

105TH CONGRESS
1ST SESSION

S. 1310

To provide market transition assistance for tobacco producers, tobacco industry workers, and their communities.

IN THE SENATE OF THE UNITED STATES

OCTOBER 23, 1997

Mr. FORD (for himself, Mr. HELMS, Mr. FAIRCLOTH, Mr. McCONNELL, Mr. CLELAND, Mr. HOLLINGS, and Mr. THURMOND) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To provide market transition assistance for tobacco producers, tobacco industry workers, and their communities.

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 “Long-Term Economic Assistance for Farmers Act” or
6 the “LEAF Act”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—TOBACCO COMMUNITY REVITALIZATION TRUST FUND

Sec. 101. Establishment of Trust Fund.

Sec. 102. Contributions by tobacco product manufacturers and importers.

TITLE II—AGRICULTURAL MARKET TRANSITION ASSISTANCE

Sec. 201. Payments for lost tobacco quota.

Sec. 202. Industry payments for all Department costs associated with tobacco production.

Sec. 203. Tobacco community economic development grants.

Sec. 204. Modifications in Federal tobacco programs.

TITLE III—FARMER AND WORKER TRANSITION ASSISTANCE

Sec. 301. Tobacco worker transition program.

Sec. 302. Farmer opportunity grants.

TITLE IV—IMMUNITY

Sec. 401. General immunity for tobacco producers and warehouseers.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **ACTIVE TOBACCO PRODUCER.**—The term
4 “active tobacco producer” means a quota holder,
5 quota lessee, or quota tenant.

6 (2) **QUOTA HOLDER.**—The term “quota holder”
7 means a producer that owns a farm for which a to-
8 bacco farm marketing quota or farm acreage allot-
9 ment was established under the Agricultural Adjust-
10 ment Act of 1938 (7 U.S.C. 1281 et seq.) for any
11 of the 1994, 1995, or 1996 crop years.

12 (3) **QUOTA LESSEE.**—The term “quota lessee”
13 means—

14 (A) a producer that owns a farm that pro-
15 duced tobacco pursuant to a lease and transfer
16 to that farm of all or part of a tobacco farm

1 marketing quota or farm acreage allotment es-
2 tablished under the Agricultural Adjustment
3 Act of 1938 (7 U.S.C. 1281 et seq.) for any of
4 the 1994, 1995, or 1996 crop years; or

5 (B) a producer that rented land from a
6 farm operator to produce tobacco under a to-
7 bacco farm marketing quota or farm acreage al-
8 lotment established under the Agricultural Ad-
9 justment Act of 1938 (7 U.S.C. 1281 et seq.)
10 for any of the 1994, 1995, or 1996 crop years.

11 (4) QUOTA TENANT.—The term “quota tenant”
12 means a producer who—

13 (A) is the principal producer, as deter-
14 mined by the Secretary, of tobacco on a farm
15 where tobacco is produced pursuant to a to-
16 bacco farm marketing quota or farm acreage al-
17 lotment established under the Agricultural Ad-
18 justment Act of 1938 (7 U.S.C. 1281 et seq.)
19 for any of the 1994, 1995, or 1996 crop years;
20 and

21 (B) is not a quota holder or quota lessee.

22 (5) SECRETARY.—The term “Secretary”
23 means—

24 (A) in titles I and II, the Secretary of Ag-
25 riculture; and

1 (B) in section 301, the Secretary of Labor.

2 (6) TOBACCO PRODUCT IMPORTER.—The term
3 “tobacco product importer” has the meaning given
4 the term “importer” in section 5702 of the Internal
5 Revenue Code of 1986.

6 (7) TOBACCO PRODUCT MANUFACTURER.—

7 (A) IN GENERAL.—The term “tobacco
8 product manufacturer” has the meaning given
9 the term “manufacturer of tobacco products” in
10 section 5702 of the Internal Revenue Code of
11 1986.

12 (B) EXCLUSION.—The term “tobacco
13 product manufacturer” does not include a per-
14 son that manufactures cigars or pipe tobacco.

15 (8) TRUST FUND.—The term “Trust Fund”
16 means the Tobacco Community Revitalization Trust
17 Fund established under section 101.

18 **TITLE I—TOBACCO COMMUNITY**

19 **REVITALIZATION TRUST FUND**

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

21 (a) IN GENERAL.—There is established in the Treas-
22 ury of the United States a trust fund to be known as the
23 “Tobacco Community Revitalization Trust Fund”, con-
24 sisting of such amounts as may be appropriated or cred-

1 ited to the Trust Fund. The Trust Fund shall be adminis-
2 tered by the Secretary.

3 (b) TRANSFERS TO TRUST FUND.—There are appro-
4 priated and transferred to the Trust Fund for each fiscal
5 year—

6 (1) amounts contributed by tobacco product
7 manufacturers and tobacco product importers under
8 section 102; and

9 (2) amounts made available to the Trust Fund
10 out of funds allocated through national tobacco set-
11 tlement legislation.

12 (c) REPAYABLE ADVANCES.—

13 (1) AUTHORIZATION.—There are authorized to
14 be appropriated to the Trust Fund, as repayable ad-
15 vances, such sums as may from time to time be nec-
16 essary to make expenditures under subsection (d).

17 (2) REPAYMENT WITH INTEREST.—Repayable
18 advances made to the Trust Fund shall be repaid,
19 and interest on the advances shall be paid, to the
20 general fund of the Treasury when the Secretary of
21 the Treasury determines that moneys are available
22 in the Trust Fund to make the payments.

23 (3) RATE OF INTEREST.—Interest on an ad-
24 vance made under this subsection shall be at a rate
25 determined by the Secretary of Treasury (as of the

1 close of the calendar month preceding the month in
2 which the advance is made) that is equal to the cur-
3 rent average market yield on outstanding marketable
4 obligations of the United States with remaining pe-
5 riod to maturity comparable to the anticipated pe-
6 riod during which the advance will be outstanding.

7 (d) EXPENDITURES FROM TRUST FUND.—Amounts
8 in the Trust Fund shall be available for making expendi-
9 tures after October 1, 1998, to meet those necessary obli-
10 gations of the Federal Government that are authorized to
11 be paid under—

12 (1) section 201 for payments for lost tobacco
13 quota for each of fiscal years 1999 through 2023,
14 but not to exceed \$1,600,000,000 for any fiscal year
15 except to the extent the payments are made in ac-
16 cordance with section 201(j);

17 (2) section 202 for industry payments for all
18 costs of the Department of Agriculture associated
19 with the production of tobacco;

20 (3) section 203 for tobacco community eco-
21 nomic development grants, but not to exceed—

22 (A) \$400,000,000 for each of fiscal years
23 1999 through 2008, less any amount required
24 to be paid under section 202 for the fiscal year;
25 and

1 (B) \$450,000,000 for each of fiscal year
2 2009 through 2023, less any amount required
3 to be paid under section 202 during the fiscal
4 year;

5 (4) section 301 for assistance provided under
6 the tobacco worker transition program, but not to
7 exceed \$50,000,000 for any fiscal year; and

8 (5) subpart 9 of part A of title IV of the High-
9 er Education Act of 1965 for farmer opportunity
10 grants, but not to exceed—

11 (A) \$42,500,000 for each of the academic
12 years 1999–2000 through 2003–2004;

13 (B) \$50,000,000 for each of the academic
14 years 2004–2005 through 2008–2009;

15 (C) \$57,500,000 for each of the academic
16 years 2009–2010 through 2013–2014;

17 (D) \$65,000,000 for each of the academic
18 years 2014–2015 through 2018–2019; and

19 (E) \$72,500,000 for each of the academic
20 years 2019–2020 through 2023–2024.

21 (e) BUDGETARY TREATMENT.—This section con-
22 stitutes budget authority in advance of appropriations
23 Acts and represents the obligation of the Federal Govern-
24 ment to provide payments to States and eligible persons
25 in accordance with this Act.

1 **SEC. 102. CONTRIBUTIONS BY TOBACCO PRODUCT MANU-**
2 **FACTURERS AND IMPORTERS.**

3 (a) DEFINITION OF MARKET SHARE.—In this sec-
4 tion, the term “market share” means the ratio of—

5 (1) the tax liability of a tobacco product manu-
6 facturer or tobacco product importer (as defined in
7 section 2) for a calendar year under section 5703 of
8 the Internal Revenue Code of 1986; to

9 (2) the tax liability of all tobacco product man-
10 ufacturers or tobacco product importers (as defined
11 in section 2) for the calendar year under section
12 5703 of the Internal Revenue Code of 1986.

13 (b) DETERMINATIONS.—Not later than September
14 30 of each fiscal year, the Secretary of the Treasury
15 shall—

16 (1) determine—

17 (A) the market share of each tobacco prod-
18 uct manufacturer or tobacco product importer
19 during the most recent calendar year;

20 (B) the total amount of assessments pay-
21 able for the subsequent fiscal year under sub-
22 section (c); and

23 (C) the amount of an assessment payable
24 by the tobacco product manufacturer or tobacco
25 product importer for the fiscal year under sub-
26 section (d); and

1 (2) notify each tobacco product manufacturer
2 and tobacco product importer of the determinations
3 made under paragraph (1) with respect to the manu-
4 facturer or importer.

5 (c) TOTAL AMOUNT OF ASSESSMENTS.—

6 (1) IN GENERAL.—The total amount of assess-
7 ments payable by all tobacco product manufacturers
8 and tobacco product importers into the Trust Fund
9 for a fiscal year shall be equal to—

10 (A) the amount of the contribution to the
11 Trust Fund for the fiscal year required under
12 paragraph (2); less

13 (B) any amount made available during the
14 preceding fiscal year to the Trust Fund out of
15 funds allocated through national tobacco settle-
16 ment legislation.

17 (2) TRUST FUND CONTRIBUTIONS.—The
18 amount of the contribution to the Trust Fund shall
19 be—

20 (A) \$2,100,000,000 for each of fiscal years
21 1999 through 2008;

22 (B) \$500,000,000 for each of fiscal years
23 2009 through 2023; and

1 (C) for fiscal year 2024 and each subse-
2 quent fiscal year, the amount payable under
3 section 202.

4 (d) INDIVIDUAL AMOUNT OF ASSESSMENTS.—The
5 amount of an assessment payable by each tobacco product
6 manufacturer and tobacco product importer into the Trust
7 Fund for a fiscal year shall be equal to the product ob-
8 tained by multiplying—

9 (1) the total amount of assessments payable by
10 all tobacco product manufacturers and tobacco prod-
11 uct importers for the fiscal year under subsection
12 (c); by

13 (2) the market share of the tobacco product
14 manufacturer or tobacco product importer during
15 the most recent calendar year determined under sub-
16 section (b)(1)(A).

17 **TITLE II—AGRICULTURAL MAR-** 18 **KET TRANSITION ASSISTANCE**

19 **SEC. 201. PAYMENTS FOR LOST TOBACCO QUOTA.**

20 (a) IN GENERAL.—Beginning with the 1999 market-
21 ing year, the Secretary shall make payments for lost to-
22 bacco quota to eligible quota holders, quota lessees, and
23 quota tenants as reimbursement for lost tobacco quota as
24 a result of a decrease in demand for domestically produced
25 tobacco.

1 (b) ELIGIBILITY.—To be eligible to receive payments
2 under this section, a quota holder, quota lessee, or quota
3 tenant shall—

4 (1) prepare and submit to the Secretary an ap-
5 plication at such time, in such manner, and contain-
6 ing such information as the Secretary may require,
7 including information sufficient to make the dem-
8 onstration required under paragraph (2); and

9 (2) demonstrate to the satisfaction of the Sec-
10 retary that, with respect to the 1996 marketing
11 year—

12 (A) the producer was a quota holder and
13 realized income from the production of tobacco
14 through—

15 (i) the active production of tobacco;

16 (ii) the lease and transfer of tobacco
17 quota to another farm;

18 (iii) the rental of all or part of the
19 farm of the quota holder, including the
20 right to produce tobacco, to another to-
21 bacco producer; or

22 (iv) the hiring of a quota tenant to
23 produce tobacco;

24 (B) the producer was a quota lessee; or

25 (C) the producer was a quota tenant.

1 (c) BASE QUOTA LEVEL.—

2 (1) IN GENERAL.—The Secretary shall deter-
3 mine, for each quota holder, quota lessee, and quota
4 tenant, the base quota level for the 1994 through
5 1996 marketing years.

6 (2) QUOTA HOLDERS.—The base quota level for
7 a quota holder shall be equal to the average tobacco
8 farm marketing quota established for the farm
9 owned by the quota holder for the 1994 through
10 1996 marketing years.

11 (3) QUOTA LESSEES.—The base quota level for
12 a quota lessee shall be equal to—

13 (A) 50 percent of the average number of
14 pounds of tobacco quota established for a farm
15 for the 1994 through 1996 marketing years—

16 (i) that was leased and transferred to
17 a farm owned by the quota lessee; or

18 (ii) for which the rights to produce
19 the tobacco were rented to the quota les-
20 see; less

21 (B) 25 percent of the average number of
22 pounds of tobacco quota described in paragraph
23 (A) for which a quota tenant was the principal
24 producer of the tobacco quota.

1 (4) QUOTA TENANTS.—The base quota level for
2 a quota tenant shall be equal to the sum of—

3 (A) 50 percent of the average number of
4 pounds of tobacco quota established for a farm
5 for the 1994 through 1996 marketing years—

6 (i) that was owned by a quota holder;

7 and

8 (ii) for which the quota tenant was
9 the principal producer of the tobacco on
10 the farm; and

11 (B) 25 percent of the average number of
12 pounds of tobacco quota for the 1994 through
13 1996 marketing years—

14 (i)(I) that was leased and transferred
15 to a farm owned by the quota lessee; or

16 (II) for which the rights to produce
17 the tobacco were rented to the quota les-
18 see; and

19 (ii) for which the quota tenant was
20 the principal producer of the tobacco on
21 the farm.

22 (5) MARKETING QUOTAS OTHER THAN POUND-
23 AGE QUOTAS.—For each kind of tobacco for which
24 there is a marketing quota or allotment (on an acre-
25 age basis), the base quota level for each quota hold-

1 er, quota lessee, or quota tenant shall be determined
2 in accordance with this subsection (based on a
3 poundage conversion) in an amount equal to the
4 product obtained by multiplying—

5 (A) the average tobacco farm marketing
6 quota or allotment for the 1994 through 1996
7 marketing years; by

8 (B) the average county yield per acre for
9 the county in which the farm is located for the
10 kind of tobacco for the marketing years.

11 (d) PAYMENTS.—Except as otherwise provided in this
12 section, during any marketing year in which the national
13 marketing quota for a kind of tobacco is less than the av-
14 erage national marketing quota level for the kind of to-
15 bacco for the 1994 through 1996 marketing years, the
16 Secretary shall make payments for lost tobacco quota to
17 each quota holder, quota lessee, and quota tenant that is
18 eligible under subsection (b) in an amount that is equal
19 to the product obtained by multiplying—

20 (1) the percentage by which the national mar-
21 keting quota for the kind of tobacco is less than the
22 average national marketing quota level for the kind
23 of tobacco for the 1994 through 1996 marketing
24 years; by

1 (2) the base quota level for the quota holder,
2 quota lessee, or quota tenant; by

3 (3) \$4 per pound.

4 (e) LIFETIME LIMITATION ON PAYMENTS.—Except
5 as otherwise provided in this section, the total amount of
6 payments made under this section to a quota holder, quota
7 lessee, or quota tenant during the lifetime of the holder,
8 lessee, or tenant shall not exceed the product obtained by
9 multiplying—

10 (1) the base quota level for the quota holder,
11 quota lessee, or quota tenant; by

12 (2) \$8 per pound.

13 (f) LIMITATIONS ON AGGREGATE ANNUAL PAY-
14 MENTS.—

15 (1) IN GENERAL.—Except as otherwise pro-
16 vided in this subsection, the total amount payable
17 under this section for any marketing year shall not
18 exceed \$1,600,000,000.

19 (2) ACCELERATED PAYMENTS.—Paragraph (1)
20 shall not apply if accelerated payments for lost to-
21 bacco quota are made in accordance with subsection
22 (j).

23 (3) REDUCTIONS.—If the amount determined
24 under subsection (d) for a marketing year exceeds
25 the amount described in paragraph (1), the Sec-

1 retary shall make a pro rata reduction in the
2 amounts payable to quota holders, quota lessees, and
3 quota tenants under this section to ensure that the
4 total amount of the payments for lost tobacco quota
5 does not exceed the limitation established under
6 paragraph (1).

7 (4) ROLLOVER OF PAYMENTS FOR LOST TO-
8 BACCO QUOTA.—Subject to paragraph (1), if the
9 Secretary makes a reduction in accordance with
10 paragraph (3), the amount of the reduction shall be
11 applied to the next marketing year and added to the
12 payments for lost tobacco for the marketing year.

13 (g) SUBSEQUENT SALE AND TRANSFER OF
14 QUOTA.—Effective beginning January 1, 1999, on the
15 sale and transfer of a farm marketing quota under section
16 316(g) or 319(g) of the Agricultural Adjustment Act of
17 1938 (7 U.S.C. 1314b(g), 1314e(g))—

18 (1) the person who sold and transferred the
19 quota shall have—

20 (A) the base quota level attributable to the
21 person reduced by the base quota level attrib-
22 utable to the quota that is sold and transferred;
23 and

24 (B) the lifetime limitation on payments es-
25 tablished under subsection (e) attributable to

1 the person reduced by the product obtained by
2 multiplying—

3 (i) the base quota level attributable to
4 the quota; by

5 (ii) \$8 per pound; and

6 (2) the person who acquired the quota shall
7 have—

8 (A) the base quota level attributable to the
9 person increased by the base quota level attrib-
10 utable to the quota that was sold and trans-
11 ferred; and

12 (B) the lifetime limitation on payments es-
13 tablished under subsection (e) attributable to
14 the person—

15 (i) increased by the product obtained
16 by multiplying—

17 (I) the base quota level attrib-
18 utable to the quota; by

19 (II) \$8 per pound; but

20 (ii) decreased by any payments for
21 lost tobacco quota previously made that
22 are attributable to the quota that was sold
23 and transferred.

24 (h) SALE OR TRANSFER OF FARM.—On the sale or
25 transfer of ownership of a farm that is owned by a quota

1 holder, the base quota level established under subsection
2 (c), the right to payments under subsection (d), and the
3 lifetime limitation on payments established under sub-
4 section (e) shall transfer to the new owner of the farm
5 to the same extent and in the same manner as those sub-
6 sections applied to the previous quota holder.

7 (i) DEATH OF QUOTA LESSEE OR QUOTA TENANT.—

8 If a quota lessee or quota tenant who is entitled to pay-
9 ments under this section dies and is survived by a spouse
10 or 1 or more dependents, the right to receive the payments
11 shall transfer to the surviving spouse or, if there is no
12 surviving spouse, to the surviving dependents in equal
13 shares.

14 (j) ACCELERATION OF PAYMENTS.—

15 (1) IN GENERAL.—On the occurrence of any of
16 the events described in paragraph (2), the Secretary
17 shall make an accelerated lump sum payment for
18 lost tobacco quota to each quota holder, quota les-
19 see, and quota tenant for any affected kind of to-
20 bacco in accordance with paragraph (3).

21 (2) TRIGGERING EVENTS.—The Secretary shall
22 make accelerated payments under paragraph (1) if
23 after the date of enactment of this Act—

24 (A) for 3 consecutive marketing years, the
25 national marketing quota for a kind of tobacco

1 is less than 50 percent of the national market-
2 ing quota for the kind of tobacco for the 1996
3 marketing year; or

4 (B) Congress repeals or makes ineffective,
5 directly or indirectly, any provision of—

6 (i) section 316(g) of the Agricultural
7 Adjustment Act of 1938 (7 U.S.C.
8 1314b(g));

9 (ii) section 319(g) of the Agricultural
10 Adjustment Act of 1938 (7 U.S.C.
11 1314e(g));

12 (iii) section 106 of the Agricultural
13 Act of 1949 (7 U.S.C. 1445);

14 (iv) section 106A of the Agricultural
15 Act of 1949 (7 U.S.C. 1445–1); or

16 (v) section 106B of the Agricultural
17 Act of 1949 (7 U.S.C. 1445–2).

18 (3) AMOUNT.—The amount of the accelerated
19 payments made to each quota holder, quota lessee,
20 and quota tenant under this subsection shall be
21 equal to—

22 (A) the amount of the lifetime limitation
23 established for the quota holder, quota lessee,
24 or quota tenant under subsection (e); less

1 (B) any payments for lost tobacco quota
2 received by the quota holder, quota lessee, or
3 quota tenant before the occurrence of any of
4 the events described in paragraph (2).

5 **SEC. 202. INDUSTRY PAYMENTS FOR ALL DEPARTMENT**
6 **COSTS ASSOCIATED WITH TOBACCO PRODUC-**
7 **TION.**

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

11 (1) costs associated with the administration of
12 programs established under this Act and amend-
13 ments made by this Act;

14 (2) costs associated with the administration of
15 the tobacco quota and price support programs ad-
16 ministered by the Secretary;

17 (3) costs to the Federal Government of carrying
18 out crop insurance programs for tobacco;

19 (4) costs associated with all agricultural re-
20 search, extension, or education activities associated
21 with tobacco;

22 (5) costs associated with the administration of
23 loan association and cooperative programs for to-
24 bacco producers, as approved by the Secretary; and

1 (6) any other costs incurred by the Department
2 of Agriculture associated with the production of to-
3 bacco.

4 (b) LIMITATIONS.—Amounts made available under
5 subsection (a) may not be used—

6 (1) to provide direct benefits to quota holders,
7 quota lessees, or quota tenants; or

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

13 (c) DETERMINATIONS.—Not later than September
14 30, 1998, and each fiscal year thereafter, the Secretary
15 shall determine—

16 (1) the amount of costs described in subsection
17 (a); and

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

20 **SEC. 203. TOBACCO COMMUNITY ECONOMIC DEVELOP-**
21 **MENT GRANTS.**

22 (a) AUTHORITY.—The Secretary shall make grants to
23 tobacco-growing States in accordance with this section to
24 enable the States to carry out economic development ini-
25 tiatives in tobacco-growing communities.

1 (b) APPLICATION.—To be eligible to receive payments
2 under this section, a State shall prepare and submit to
3 the Secretary an application at such time, in such manner,
4 and containing such information as the Secretary may re-
5 quire, including—

6 (1) a description of the activities that the State
7 will carry out using amounts received under the
8 grant;

9 (2) a designation of an appropriate State agen-
10 cy to administer amounts received under the grant;
11 and

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

15 (c) AMOUNT OF GRANT.—

16 (1) IN GENERAL.—From the amounts available
17 to carry out this section for a fiscal year, the Sec-
18 retary shall allot to each State an amount that bears
19 the same ratio to the amounts available as the total
20 income of the State derived from the production of
21 tobacco during the 1994 through 1996 marketing
22 years (as determined under paragraph (2)) bears to
23 the total income of all States derived from the pro-
24 duction of tobacco during the 1994 through 1996
25 marketing years.

1 (2) TOBACCO INCOME.—For the 1994 through
2 1996 marketing years, the Secretary shall determine
3 the amount of income derived from the production
4 of tobacco in each State and in all States.

5 (d) PAYMENTS.—

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

11 (2) FORM OF PAYMENTS.—The Secretary may
12 make payments under this section to a State in in-
13 stallments, and in advance or by way of reimburse-
14 ment, with necessary adjustments on account of
15 overpayments or underpayments, as the Secretary
16 may determine.

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

24 (e) USE AND DISTRIBUTION OF FUNDS.—

1 (1) IN GENERAL.—Amounts received by a State
2 under this section shall be used to carry out eco-
3 nomic development activities, including—

4 (A) rural business enterprise activities de-
5 scribed in subsections (c) and (e) of section
6 310B of the Consolidated Farm and Rural De-
7 velopment Act (7 U.S.C. 1932);

8 (B) down payment loan assistance pro-
9 grams that are similar to the program described
10 in section 310E of the Consolidated Farm and
11 Rural Development Act (7 U.S.C. 1935);

12 (C) activities designed to help create pro-
13 ductive farm or off-farm employment in rural
14 areas to provide a more viable economic base
15 and enhance opportunities for improved in-
16 comes, living standards, and contributions by
17 rural individuals to the economic and social de-
18 velopment of tobacco communities;

19 (D) activities that expand existing infra-
20 structure, facilities, and services to capitalize on
21 opportunities to diversify economies in tobacco
22 communities and that support the development
23 of new industries or commercial ventures;

24 (E) activities by agricultural organizations
25 that provide assistance directly to active tobacco

1 producers to assist in developing other agricul-
2 tural activities that supplement tobacco-produce-
3 ing activities;

4 (F) initiatives designed to create or expand
5 locally owned value-added processing and mar-
6 keting operations in tobacco communities; and

7 (G) technical assistance activities by per-
8 sons to support farmer-owned enterprises, or
9 agriculture-based rural development enterprises,
10 of the type described in section 252 or 253 of
11 the Trade Act of 1974 (19 U.S.C. 2342, 2343).

12 (2) TOBACCO-GROWING COUNTIES.—Assistance
13 may be provided by a State under this section only
14 to assist a county in the State that has been deter-
15 mined by the Secretary to have in excess of
16 \$100,000 in income derived from the production of
17 tobacco during 1 or more of the 1994 through 1996
18 marketing years.

19 (3) DISTRIBUTION.—

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

1 (i) economic development activities de-
2 scribed in subparagraph (E) or (F) of
3 paragraph (1); or

4 (ii) agriculture-based rural develop-
5 ment activities described in paragraph
6 (1)(G).

7 (B) TECHNICAL ASSISTANCE ACTIVI-
8 TIES.—Not less than 4 percent of the amounts
9 received by a State under this section shall be
10 used to carry out technical assistance activities
11 described in paragraph (1)(G).

12 (C) TOBACCO-GROWING COUNTIES.—To be
13 eligible to receive payments under this section,
14 a State shall demonstrate to the Secretary that
15 funding will be provided, during each 5-year pe-
16 riod for which funding is provided under this
17 section, for activities in each county in the
18 State that has been determined under para-
19 graph (2) to have in excess of \$100,000 in in-
20 come derived from the production of tobacco, in
21 amounts that are at least equal to the product
22 obtained by multiplying—

23 (i) the ratio that the tobacco produc-
24 tion income in the county determined
25 under paragraph (2) bears to the total to-

1 bacco production income for the State de-
2 termined under subsection (c); by

3 (ii) 50 percent of the total amounts
4 received by a State under this section dur-
5 ing the 5-year period.

6 (f) PREFERENCES IN HIRING.—A State may require
7 recipients of funds under this section to provide a pref-
8 erence in employment to—

9 (1) an individual who—

10 (A) during the 1996 calendar year, was
11 employed in the manufacture, processing, or
12 warehousing of tobacco or tobacco products, or
13 resided, in a county described in subsection
14 (e)(2); and

15 (B) is eligible for assistance under the to-
16 bacco worker transition program established
17 under section 301; or

18 (2) an individual who—

19 (A) during the 1996 marketing year, car-
20 ried out tobacco quota or relevant tobacco pro-
21 duction activities in a county described in sub-
22 section (e)(2);

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

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

3 **SEC. 204. MODIFICATIONS IN FEDERAL TOBACCO PRO-**
4 **GRAMS.**

5 (a) PROGRAM REFERENDA.—Section 312(c) of the
6 Agricultural Adjustment Act of 1938 (7 U.S.C. 1312(c))
7 is amended—

8 (1) by striking “(c) Within thirty” and insert-
9 ing the following:

10 “(c) REFERENDA ON QUOTAS.—

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

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

13 “(2) REFERENDA ON PROGRAM CHANGES.—

14 “(A) IN GENERAL.—In the case of any
15 kind of tobacco for which marketing quotas are
16 in effect, on the receipt of a petition from more
17 than 5 percent of the producers of that kind of
18 tobacco in a State, the Secretary shall conduct
19 a statewide referendum on any proposal related
20 to the lease and transfer of tobacco quota with-
21 in a State requested by the petition that is au-
22 thorized under this part.

23 “(B) APPROVAL OF PROPOSALS.—If a ma-
24 jority of producers of the kind of tobacco in the
25 State approve a proposal in a referendum con-

1 ducted under subparagraph (A), the Secretary
2 shall implement the proposal in a manner that
3 applies to all producers and quota holders of
4 that kind of tobacco in the State.”.

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

8 (1) in subsection (c), by striking paragraph (1)
9 and inserting the following:

10 “(1) 105 percent of the average market price
11 for the kind of tobacco involved during the preceding
12 marketing year; by”;

13 (2) by striking subsection (d) and inserting the
14 following:

15 “(d) USE OF PENALTY PAYMENTS.—An amount
16 equivalent to each penalty collected by the Secretary under
17 this section shall be transmitted by the Secretary to the
18 Secretary of the Treasury for deposit in the Tobacco Com-
19 munity Revitalization Trust Fund established under sec-
20 tion 101 of the LEAF Act.”.

21 (c) ELIMINATION OF TOBACCO MARKETING ASSESS-
22 MENT.—

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

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

9 **TITLE III—FARMER AND WORK-**
10 **ER TRANSITION ASSISTANCE**

11 **SEC. 301. TOBACCO WORKER TRANSITION PROGRAM.**

12 (a) GROUP ELIGIBILITY REQUIREMENTS.—

13 (1) CRITERIA.—A group of workers (including
14 workers in any firm or subdivision of a firm involved
15 in the manufacture, processing, or warehousing of
16 tobacco or tobacco products) shall be certified as eli-
17 gible to apply for adjustment assistance under this
18 section pursuant to a petition filed under subsection

19 (b) if the Secretary of Labor determines that a sig-
20 nificant number or proportion of the workers in such
21 workers’ firm or an appropriate subdivision of the
22 firm have become totally or partially separated, or
23 are threatened to become totally or partially sepa-
24 rated, and—

1 (A) the sales or production, or both, of
2 such firm or subdivision have decreased abso-
3 lutely; and

4 (B) the implementation of the national to-
5 bacco settlement contributed importantly to
6 such workers' separation or threat of separation
7 and to the decline in the sales or production of
8 such firm or subdivision.

9 (2) DEFINITION OF CONTRIBUTED IMPOR-
10 TANTLY.—In paragraph (1)(B), the term “contrib-
11 uted importantly” means a cause that is important
12 but not necessarily more important than any other
13 cause.

14 (3) REGULATIONS.—The Secretary shall issue
15 regulations relating to the application of the criteria
16 described in paragraph (1) in making preliminary
17 findings under subsection (b) and determinations
18 under subsection (c).

19 (b) PRELIMINARY FINDINGS AND BASIC ASSIST-
20 ANCE.—

21 (1) FILING OF PETITIONS.—A petition for cer-
22 tification of eligibility to apply for adjustment assist-
23 ance under this section may be filed by a group of
24 workers (including workers in any firm or subdivi-
25 sion of a firm involved in the manufacture, process-

1 ing, or warehousing of tobacco or tobacco products)
2 or by their certified or recognized union or other
3 duly authorized representative with the Governor of
4 the State in which such workers' firm or subdivision
5 thereof is located.

6 (2) FINDINGS AND ASSISTANCE.—Upon receipt
7 of a petition under paragraph (1), the Governor
8 shall—

9 (A) notify the Secretary that the Governor
10 has received the petition;

11 (B) within 10 days after receiving the peti-
12 tion—

13 (i) make a preliminary finding as to
14 whether the petition meets the criteria de-
15 scribed in subsection (a)(1); and

16 (ii) transmit the petition, together
17 with a statement of the finding under
18 clause (i) and reasons for the finding, to
19 the Secretary for action under subsection
20 (c); and

21 (C) if the preliminary finding under sub-
22 paragraph (B)(i) is affirmative, ensure that
23 rapid response and basic readjustment services
24 authorized under other Federal laws are made
25 available to the workers.

1 (c) REVIEW OF PETITIONS BY SECRETARY; CERTIFI-
2 CATIONS.—

3 (1) IN GENERAL.—The Secretary, within 30
4 days after receiving a petition under subsection
5 (b)(2)(B)(ii), shall determine whether the petition
6 meets the criteria described in subsection (a)(1).
7 Upon a determination that the petition meets such
8 criteria, the Secretary shall issue to workers covered
9 by the petition a certification of eligibility to apply
10 for the assistance described in subsection (d).

11 (2) DENIAL OF CERTIFICATION.—Upon the de-
12 nial of a certification with respect to a petition
13 under paragraph (1), the Secretary shall review the
14 petition in accordance with the requirements of
15 other applicable assistance programs to determine if
16 the workers may be certified under such other provi-
17 sions.

18 (d) COMPREHENSIVE ASSISTANCE.—

19 (1) IN GENERAL.—Workers covered by a certifi-
20 cation issued by the Secretary under subsection
21 (c)(1) shall be provided with benefits and services
22 described in paragraph (2) in the same manner and
23 to the same extent as workers covered under a cer-
24 tification under subchapter A of title II of the Trade
25 Act of 1974 (19 U.S.C. 2271 et seq.), except that

1 the total amount of payments under this section for
2 any fiscal year shall not exceed \$50,000,000.

3 (2) BENEFITS AND SERVICES.—The benefits
4 and services described in this paragraph are the fol-
5 lowing:

6 (A) Employment services of the type de-
7 scribed in section 235 of the Trade Act of 1974
8 (19 U.S.C. 2295).

9 (B) Training described in section 236 of
10 the Trade Act of 1974 (19 U.S.C. 2296), ex-
11 cept that notwithstanding the provisions of sec-
12 tion 236(a)(2)(A) of such Act, the total amount
13 of payments for training under this section for
14 any fiscal year shall not exceed \$25,000,000.

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

21 (i) the provisions of sections
22 231(a)(5)(C) and 231(c) of such Act (19
23 U.S.C. 2291(a)(5)(C), 2291(c)), authoriz-
24 ing the payment of trade readjustment al-
25 lowances upon a finding that it is not fea-

1 sible or appropriate to approve a training
2 program for a worker, shall not be applica-
3 ble to payment of allowances under this
4 section; and

5 (ii) notwithstanding the provisions of
6 section 233(b) of such Act (19 U.S.C.
7 2293(b)), in order for a worker to qualify
8 for tobacco readjustment allowances under
9 this section, the worker shall be enrolled in
10 a training program approved by the Sec-
11 retary of the type described in section
12 236(a) of such Act (19 U.S.C. 2296(a)) by
13 the later of—

14 (I) the last day of the 16th week
15 of such worker's initial unemployment
16 compensation benefit period; or

17 (II) the last day of the 6th week
18 after the week in which the Secretary
19 issues a certification covering such
20 worker.

21 In cases of extenuating circumstances re-
22 lating to enrollment of a worker in a train-
23 ing program under this section, the Sec-
24 retary may extend the time for enrollment
25 for a period of not to exceed 30 days.

1 (D) Job search allowances of the type de-
2 scribed in section 237 of the Trade Act of 1974
3 (19 U.S.C. 2297).

4 (E) Relocation allowances of the type de-
5 scribed in section 238 of the Trade Act of 1974
6 (19 U.S.C. 2298).

7 (e) INELIGIBILITY OF INDIVIDUALS RECEIVING PAY-
8 MENTS FOR LOST TOBACCO QUOTA.—No benefits or serv-
9 ices may be provided under this section to any individual
10 who has received payments for lost tobacco quota under
11 section 201.

12 (f) FUNDING.—Of the amounts in the Trust Fund,
13 the Secretary may use not to exceed \$50,000,000 for each
14 of fiscal years 1999 through 2008 to provide assistance
15 under this section.

16 (g) EFFECTIVE DATE.—This section shall take effect
17 on the date that is the later of—

18 (1) October 1, 1998; or

19 (2) the date on which legislation implementing
20 the national tobacco settlement is enacted.

21 (h) TERMINATION DATE.—No assistance, vouchers,
22 allowances, or other payments may be provided under this
23 section after the date that is the earlier of—

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

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

5 **SEC. 302. FARMER OPPORTUNITY GRANTS.**

6 Part A of title IV of the Higher Education Act of
 7 1965 (20 U.S.C. 1070 et seq.) is amended by adding at
 8 the end the following:

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

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

11 “It is the purpose of this subpart to assist in making
 12 available the benefits of postsecondary education to eligi-
 13 ble students (determined in accordance with section 420F)
 14 in institutions of higher education by providing farmer op-
 15 portunity grants to all eligible students.

16 **“SEC. 420E. PROGRAM AUTHORITY; AMOUNT AND DETER-**
 17 **MINATIONS; APPLICATIONS.**

18 “(a) PROGRAM AUTHORITY AND METHOD OF
 19 DISTRIBUTION.—

20 “(1) PROGRAM AUTHORITY.—From amounts
 21 made available under section 101(d)(5) of the LEAF
 22 Act, the Secretary, during the period beginning July
 23 1, 1999, and ending September 30, 2024, shall pay
 24 to each eligible institution such sums as may be nec-
 25 essary to pay to each eligible student (determined in

1 accordance with section 420F) for each academic
2 year during which that student is in attendance at
3 an institution of higher education, as an under-
4 graduate, a farmer opportunity grant in the amount
5 for which that student is eligible, as determined pur-
6 suant to subsection (b). Not less than 85 percent of
7 such sums shall be advanced to eligible institutions
8 prior to the start of each payment period and shall
9 be based upon an amount requested by the institu-
10 tion as needed to pay eligible students, except that
11 this sentence shall not be construed to limit the au-
12 thority of the Secretary to place an institution on a
13 reimbursement system of payment.

14 “(2) CONSTRUCTION.—Nothing in this section
15 shall be construed to prohibit the Secretary from
16 paying directly to students, in advance of the begin-
17 ning of the academic term, an amount for which the
18 students are eligible, in cases where the eligible in-
19 stitution elects not to participate in the disburse-
20 ment system required by paragraph (1).

21 “(3) DESIGNATION.—Grants made under this
22 subpart shall be known as ‘farmer opportunity
23 grants’.

24 “(b) AMOUNT OF GRANTS.—

25 “(1) AMOUNTS.—

1 “(A) IN GENERAL.—The amount of the
2 grant for a student eligible under this subpart
3 shall be—

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

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

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

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

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

14 “(B) PART-TIME RULE.—In any case
15 where a student attends an institution of higher
16 education on less than a full-time basis (includ-
17 ing a student who attends an institution of
18 higher education on less than a half-time basis)
19 during any academic year, the amount of the
20 grant for which that student is eligible shall be
21 reduced in proportion to the degree to which
22 that student is not so attending on a full-time
23 basis, in accordance with a schedule of reduc-
24 tions established by the Secretary for the pur-
25 poses of this subparagraph, computed in ac-

1 cordance with this subpart. Such schedule of re-
2 ductions shall be established by regulation and
3 published in the Federal Register.

4 “(2) MAXIMUM.—No grant under this subpart
5 shall exceed the cost of attendance (as described in
6 section 472) at the institution at which that student
7 is in attendance. If, with respect to any student, it
8 is determined that the amount of a grant exceeds
9 the cost of attendance for that year, the amount of
10 the grant shall be reduced to an amount equal to the
11 cost of attendance at such institution.

12 “(3) PROHIBITION.—No grant shall be awarded
13 under this subpart to any individual who is incarcer-
14 ated in any Federal, State, or local penal institution.

15 “(c) PERIOD OF ELIGIBILITY FOR GRANTS.—

16 “(1) IN GENERAL.—The period during which a
17 student may receive grants shall be the period re-
18 quired for the completion of the first undergraduate
19 baccalaureate course of study being pursued by that
20 student at the institution at which the student is in
21 attendance, except that any period during which the
22 student is enrolled in a noncredit or remedial course
23 of study as described in paragraph (2) shall not be
24 counted for the purpose of this paragraph.

1 “(2) CONSTRUCTION.—Nothing in this section
2 shall be construed to—

3 “(A) exclude from eligibility courses of
4 study that are noncredit or remedial in nature
5 and that are determined by the institution to be
6 necessary to help the student be prepared for
7 the pursuit of a first undergraduate baccalaureate
8 degree or certificate or, in the case of
9 courses in English language instruction, to be
10 necessary to enable the student to utilize already
11 existing knowledge, training, or skills;
12 and

13 “(B) exclude from eligibility programs of
14 study abroad that are approved for credit by
15 the home institution at which the student is
16 enrolled.

17 “(3) PROHIBITION.—No student is entitled to
18 receive farmer opportunity grant payments concurrently
19 from more than 1 institution or from the Secretary
20 and an institution.

21 “(d) APPLICATIONS FOR GRANTS.—

22 “(1) IN GENERAL.—The Secretary shall from
23 time to time set dates by which students shall file
24 applications for grants under this subpart. The filing
25 of applications under this subpart shall be coordi-

1 nated with the filing of applications under section
2 401(c).

3 “(2) INFORMATION AND ASSURANCES.—Each
4 student desiring a grant for any year shall file with
5 the Secretary an application for the grant containing
6 such information and assurances as the Secretary
7 may deem necessary to enable the Secretary to carry
8 out the Secretary’s functions and responsibilities
9 under this subpart.

10 “(e) DISTRIBUTION OF GRANTS TO STUDENTS.—
11 Payments under this section shall be made in accordance
12 with regulations promulgated by the Secretary for such
13 purpose, in such manner as will best accomplish the pur-
14 pose of this section. Any disbursement allowed to be made
15 by crediting the student’s account shall be limited to tui-
16 tion and fees and, in the case of institutionally owned
17 housing, room and board. The student may elect to have
18 the institution provide other such goods and services by
19 crediting the student’s account.

20 “(f) INSUFFICIENT FUNDING.—If, for any fiscal
21 year, the funds made available to carry out this subpart
22 from the Tobacco Community Revitalization Trust Fund
23 are insufficient to satisfy fully all grants for students de-
24 termined to be eligible under section 420F, the amount

1 of the grant provided under subsection (b) shall be re-
2 duced on a pro rata basis among all eligible students.

3 “(g) TREATMENT OF INSTITUTIONS AND STUDENTS
4 UNDER OTHER LAWS.—Any institution of higher edu-
5 cation that enters into an agreement with the Secretary
6 to disburse to students attending that institution the
7 amounts those students are eligible to receive under this
8 subpart shall not be deemed, by virtue of such agreement,
9 to be a contractor maintaining a system of records to ac-
10 complish a function of the Secretary. Recipients of farmer
11 opportunity grants shall not be considered to be individual
12 grantees for purposes of the Drug-Free Workplace Act of
13 1988 (41 U.S.C. 701 et seq.).

14 **“SEC. 420F. STUDENT ELIGIBILITY.**

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

17 “(1) be a member of a tobacco farm family in
18 accordance with subsection (b);

19 “(2) be enrolled or accepted for enrollment in
20 a degree, certificate, or other program (including a
21 program of study abroad approved for credit by the
22 eligible institution at which such student is enrolled)
23 leading to a recognized educational credential at an
24 institution of higher education that is an eligible in-

1 stitution in accordance with section 487, and not be
2 enrolled in an elementary or secondary school;

3 “(3) if the student is presently enrolled at an
4 institution of higher education, be maintaining satis-
5 factory progress in the course of study the student
6 is pursuing in accordance with subsection (c);

7 “(4) not owe a refund on grants previously re-
8 ceived at any institution of higher education under
9 this title, or be in default on any loan from a stu-
10 dent loan fund at any institution provided for in
11 part D, or a loan made, insured, or guaranteed by
12 the Secretary under this title for attendance at any
13 institution;

14 “(5) file with the institution of higher education
15 that the student intends to attend, or is attending,
16 a document, that need not be notarized, but that
17 shall include—

18 “(A) a statement of educational purpose
19 stating that the money attributable to such
20 grant will be used solely for expenses related to
21 attendance or continued attendance at such in-
22 stitution; and

23 “(B) such student’s social security num-
24 ber; and

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

1 “(b) TOBACCO FARM FAMILIES.—

2 “(1) IN GENERAL.—For the purpose of sub-
3 section (a)(1), a student is a member of a tobacco
4 farm family if during calendar year 1996 the stu-
5 dent was—

6 “(A) an individual who—

7 “(i) is an active tobacco producer (as
8 defined in section 2 of the LEAF Act); or

9 “(ii) is otherwise actively engaged in
10 the production of tobacco;

11 “(B) a spouse, son, daughter, stepson, or
12 stepdaughter of an individual described in sub-
13 paragraph (A);

14 “(C) an individual—

15 “(i) who was a brother, sister, step-
16 brother, stepsister, son-in-law, or daughter-
17 in-law of an individual described in sub-
18 paragraph (A); and

19 “(ii) whose principal place of resi-
20 dence was the home of the individual de-
21 scribed in subparagraph (A); or

22 “(D) an individual who was a dependent
23 (within the meaning of section 152 of the Inter-
24 nal Revenue Code of 1986) of an individual de-
25 scribed in subparagraph (A).

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

5 “(c) SATISFACTORY PROGRESS.—

6 “(1) IN GENERAL.—For the purpose of sub-
7 section (a)(3), a student is maintaining satisfactory
8 progress if—

9 “(A) the institution at which the student is
10 in attendance reviews the progress of the stu-
11 dent at the end of each academic year, or its
12 equivalent, as determined by the institution;
13 and

14 “(B) the student has at least a cumulative
15 C average or its equivalent, or academic stand-
16 ing consistent with the requirements for grad-
17 uation, as determined by the institution, at the
18 end of the second such academic year.

19 “(2) SPECIAL RULE.—Whenever a student fails
20 to meet the eligibility requirements of subsection
21 (a)(3) as a result of the application of this sub-
22 section and subsequent to that failure the student
23 has academic standing consistent with the require-
24 ments for graduation, as determined by the institu-
25 tion, for any grading period, the student may, sub-

1 ject to this subsection, again be eligible under sub-
2 section (a)(3) for a grant under this subpart.

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

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

8 “(B) the personal injury or illness of the
9 student; or

10 “(C) special circumstances as determined
11 by the institution.

12 “(d) STUDENTS WHO ARE NOT SECONDARY SCHOOL
13 GRADUATES.—In order for a student who does not have
14 a certificate of graduation from a school providing second-
15 ary education, or the recognized equivalent of such certifi-
16 cate, to be eligible for any assistance under this subpart,
17 the student shall meet either 1 of the following standards:

18 “(1) EXAMINATION.—The student shall take an
19 independently administered examination and shall
20 achieve a score, specified by the Secretary, dem-
21 onstrating that such student can benefit from the
22 education or training being offered. Such examina-
23 tion shall be approved by the Secretary on the basis
24 of compliance with such standards for development,

1 administration, and scoring as the Secretary may
2 prescribe in regulations.

3 “(2) DETERMINATION.—The student shall be
4 determined as having the ability to benefit from the
5 education or training in accordance with such pro-
6 cess as the State shall prescribe. Any such process
7 described or approved by a State for the purposes of
8 this section shall be effective 6 months after the date
9 of submission to the Secretary unless the Secretary
10 disapproves such process. In determining whether to
11 approve or disapprove such process, the Secretary
12 shall take into account the effectiveness of such
13 process in enabling students without secondary
14 school diplomas or the recognized equivalent to bene-
15 fit from the instruction offered by institutions utiliz-
16 ing such process, and shall also take into account
17 the cultural diversity, economic circumstances, and
18 educational preparation of the populations served by
19 the institutions.

20 “(e) SPECIAL RULE FOR CORRESPONDENCE
21 COURSES.—A student shall not be eligible to receive a
22 grant under this subpart for a correspondence course un-
23 less such course is part of a program leading to an associ-
24 ate, bachelor, or graduate degree.

1 “(f) COURSES OFFERED THROUGH TELECOMMUNI-
2 CATIONS.—

3 “(1) RELATION TO CORRESPONDENCE
4 COURSES.—A student enrolled in a course of in-
5 struction at an eligible institution of higher edu-
6 cation (other than an institute or school that meets
7 the definition in section 521(4)(C) of the Carl D.
8 Perkins Vocational and Applied Technology Edu-
9 cation Act (20 U.S.C. 2471(4)(C))) that is offered
10 in whole or in part through telecommunications and
11 leads to a recognized associate, bachelor, or graduate
12 degree conferred by such institution shall not be
13 considered to be enrolled in correspondence courses
14 unless the total amount of telecommunications and
15 correspondence courses at such institution equals or
16 exceeds 50 percent of such courses.

17 “(2) RESTRICTION OR REDUCTIONS OF FINAN-
18 CIAL AID.—A student’s eligibility to receive a grant
19 under this subpart may be reduced if a financial aid
20 officer determines under the discretionary authority
21 provided in section 479A that telecommunications
22 instruction results in a substantially reduced cost of
23 attendance to such student.

24 “(3) DEFINITION.—For the purposes of this
25 subsection, the term ‘telecommunications’ means the

1 use of television, audio, or computer transmission,
2 including open broadcast, closed circuit, cable,
3 microwave, or satellite, audio conferencing, computer
4 conferencing, or video cassettes or discs, except that
5 such term does not include a course that is delivered
6 using video cassette or disc recordings at such insti-
7 tution and that is not delivered in person to other
8 students of that institution.

9 “(g) STUDY ABROAD.—Nothing in this subpart shall
10 be construed to limit or otherwise prohibit access to study
11 abroad programs approved by the home institution at
12 which a student is enrolled. An otherwise eligible student
13 who is engaged in a program of study abroad approved
14 for academic credit by the home institution at which the
15 student is enrolled shall be eligible to receive a grant under
16 this subpart, without regard to whether such study abroad
17 program is required as part of the student’s degree
18 program.

19 “(h) VERIFICATION OF SOCIAL SECURITY NUM-
20 BER.—The Secretary, in cooperation with the Commis-
21 sioner of Social Security, shall verify any social security
22 number provided by a student to an eligible institution
23 under subsection (a)(5)(B) and shall enforce the following
24 conditions:

1 “(1) PENDING VERIFICATION.—Except as pro-
2 vided in paragraphs (2) and (3), an institution shall
3 not deny, reduce, delay, or terminate a student’s eli-
4 gibility for assistance under this subpart because so-
5 cial security number verification is pending.

6 “(2) DENIAL OR TERMINATION.—If there is a
7 determination by the Secretary that the social secu-
8 rity number provided to an eligible institution by a
9 student is incorrect, the institution shall deny or ter-
10 minate the student’s eligibility for any grant under
11 this subpart until such time as the student provides
12 documented evidence of a social security number
13 that is determined by the institution to be correct.

14 “(3) CONSTRUCTION.—Nothing in this sub-
15 section shall be construed to permit the Secretary to
16 take any compliance, disallowance, penalty, or other
17 regulatory action against—

18 “(A) any institution of higher education
19 with respect to any error in a social security
20 number, unless such error was a result of fraud
21 on the part of the institution; or

22 “(B) any student with respect to any error
23 in a social security number, unless such error
24 was a result of fraud on the part of the
25 student.”.

1 **TITLE IV—IMMUNITY**
2 **SEC. 401. GENERAL IMMUNITY FOR TOBACCO PRODUCERS**
3 **AND WAREHOUSERS.**

4 Notwithstanding any other provision of this Act, an
5 active tobacco producer, tobacco-related growers associa-
6 tion, or tobacco warehouse owner or employee may not be
7 subject to liability in any Federal or State court for any
8 cause of action resulting from the failure of any tobacco
9 product manufacturer, distributor, or retailer to comply
10 with national tobacco settlement legislation.

○