing such products, papers, and tubes
 6 from the place where relanded, shall be forfeited to the
 7 United States.”

8 (C) Subsection (a) of section 5761 of such
 9 Code is amended by striking “subsection (b)”
 10 and inserting “subsection (b) or (c)”.

11 (D) Subsection (d) of section 5761 of such
 12 Code, as redesignated by subparagraph (B), is
 13 amended by striking “The penalty imposed by
 14 subsection (b)” and inserting “The penalties
 15 imposed by subsections (b) and (c)”.

16 (E)(i) Subpart F of chapter 52 of such
 17 Code is amended by adding at the end the fol-
 18 lowing new section:

19 **“SEC. 5754. RESTRICTION ON IMPORTATION OF PRE-**
 20 **VIOUSLY EXPORTED TOBACCO PRODUCTS.**

21 “(a) IN GENERAL.—Tobacco products and cigarette
 22 papers and tubes previously exported from the United
 23 States may be imported or brought into the United States
 24 only as provided in section 5704(d). For purposes of this
 25 section, section 5704(d), section 5761, and such other pro-

visions as the Secretary may specify by regulations, references to exportation shall be treated as including a reference to shipment to the Commonwealth of Puerto Rico.

“(b) CROSS REFERENCE.—

“For penalty for the sale of tobacco products and cigarette papers and tubes in the United States which are labeled for export, see section 5761(c).”

(ii) The table of sections for subpart F of chapter 52 of such Code is amended by adding at the end the following new item:

“Sec. 5754. Restriction on importation of previously exported tobacco products.”

(2) IMPORTERS REQUIRED TO BE QUALIFIED.—

(A) Sections 5712, 5713(a), 5721, 5722, 5762(a)(1), and 5763 (b) and (c) of such Code are each amended by inserting “or importer” after “manufacturer”.

(B) The heading of subsection (b) of section 5763 of such Code is amended by inserting “QUALIFIED IMPORTERS,” after “MANUFACTURERS,”.

(C) The heading for subchapter B of chapter 52 of such Code is amended by inserting “**and Importers**” after “**Manufacturers**”.

(D) The item relating to subchapter B in the table of subchapters for chapter 52 of such

1 Code is amended by inserting “and importers”
 2 after “manufacturers”.

3 (3) BOOKS OF 25 OR FEWER CIGARETTE PA-
 4 PERS SUBJECT TO TAX.—Subsection (c) of section
 5 5701 of such Code is amended by striking “On each
 6 book or set of cigarette papers containing more than
 7 25 papers,” and inserting “On cigarette papers,”.

8 (4) STORAGE OF TOBACCO PRODUCTS.—Sub-
 9 section (k) of section 5702 of such Code is amended
 10 by inserting “under section 5704” after “internal
 11 revenue bond”.

12 (5) AUTHORITY TO PRESCRIBE MINIMUM MANU-
 13 FACTURING ACTIVITY REQUIREMENTS.—Section
 14 5712 of such Code is amended by striking “or” at
 15 the end of paragraph (1), by redesignating para-
 16 graph (2) as paragraph (3), and by inserting after
 17 paragraph (1) the following new paragraph:

18 “(2) the activity proposed to be carried out at
 19 such premises does not meet such minimum capacity
 20 or activity requirements as the Secretary may pre-
 21 scribe, or”.

22 (j) REPEAL OF DUPLICATIVE PROVISIONS.—Section
 23 9302 (other than subsection (i)(2)) of the Balanced Budg-
 24 et Act of 1997 is repealed.

1 (k) EFFECTIVE DATE.—The amendments and repeal
 2 made by this section shall apply to articles removed (as
 3 defined in section 5702(k) of the Internal Revenue Code
 4 of 1986, as amended by this section) after December 31,
 5 1997.

6 **SEC. 102. TAX TREATMENT FOR CERTAIN TOBACCO-RELAT-**
 7 **ED EXPENSES.**

8 (a) IN GENERAL.—Section 275(a) of the Internal
 9 Revenue Code of 1986 (relating to certain taxes) is
 10 amended by inserting after paragraph (6) the following:

11 “(7) Taxes imposed by chapter 52, but only in
 12 an amount determined at rates in excess of the rates
 13 of such taxes effective in 1998.”

14 (b) EFFECTIVE DATE.—The amendment made by
 15 this section shall apply to taxable years beginning after
 16 December 31, 1998.

17 **TITLE II—PHAER TRUST FUND**

18 **SEC. 201. PUBLIC HEALTH AND EDUCATION RESOURCE**
 19 **TRUST FUND.**

20 (a) IN GENERAL.—Subchapter A of chapter 98 of the
 21 Internal Revenue Code of 1986 (relating to trust fund
 22 code) is amended by adding at the end the following new
 23 section:

1 **“SEC. 9512. PUBLIC HEALTH AND EDUCATION RESOURCE**
 2 **TRUST FUND.**

3 “(a) CREATION OF TRUST FUND.—There is estab-
 4 lished in the Treasury of the United States a trust fund
 5 to be known as the ‘Public Health and Education Re-
 6 source Trust Fund’ (hereafter referred to in this section
 7 as the ‘PHAER Trust Fund’), consisting of such amounts
 8 as may be appropriated or transferred to the Trust Fund
 9 as provided in this section or section 9602(b).

10 “(b) TRANSFERS TO TRUST FUND.—There is hereby
 11 appropriated to the Trust Fund an amount equivalent to
 12 the net increase in revenues received in the Treasury at-
 13 tributable to the amendments made by section 2 of the
 14 Public Health and Education Resource (PHAER) Act as
 15 estimated by the Secretary.

16 “(c) OBLIGATIONS FROM TRUST FUND.—

17 “(1) STATE PROGRAMS.—

18 “(A) IN GENERAL.—An applicable percent-
 19 age of 75 percent of the amounts available in
 20 the Trust Fund in a fiscal year shall be distrib-
 21 uted by the Secretary of Health and Human
 22 Services to each State meeting the requirements
 23 of subparagraphs (C) and (D) to be used by
 24 such State and by local government entities
 25 within such State in such fiscal year and the
 26 succeeding fiscal year in the following manner:

1 “(i) Not less than 10 nor more than
2 30 percent of such amounts to State and
3 local school and community-based tobacco
4 education, prevention, and treatment pro-
5 grams.

6 “(ii) Not less than 10 nor more than
7 30 percent of such amounts to State and
8 local smoking cessation programs and serv-
9 ices, including pharmacological therapies.

10 “(iii) Not less than 10 nor more than
11 30 percent of such amounts to State and
12 local counter advertising programs.

13 “(iv) Not less than 10 nor more than
14 25 percent of such amounts to the State
15 Children’s Health Insurance Program
16 under title XXI of the Social Security Act
17 (42 U.S.C. 1397aa et seq.) to be in addi-
18 tion to the amount appropriated under sec-
19 tion 2104 of such Act.

20 “(v) Not less than 5 nor more than
21 10 percent of such amounts to—

22 “(I) the Special Supplemental
23 Food Program for Women, Infants,
24 and Children under section 17 of the
25 Child Nutrition Act of 1966 (42

1 U.S.C. 1786) to be in addition to the
 2 amount appropriated under such sec-
 3 tion, or

4 “(II) the Maternal and Child
 5 Health Services Block Grant program
 6 under title V of the Social Security
 7 Act (42 U.S.C. 701 et seq.) to be in
 8 addition to the amount appropriated
 9 under such title, or

10 “(III) a combination of both pro-
 11 grams as determined by the State.

12 “(vi) Not less than 1 nor more than
 13 3 percent of such amounts to the American
 14 Stop Smoking Intervention Study for Can-
 15 cer Prevention (ASSIST) program for such
 16 State or other State or local community-
 17 based tobacco control programs.

18 “(vii) Not more than 5 percent of
 19 such amounts to a State general health
 20 care block grant program.

21 “(B) ALLOCATION RULES.—For purposes
 22 of subparagraph (A), the applicable percentage
 23 for any State is determined in accordance with
 24 the following table:

State	Applicable Percentage
Alabama	1.270390
Alaska	0.241356

State	Applicable Percentage
Arizona	1.163883
Arkansas	0.751011
California	8.805641
Colorado	1.054018
Connecticut	1.596937
Delaware	0.227018
District of Columbia	0.534487
Florida	3.590667
Georgia	2.007112
Hawaii	0.642527
Idaho	0.257835
Illinois	4.272898
Indiana	1.714594
Iowa	0.758686
Kansas	0.762230
Kentucky	1.875439
Louisiana	1.916886
Maine	0.870740
Maryland	2.051849
Massachusetts	3.700447
Michigan	4.431824
Minnesota	2.474364
Mississippi	0.851450
Missouri	1.659116
Montana	0.335974
Nebraska	0.445356
Nevada	0.307294
New Hampshire	0.552048
New Jersey	3.494187
New Mexico	0.465816
New York	14.529380
North Carolina	2.097625
North Dakota	0.250758
Ohio	4.690156
Oklahoma	0.841972
Oregon	1.092920
Pennsylvania	5.233270
Rhode Island	0.821727
South Carolina	0.883628
South Dakota	0.234849
Tennessee	2.479873
Texas	4.451382
Utah	0.330016
Vermont	0.370244
Virginia	1.373860
Washington	1.794612
West Virginia	1.003660
Wisconsin	2.098696
Wyoming	0.122405
American Samoa	0.008681
N. Mariana Islands	0.001519
Guam	0.006506
U.S. Virgin Islands	0.004804
Puerto Rico	0.193175.

1 “(C) STATE PLANS FOR CERTAIN ALLOCA-
2 TIONS.—Each State, working in collaboration
3 with local government entities, shall submit a
4 plan to the Secretary of Health and Human
5 Services for approval for an allocation under
6 the programs described in subparagraph (A),
7 specifying the percentage share for each pro-
8 gram. Each State plan shall provide for an eq-
9 uitable allocation of funds to local government
10 entities, specifically in relation to local govern-
11 ment tobacco-related health care needs and
12 anti-tobacco education, prevention, and control
13 activities. If a State fails to provide any compo-
14 nent of a State plan with respect to any pro-
15 gram allocation or if the Secretary of Health
16 and Human Services disapproves any such com-
17 ponent, the Secretary may make the allocation
18 for such program to 1 or more local government
19 or private entities located in such State pursu-
20 ant to plans submitted by such entities and ap-
21 proved by the Secretary.

22 “(D) PROHIBITION OF SUPPLANTATION OF
23 STATE FUNDS.—Each State shall demonstrate
24 to the satisfaction of the Secretary of Health
25 and Human Services that an allocation to a

1 State under a program described in subpara-
 2 graph (A) in any fiscal year shall be used to
 3 supplement, not supplant, existing funding for
 4 such program.

5 “(2) FEDERAL PROGRAMS.—

6 “(A) IN GENERAL.—Twenty-five percent of
 7 the amounts available in the Trust Fund in a
 8 fiscal year shall be distributed in the following
 9 manner:

10 “(i) 10 percent of such amounts to
 11 the Office of the Commissioner of Food
 12 and Drug Administration to be allocated at
 13 the Commissioner’s discretion to conduct
 14 tobacco control activities.

15 “(ii) 25 percent of such amounts to
 16 the Office of the Secretary of Agriculture
 17 to be allocated at the Secretary’s discretion
 18 to protect the financial well-being of to-
 19 bacco farmers, their families, and their
 20 communities.

21 “(iii) 20 percent of such amounts to
 22 be allocated at the discretion of the Sec-
 23 retary of Health and Human Services to—

24 “(I) the Office of the Director of
 25 the National Institutes of Health to

1 be allocated at the Director's discre-
 2 tion to conduct disease research, and

3 “(II) the Office of the Director of
 4 the Centers for Disease Control and
 5 Prevention to be allocated at the Di-
 6 rector's discretion to decrease smok-
 7 ing.

8 “(iv) 20 percent of such amounts to
 9 the Office of the Secretary of Health and
 10 Human Services to be allocated at the Sec-
 11 retary's discretion—

12 “(I) to conduct prevention pro-
 13 grams resulting from the study under
 14 section 4108 of the Balanced Budget
 15 Act of 1997, and

16 “(II) to increase the Federal pay-
 17 ment for the coverage of qualified
 18 medicare beneficiaries under section
 19 1902(a)(10)(E)(i) of the Social Secu-
 20 rity Act (42 U.S.C.
 21 1396a(a)(10)(E)(i)) and specified low-
 22 income medicare beneficiaries under
 23 section 1902(a)(10)(E)(iii) of such
 24 Act (42 U.S.C. 1396a(a)(10)(E)(iii)).

1 “(v) 20 percent of such amounts to
2 fund a national counter advertising pro-
3 gram.

4 “(vi) 2 percent of such amounts to the
5 Office of the Administrator of the Agency
6 for International Development to be allo-
7 cated at the Administrator’s discretion to
8 strengthen international efforts to control
9 tobacco.

10 “(vii) 2 percent of such amounts to
11 the Office of the Director of the Office of
12 National Drug Control Policy to be allo-
13 cated at the Director’s discretion to con-
14 duct tobacco education and prevention pro-
15 grams.

16 “(viii) 1 percent of such amounts to
17 the Office of the Secretary of Veterans Af-
18 fairs to be allocated at the Secretary’s dis-
19 cretion to conduct tobacco education, inter-
20 vention, and outreach programs.

21 “(B) GRANTS AND CONTRACTS FULLY
22 FUNDED IN FIRST YEAR.—With respect to any
23 grant or contract funded by amounts distrib-
24 uted under paragraph (1), the full amount of
25 the total obligation of such grant or contract

1 shall be funded in the first year of such grant
 2 or contract, and shall remain available until ex-
 3 pended.”

4 (b) CONFORMING AMENDMENT.—The table of sec-
 5 tions for such subchapter A is amended by adding at the
 6 end the following new item:

“Sec. 9512. Public Health and Education Resource Trust Fund.”

7 **TITLE III—FEDERAL STANDARDS**
 8 **WITH RESPECT TO TOBACCO**
 9 **PRODUCTS**

10 **SEC. 301. FEDERAL STANDARDS WITH RESPECT TO TO-**
 11 **BACCO PRODUCTS.**

12 (a) CIGARETTES.—Subsection (b) of section 5 of the
 13 Federal Cigarette Labeling And Advertising Act (15
 14 U.S.C. 1334(b)) is repealed.

15 (b) SMOKELESS TOBACCO.—Subsection (b) of section
 16 7 of the Comprehensive Smokeless Tobacco Health Edu-
 17 cation Act of 1986 (15 U.S.C. 4406(b)) is repealed.

18 **TITLE IV—SENSE OF THE**
 19 **SENATE**

20 **SEC. 401. SENSE OF THE SENATE REGARDING COMPREHEN-**
 21 **SIVE TOBACCO LEGISLATION.**

22 It is the sense of the Senate that any final com-
 23 prehensive tobacco legislation funded by the PHAER
 24 Trust Fund under section 9512 of the Internal Revenue
 25 Code of 1986, as added by section 201 of this Act, must

1 include, at the very least, the following additional ele-
2 ments:

3 (1) Stiff penalties that give the tobacco indus-
4 try the strongest possible incentive to stop targeting
5 children.

6 (2) Full authority for the Food and Drug Ad-
7 ministration to regulate tobacco like any other drug
8 or device with sufficient flexibility to meet changing
9 circumstances.

10 (3) Codification of the Food and Drug Adminis-
11 tration's initiative to prevent teen smoking and the
12 imposition of stronger restrictions on youth access
13 and advertising consistent with the United States
14 Constitution.

15 (4) Broad disclosure of tobacco industry docu-
16 ments, including documents that have been hidden
17 under false claims of the attorney-client privilege.

18 (5) Efforts to ensure that the tobacco industry
19 stops marketing and promoting tobacco to children,
20 including comprehensive corporate compliance pro-
21 grams.

22 (6) Elimination of secondhand tobacco smoke in
23 public and private buildings in which 10 or more
24 people regularly enter.

1 (7) Disclosure of the ingredients and constitu-
2 ents of all tobacco products to the public and the im-
3 position of more prominent health warning labels on
4 packaging to send a strong and clear message to
5 children about the dangers of tobacco use.

6 (8) A prohibition on the use of Federal Govern-
7 ment resources to weaken nondiscriminatory public
8 health laws or promote tobacco sales abroad.

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