

107TH CONGRESS
2D SESSION

S. 3004

To eliminate the Federal quota and price support programs for certain tobacco, to compensate quota owners and holders for the loss of tobacco quota asset value, to establish a tobacco community reinvestment program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2002

Mr. HELMS introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To eliminate the Federal quota and price support programs for certain tobacco, to compensate quota owners and holders for the loss of tobacco quota asset value, to establish a tobacco community reinvestment program, 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 “Rural Community Revitalization and Transition 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—TOBACCO TRANSITION PAYMENTS

Sec. 101. Tobacco transition payments.

“Subtitle E—Tobacco Community Reinvestment Program

“Sec. 380a. Definitions.

“CHAPTER 1—TOBACCO TRANSITION PAYMENTS

“Sec. 380d. Tobacco transition payments.

“Sec. 380e. Tobacco Farmer Trust Fund.

Sec. 102. Sense of Congress on treatment of payments.

TITLE II—TOBACCO INVESTMENT PROTECTION PAYMENTS

Sec. 201. Tobacco investment protection payments.

“CHAPTER 2—TOBACCO INVESTMENT PROTECTION PAYMENTS

“Sec. 380h. Historic quota production.

“Sec. 380i. Tobacco investment protection payments for Flue-cured tobacco.

“Sec. 380j. Tobacco investment protection payments for Burley and other kinds of tobacco.

“Sec. 380k. Assessments.

TITLE III—ADMINISTRATION

Sec. 301. Administration.

“CHAPTER 3—ADMINISTRATION

“Sec. 380m. Center for Agricultural Innovation.

“Sec. 380n. Tobacco Advisory Board.

TITLE IV—TERMINATION OF MARKETING QUOTAS FOR CERTAIN TOBACCO

Sec. 401. Definitions.

Sec. 402. National marketing quota.

Sec. 403. Apportionment of national marketing quota.

Sec. 404. Burley tobacco acreage allotments.

Sec. 405. Lease and transfer of acreage allotments.

Sec. 406. Mandatory sale of Flue-cured tobacco acreage allotments and marketing quotas.

Sec. 407. Mandatory sale of Burley tobacco acreage allotments and marketing quotas.

Sec. 408. Acreage—poundage quotas.

Sec. 409. Sale or lease of acreage allotments.

Sec. 410. Farm poundage quotas for certain kinds of tobacco.

Sec. 411. Improved tobacco field measurement.

TITLE V—ADMINISTRATION

Sec. 501. Marketing years.

1 **TITLE I—TOBACCO TRANSITION**
 2 **PAYMENTS**

3 **SEC. 101. TOBACCO TRANSITION PAYMENTS.**

4 Title III of the Agricultural Adjustment Act of 1938
 5 is amended by inserting after subtitle D (7 U.S.C. 1379a
 6 et seq.) the following:

7 **“Subtitle E—Tobacco Community**
 8 **Reinvestment Program**

9 **“SEC. 380a. DEFINITIONS.**

10 “In this subtitle:

11 “(1) ACTIVE GROWER.—The term ‘active grow-
 12 er’ means a person that (as determined by a county
 13 committee)—

14 “(A) is at risk for a crop of covered to-
 15 bacco;

16 “(B) is determined to be actively engaged
 17 in farming (within the meaning of sections
 18 1001 and 1001A of the Food Security Act of
 19 1985 (7 U.S.C. 1308, 1308–1)) with respect to
 20 the production of a kind of covered tobacco; and

21 “(C) shared in the risk of producing the
 22 2002 crop of covered tobacco.

23 “(2) ADDITIONAL PRODUCTION.—The term ‘ad-
 24 ditional production’ means the quantity of covered
 25 tobacco produced on a farm for a marketing year in

1 excess of the quantity for which a tobacco producer
2 may receive a payment under chapter 2.

3 “(3) CENTER.—The term ‘Center’ means the
4 Center for Agricultural Innovation established under
5 section 380m.

6 “(4) CONSIDERED PRODUCED.—The terms
7 ‘considered produced’ and ‘considered to have pro-
8 duced’ means any production of covered tobacco that
9 was lost as a result of damaging weather or related
10 condition, as determined by the Secretary.

11 “(5) COVERED TOBACCO.—The term ‘covered
12 tobacco’ means—

13 “(A) Flue-cured tobacco;

14 “(B) Burley tobacco;

15 “(C) Fire-cured tobacco;

16 “(D) dark air-cured tobacco; and

17 “(E) Virginia sun-cured tobacco.

18 “(6) HISTORIC QUOTA PRODUCTION.—The term
19 ‘historic quota production’ means the quantity of the
20 average quantity of covered tobacco assigned to a
21 farm by a traditional producer pursuant to section
22 380h.

23 “(7) NEW PRODUCER.—The term ‘new pro-
24 ducer’ means a producer of a kind of covered to-
25 bacco that is not a traditional producer.

1 “(8) NONTRADITIONAL TOBACCO COUNTY.—

2 The term ‘nontraditional tobacco county’ means a
3 county in the United States that did not have any
4 traditional tobacco farms during any of the 1999
5 through 2002 marketing years.

6 “(9) QUOTA.—The term ‘quota’ means a farm
7 marketing quota for covered tobacco established
8 under part I of subtitle B for the marketing year for
9 any of the 2002 or previous crops.

10 “(10) QUOTA OWNER.—The term ‘quota owner’
11 means the owner of a farm (as of July 1, 2002) for
12 which a quota was established for the 2002 crop
13 year.

14 “(11) TOBACCO ADVISORY BOARD.—The term
15 ‘Tobacco Advisory Board’ means the Tobacco Advi-
16 sory Board established by section 380n.

17 “(12) TRADITIONAL TOBACCO FARM.—The
18 term ‘traditional tobacco farm’ means a farm in the
19 United States that produced, or was considered to
20 have produced, covered tobacco during—

21 “(A) in the case of Flue-cured tobacco, any
22 or all of the 1999 through 2002 marketing
23 years; and

24 “(B) in the case of any other kind of cov-
25 ered tobacco, the 2001 or 2002 marketing year.

1 “(13) TRADITIONAL PRODUCER.—The term
 2 ‘traditional producer’ means a producer on a farm in
 3 the United States that produced, or considered to
 4 have produced, covered tobacco during—

5 “(A) in the case of Flue-cured tobacco, any
 6 or all of the 1999 through 2002 marketing
 7 years; and

8 “(B) in the case of any other kind of cov-
 9 ered tobacco, the 2001 or 2002 marketing year.

10 **“CHAPTER 1—TOBACCO TRANSITION** 11 **PAYMENTS**

12 **“SEC. 380d. TOBACCO TRANSITION PAYMENTS.**

13 “(a) IN GENERAL.—The Secretary shall make pay-
 14 ments to quota owners and active growers of covered to-
 15 bacco in accordance with this section.

16 “(b) ELIGIBILITY.—

17 “(1) IN GENERAL.—Effective beginning with
 18 the 2003 crop year, each quota owner and active
 19 grower of record of covered tobacco shall be eligible
 20 to receive payments under this section.

21 “(2) PROPORTIONAL PAYMENT.—Any payment
 22 under this section shall be made only in an amount
 23 that is proportional to the ownership or interest held
 24 by the recipient.

1 “(3) APPLICATION.—To be eligible to receive
 2 compensation under this section, any quota owner or
 3 active grower shall prepare and submit to the Sec-
 4 retary an application for compensation in such form
 5 and at such time as the Secretary shall prescribe.

6 “(4) CRITERIA.—The application shall dem-
 7 onstrate to the satisfaction of the Secretary that the
 8 applicant meets the requirements of this section.

9 “(c) PAYMENTS.—

10 “(1) QUOTA OWNERS.—

11 “(A) IN GENERAL.—Subject to paragraphs
 12 (3) and (4), the amount of a payment made
 13 under this section to a quota owner shall be
 14 equal to the amount obtained by multiplying—

15 “(i) the payment quantity determined
 16 under subparagraph (B); by

17 “(ii) \$8 per pound.

18 “(B) PAYMENT QUANTITY.—The payment
 19 quantity for a payment made under this section
 20 to a quota owner shall be equal to the amount
 21 obtained by multiplying—

22 “(i) the base quota for a kind of cov-
 23 ered tobacco for the quota owner for the
 24 2002 marketing year (as of July 1, 2002);
 25 by

1 “(ii) the ratio of—

2 “(I) the national quota for the
3 kind of covered tobacco for the 1998
4 marketing year (as established under
5 part I of subtitle B); to

6 “(II) the national quota for the
7 kind of covered tobacco for the 2002
8 marketing year (as established under
9 part I of subtitle B).

10 “(2) ACTIVE GROWERS.—Subject to paragraphs
11 (3) and (4), the amount of a payment made under
12 this section to an active grower on a farm shall be
13 equal to the amount obtained by multiplying—

14 “(A) the effective farm marketing quota
15 for the active grower for the 2001 marketing
16 year; by

17 “(B) \$4 per pound.

18 “(3) QUOTA OWNER-ACTIVE GROWERS.—If a
19 person is both a quota owner and an active grower,
20 the person shall be eligible for payments under para-
21 graphs (1) and (2).

22 “(4) DEATH OF QUOTA LESSEE OR QUOTA TEN-
23 ANT.—If a quota lessee or quota tenant who is enti-
24 tled to receive payments under this section dies and
25 is survived by a spouse or 1 or more dependents, the

1 right to receive the payments shall transfer to the
 2 surviving spouse or, if there is no surviving spouse,
 3 to the immediate family members in equal shares.

4 “(d) TIMING OF PAYMENTS.—Payments under this
 5 section shall be made to the quota owner or active grower,
 6 at the option of the quota owner or active grower—

7 “(1) in 1 lump sum payment during calendar
 8 year 2003; or

9 “(2) in 5 equal payments over a period of 5
 10 years commencing with calendar year 2003.

11 **“SEC. 380e. TOBACCO FARMER TRUST FUND.**

12 “(a) ESTABLISHMENT.—There is established in the
 13 Treasury of the United States a revolving fund to be used
 14 in carrying out section 380d (referred to in this section
 15 as the ‘Fund’), consisting of—

16 “(1) such amounts as are appropriated to the
 17 Fund under subsection (b); and

18 “(2) any interest earned on investment of
 19 amounts in the Fund under subsection (d).

20 “(b) TRANSFERS TO FUND.—There are appropriated
 21 to the Fund out of funds of the Treasury not otherwise
 22 appropriated amounts equivalent to the taxes received
 23 after the date of the enactment of this section in the
 24 Treasury under chapter 52 of the Internal Revenue Code
 25 of 1986 (relating to cigars, cigarettes, smokeless tobacco,

1 pipe tobacco, and cigarette papers and tubes) to the extent
 2 such amounts exceed the amounts that would have been
 3 received under the rates of tax that applied for 1999.

4 “(c) EXPENDITURES FROM FUND.—

5 “(1) IN GENERAL.—Subject to paragraph (2),
 6 on request by the Secretary, the Secretary of the
 7 Treasury shall transfer from the Fund to the Sec-
 8 retary such amounts as the Secretary determines are
 9 necessary to make payments under section 380d.

10 “(2) ADMINISTRATIVE EXPENSES.—An amount
 11 not exceeding 10 percent of the amounts in the
 12 Fund shall be available in each fiscal year to pay the
 13 administrative expenses necessary to carry out this
 14 section and section 380d.

15 “(d) INVESTMENT OF AMOUNTS.—

16 “(1) IN GENERAL.—The Secretary of the
 17 Treasury shall invest such portion of the Fund as is
 18 not, in the judgment of the Secretary of the Treas-
 19 ury, required to meet current withdrawals. Invest-
 20 ments may be made only in interest-bearing obliga-
 21 tions of the United States.

22 “(2) ACQUISITION OF OBLIGATIONS.—For the
 23 purpose of investments under paragraph (1), obliga-
 24 tions may be acquired—

25 “(A) on original issue at the issue price; or

1 “(B) by purchase of outstanding obliga-
2 tions at the market price.

3 “(3) SALE OF OBLIGATIONS.—Any obligation
4 acquired by the Fund may be sold by the Secretary
5 of the Treasury at the market price.

6 “(4) CREDITS TO FUND.—The interest on, and
7 the proceeds from the sale or redemption of, any ob-
8 ligations held in the Fund shall be credited to and
9 form a part of the Fund.

10 “(e) TRANSFERS OF AMOUNTS.—

11 “(1) IN GENERAL.—The amounts required to
12 be transferred to the Fund under this section shall
13 be transferred at least monthly from the general
14 fund of the Treasury to the Fund on the basis of es-
15 timates made by the Secretary of the Treasury.

16 “(2) ADJUSTMENTS.—Proper adjustment shall
17 be made in amounts subsequently transferred to the
18 extent prior estimates were in excess of or less than
19 the amounts required to be transferred.”.

20 **SEC. 102. SENSE OF CONGRESS ON TREATMENT OF PAY-**
21 **MENTS.**

22 It is the sense of Congress that quota holders and
23 active growers should be allowed to receive capital gains
24 treatment under the Internal Revenue Code of 1986 for

1 payments received under section 380d of the Agricultural
 2 Adjustment Act of 1938 (as added by section 101).

3 **TITLE II—TOBACCO INVEST-**
 4 **MENT PROTECTION PAY-**
 5 **MENTS**

6 **SEC. 201. TOBACCO INVESTMENT PROTECTION PAYMENTS.**

7 Subtitle E of title III of the Agricultural Adjustment
 8 Act of 1938 (as added by section 101) is amended by add-
 9 ing at the end the following:

10 **“CHAPTER 2—TOBACCO INVESTMENT**
 11 **PROTECTION PAYMENTS**

12 **“SEC. 380h. HISTORIC QUOTA PRODUCTION.**

13 “(a) AVERAGE QUANTITY OF FLUE-CURED AND
 14 BURLEY TOBACCO PRODUCED BY TRADITIONAL PRO-
 15 DUCERS.—

16 “(1) IN GENERAL.—In the case of Flue-cured
 17 and Burley tobacco, the Secretary shall determine,
 18 for each traditional producer, the average effective
 19 quota for each kind of tobacco on each farm on
 20 which the traditional producer shared in the risk of
 21 producing the kind of tobacco for the 1997 through
 22 1999 marketing years.

23 “(2) PROPORTIONAL SHARES.—If more than 1
 24 traditional producer shared in the risk of producing
 25 the kind of tobacco for a marketing year on a farm,

1 the traditional producers shall receive their propor-
 2 tional share of the quantity of the kind of tobacco
 3 planted to the kind of tobacco for harvest on the
 4 farm based on the sharing arrangement that was in
 5 effect among the producers for the crop.

6 “(b) HISTORIC QUOTA PRODUCTION OF FIRE-
 7 CURED, DARK AIR-CURED, AND VIRGINIA SUN-CURED
 8 TOBACCO.—In the case of Fire-cured, dark air-cured, and
 9 Virginia sun-cured tobacco, the Secretary shall determine,
 10 for each traditional producer, the historic quota produc-
 11 tion for each kind of tobacco on each farm on which the
 12 traditional producer shared in the risk of producing the
 13 kind of tobacco by multiplying—

14 “(1) the average effective acreage allotment for
 15 the kind of tobacco for the 1999 through 2001 mar-
 16 keting years;

17 “(2)(A) in the case of Fire-cured tobacco, 2,600
 18 pounds per acre; and

19 “(B) in the case of dark air-cured tobacco and
 20 Virginia sun-cured tobacco, 2,500 pounds per acre;
 21 by

22 “(3) 1.75.

23 “(c) ASSIGNMENT OF QUANTITY TO FARMS.—

24 “(1) IN GENERAL.—At the beginning of each
 25 crop year, the Secretary shall give each producer an

1 opportunity to assign the quantity of covered to-
 2 bacco determined under subsection (a) or (b) for
 3 each farm of the producer to that farm or another
 4 farm in the same State or a contiguous State.

5 “(2) LIMITATION ON ACREAGE ASSIGNMENT.—
 6 Notwithstanding paragraph (1), the quantity of cov-
 7 ered tobacco determined under subsection (a) or (b)
 8 for a farm may not be assigned by a producer to a
 9 farm in a nontraditional tobacco county.

10 “(3) ASSIGNMENT TO FARMS.—Subject to para-
 11 graph (2), the Secretary may not limit the quantity
 12 of covered tobacco determined under subsection (a)
 13 or (b) that may be assigned to a farm.

14 “(4) PERMANENT TRANSFERS.—

15 “(A) IN GENERAL.—A producer may per-
 16 manently transfer all or part of the quantity of
 17 tobacco assigned to a farm to, at the option of
 18 the producer—

19 “(i) other tobacco producers des-
 20 ignated by the tobacco producer; or

21 “(ii) the applicable county-State pool
 22 for redistribution to other tobacco pro-
 23 ducers that own or operate tobacco farms
 24 located in the State.

1 “(B) NEW PRODUCERS.—In redistributing
 2 historic quota production of Flue-cured tobacco
 3 from the county-State pool under subparagraph
 4 (A)(ii), the Secretary shall give priority to new
 5 producers, taking into consideration the produc-
 6 tivity of the land.

7 “(5) TEMPORARY TRANSFERS.—If a producer
 8 leases or temporarily transfers a quantity of tobacco
 9 assigned to a farm to another producer, the quantity
 10 of tobacco leased or transferred shall be returned to
 11 the county-State pool described in paragraph
 12 (5)(A)(ii).

13 “(d) TREATMENT OF CONSERVATION RESERVE CON-
 14 TRACT ACREAGE.—

15 “(1) IN GENERAL.—The Secretary shall provide
 16 for an adjustment, as appropriate, in the historic
 17 quota production for a farm whenever either of the
 18 following circumstances occur:

19 “(A) A conservation reserve contract en-
 20 tered into under section 1231 of the Food Secu-
 21 rity Act of 1985 (16 U.S.C. 3831) with respect
 22 to the farm expires or is voluntarily terminated.

23 “(B) Cropland is released from coverage
 24 under a conservation reserve contract by the
 25 Secretary.

1 “(2) SPECIAL PAYMENT RULES.—For the mar-
 2 keting year in which an adjustment under paragraph
 3 (1) is first made, the traditional producer of the
 4 farm shall elect to receive either a payment under
 5 this chapter with respect to the acreage added to the
 6 farm under this subsection or a prorated payment
 7 under the conservation reserve contract, but not
 8 both.

9 “(e) NONPRODUCTION OF COVERED TOBACCO.—If at
 10 least 75 percent of the historic quota production of a kind
 11 of covered tobacco in a county in a State that is not pro-
 12 duced or considered produced to the kind of covered to-
 13 bacco during at least 2 of every 3 crop years, the quantity
 14 of the historic quota production of the kind of covered to-
 15 bacco that is not produced or considered produced shall
 16 be transferred to the county-State pool for redistribution
 17 in accordance with section 380i(b)(3) or 380j(b)(3), as ap-
 18 propriate.

19 “(f) HISTORIC QUOTA PRODUCTION ADJUSTMENT.—
 20 Not later than end of the 2008 marketing year, and each
 21 5 marketing years thereafter, the Secretary shall—

22 “(1) examine the total historic quota production
 23 pounds of each kind of covered tobacco nationally;
 24 and

1 “(2) make pro rata adjustments to the historic
 2 quota production pounds on all farms to reflect in-
 3 creases or decreases in the demand for the kind of
 4 covered tobacco.

5 **“SEC. 380i. TOBACCO INVESTMENT PROTECTION PAY-**
 6 **MENTS FOR FLUE-CURED TOBACCO.**

7 “(a) COUNTER-CYCLICAL PAYMENTS (TIPP 1).—

8 “(1) IN GENERAL.—The Secretary shall make
 9 available to each tobacco producer for each of the
 10 2003 and subsequent marketing years for Flue-
 11 cured tobacco a payment in an amount computed by
 12 multiplying—

13 “(A) the payment rate determined under
 14 paragraph (2); by

15 “(B) the payment quantity determined
 16 under paragraph (3).

17 “(2) PAYMENT RATE.—

18 “(A) IN GENERAL.—The payment rate for
 19 each of the 2003 and subsequent marketing
 20 years for Flue-cured tobacco under this sub-
 21 section shall be the amount by which—

22 “(i) the investment protection price
 23 for Flue-cured tobacco for the marketing
 24 year determined under subparagraph (B);
 25 exceeds

1 “(ii) the payment rate paid by a pur-
 2 chaser for the Flue-cured tobacco.

3 “(B) INVESTMENT PROTECTION PRICE.—

4 “(i) IN GENERAL.—The investment
 5 protection price for Flue-cured tobacco
 6 under this subsection shall be established
 7 by the Secretary, and adjusted annually, to
 8 reflect the costs of production for pro-
 9 ducers of Flue-cured tobacco (on a per
 10 pound basis), other than—

11 “(I) the cost of marketing Flue-
 12 cured tobacco; and

13 “(II) the cost of leasing quota for
 14 Flue-cured tobacco.

15 “(ii) DETERMINATION.—To determine
 16 the cost of production of Flue-cured to-
 17 bacco in the United States, the Secretary
 18 shall use—

19 “(I) the information collection
 20 and survey resources of the Economic
 21 Research Service and National Agri-
 22 cultural Statistics Service of the De-
 23 partment of Agriculture; and

24 “(II) the most recent data avail-
 25 able.

1 “(iii) REEVALUATION.—The Sec-
2 retary, acting through the Economic Re-
3 search Service, shall—

4 “(I) annually reevaluate the cost
5 of production of Flue-cured tobacco,
6 based on the survey of factors used by
7 the Secretary; and

8 “(II) once every 5 years, conduct
9 the survey.

10 “(iv) CONSULTATION.—In deter-
11 mining the costs of production of Flue-
12 cured tobacco, the Secretary shall consult
13 with—

14 “(I) farm organizations;

15 “(II) producer cooperatives and
16 associations;

17 “(III) colleges and universities in
18 tobacco-producing States; and

19 “(IV) other interested persons.

20 “(v) DISCOUNTS.—In the case of
21 Flue-cured tobacco that is graded less than
22 the standard commercial grade for Flue-
23 cured tobacco established by the Secretary,
24 the Secretary shall reduce the investment

1 protection price for Flue-cured tobacco to
 2 reflect the lower quality of the tobacco.

3 “(3) PAYMENT QUANTITY.—

4 “(A) IN GENERAL.—Subject to subpara-
 5 graphs (B) through (D), a tobacco producer
 6 shall be eligible for a payment under this sub-
 7 section for any quantity of Flue-cured tobacco
 8 marketed by the producer.

9 “(B) INELIGIBLE PRODUCTION.—A to-
 10 bacco producer shall be ineligible for any pay-
 11 ment under this subsection for a marketing
 12 year with respect to—

13 “(i) any Flue-cured tobacco that is
 14 produced in a nontraditional tobacco coun-
 15 ty;

16 “(ii) any additional production of
 17 Flue-cured tobacco during the marketing
 18 year; or

19 “(iii) any pounds of Flue-cured to-
 20 bacco that are marketed by the tobacco
 21 producer at a grade that is—

22 “(I) below the minimum commer-
 23 cial grade for Flue-cured tobacco es-
 24 tablished by the Secretary; and

1 “(II) in the case of Flue-cured
2 tobacco marketed under a contract,
3 below the minimum grade established
4 by the contract.

5 “(C) DISASTERS.—If a tobacco producer
6 assigns historic quota production of Flue-cured
7 tobacco for a marketing year to a farm in a
8 county and the county receives an emergency
9 disaster designation by the President or the
10 Secretary for the marketing year, the Secretary
11 may increase the payment quantity for a pay-
12 ment made under this subsection to the tobacco
13 producer for the marketing year to reflect the
14 loss of production of Flue-cured tobacco.

15 “(D) MARKET CONDITIONS.—The Sec-
16 retary may reduce the payment quantity for
17 payments made to tobacco producers under this
18 subsection to reflect the supply and demand
19 conditions for Flue-cured tobacco.

20 “(b) DIRECT PAYMENTS (TIPP 2).—

21 “(1) IN GENERAL.—The Secretary shall make
22 available to each producer of Flue-cured tobacco a
23 payment in an amount computed by multiplying—

24 “(A) 35 cents per pound; by

1 “(B) the historic quota production of Flue-
2 cured tobacco assigned to a farm by the pro-
3 ducer for the 2003 marketing year pursuant to
4 section 380h.

5 “(2) ELIGIBILITY.—

6 “(A) IN GENERAL.—Except as provided in
7 subparagraph (B), a tobacco producer shall be
8 eligible for a payment for a marketing year
9 under this subsection only if the tobacco pro-
10 ducer produces, or is considered to have pro-
11 duced, at least 75 percent of the historic quota
12 production of Flue-cured tobacco assigned to a
13 farm by the producer pursuant to section 380h
14 that is eligible for a counter-cyclical payment
15 under subsection (a).

16 “(B) PRODUCERS THAT DISCONTINUE
17 PRODUCTION OF FLUE-CURED TOBACCO.—Sub-
18 paragraph (A) shall not apply to a tobacco pro-
19 ducer that elects to discontinue production of
20 Flue-cured tobacco.

21 “(C) DURATION.—

22 “(i) IN GENERAL.—Except as pro-
23 vided in clause (ii)(I), payments under this
24 subsection shall be made for each of the

1 2003 and subsequent marketing years for
2 Flue-cured tobacco.

3 “(ii) EXCEPTION.—If a producer per-
4 manently transfers historic quota produc-
5 tion to another producer during any of the
6 2003 through 2009 marketing years for
7 Flue-cured tobacco, the producer may—

8 “(I) continue to receive payments
9 under this subsection through the
10 2009 marketing year for Flue-cured
11 tobacco; or

12 “(II) transfer the right to receive
13 payments under this subsection to the
14 producer to which the historic quota
15 production is transferred, who shall be
16 eligible for payments in accordance
17 with clause (i).

18 “(D) DEATH OF TOBACCO PRODUCER.—If
19 a tobacco producer who is entitled to receive
20 payments under this subsection dies and is sur-
21 vived by a spouse or 1 or more dependents, the
22 right to receive the payments shall transfer to
23 the surviving spouse or, if there is no surviving
24 spouse, to the immediate family members in
25 equal shares.

1 “(3) PURCHASE OF SURPLUS TOBACCO.—

2 “(A) IN GENERAL.—Subject to subpara-
 3 graphs (B) and (C), not later than the end of
 4 each marketing year, the Commodity Credit
 5 Corporation shall offer to purchase from each
 6 traditional producer, at the investment protec-
 7 tion price determined under subsection
 8 (a)(2)(B), any remaining stocks of Flue-cured
 9 tobacco that are produced by the producer from
 10 the historic quota production of the producer.

11 “(B) MAXIMUM QUANTITY PURCHASED
 12 WITH ASSESSMENTS.—Subject to subparagraph
 13 (C), the maximum quantity of Flue-cured to-
 14 bacco for a marketing year that may be pur-
 15 chased with assessments collected under section
 16 380k shall not exceed a quantity determined by
 17 the Secretary.

18 “(C) ADDITIONAL PURCHASES.—

19 “(i) IN GENERAL.—If the Secretary
 20 determines that the assessments collected
 21 pursuant to section 380k are not sufficient
 22 to purchase the quantity of tobacco re-
 23 quired to be purchased under subpara-
 24 graph (A), the Secretary may authorize the
 25 Commodity Credit Corporation to purchase

1 the additional quantity of tobacco required
2 to be purchased.

3 “(ii) REPAYMENTS.—Any funds of the
4 Commodity Credit Corporation used to
5 carry out clause (i) shall be repaid with as-
6 sessments collected pursuant to section
7 380k.

8 “(D) PROCEEDS OF SALE OF PURCHASED
9 TOBACCO.—Any amounts realized from the sale
10 of tobacco purchased under this paragraph shall
11 be used in accordance with section 380k.

12 “(c) RECORDS.—The Secretary and the Commodity
13 Credit Corporation may require persons to provide such
14 records relating to the marketing and purchase of Flue-
15 cured tobacco as are necessary to carry out this section.

16 “(d) PRODUCTION IN NONTRADITIONAL COUN-
17 TIES.—Any tobacco producer that plants Flue-cured to-
18 bacco in a nontraditional county during a marketing year
19 shall be—

20 “(1) ineligible, as to any commodity produced
21 during the marketing year on any farm in which the
22 producer has an interest, for—

23 “(A) any payment under this section; or

1 “(B) any payment or loan described in sec-
 2 tion 1211(a) of the Food Security Act of 1985
 3 (16 U.S.C. 3811(a)); and

4 “(2) subject to a fine assessed by the Secretary
 5 in an amount determined by the Secretary, in con-
 6 sultation with the Tobacco Advisory Board.

7 **“SEC. 380j. TOBACCO INVESTMENT PROTECTION PAY-**
 8 **MENTS FOR BURLEY AND OTHER KINDS OF**
 9 **TOBACCO.**

10 “(a) COUNTER-CYCLICAL PAYMENTS (TIPP 1).—

11 “(1) IN GENERAL.—The Secretary shall make
 12 available to each tobacco producer for each of the
 13 2003 and subsequent marketing years for Burley,
 14 dark air-cured, Virginia sun-cured, and Fire-cured
 15 tobacco (referred to in this section as ‘Burley and
 16 other kinds of tobacco’) a payment in an amount
 17 computed by multiplying—

18 “(A) the payment rate determined under
 19 paragraph (2); by

20 “(B) the payment quantity determined
 21 under paragraph (3).

22 “(2) PAYMENT RATE.—

23 “(A) IN GENERAL.—The payment rate for
 24 each of the 2003 and subsequent marketing
 25 years for Burley and other kinds of tobacco

1 under this subsection shall be the amount by
2 which—

3 “(i) the investment protection price
4 for Burley and other kinds of tobacco, re-
5 spectively, for the marketing year deter-
6 mined under subparagraph (B); exceeds

7 “(ii) the payment rate paid by a pur-
8 chaser for the Burley and other kinds of
9 tobacco, respectively.

10 “(B) INVESTMENT PROTECTION PRICE.—

11 “(i) IN GENERAL.—The investment
12 protection price for Burley and other kinds
13 of tobacco under this subsection shall be
14 established by the Secretary, and adjusted
15 annually, to reflect the costs of production
16 for producers of Burley and other kinds of
17 tobacco (on a per pound basis), respec-
18 tively, other than—

19 “(I) the cost of marketing Burley
20 and other kinds of tobacco, respec-
21 tively; and

22 “(II) the cost of leasing quota for
23 Burley and other kinds of tobacco, re-
24 spectively.

1 “(ii) DETERMINATION.—To determine
2 the cost of production of Burley and other
3 kinds of tobacco in the United States, the
4 Secretary shall use—

5 “(I) the information collection
6 and survey resources of the Economic
7 Research Service and National Agri-
8 cultural Statistics Service of the De-
9 partment of Agriculture; and

10 “(II) the most recent data avail-
11 able.

12 “(iii) REEVALUATION.—The Sec-
13 retary, acting through the Economic Re-
14 search Service, shall—

15 “(I) annually reevaluate the cost
16 of production of Burley and other
17 kinds of tobacco, based on the survey
18 of factors used by the Secretary; and

19 “(II) once every 5 years, conduct
20 the survey.

21 “(iv) CONSULTATION.—In deter-
22 mining the costs of production of Burley
23 and other kinds of tobacco, the Secretary
24 shall consult with—

25 “(I) farm organizations;

1 “(II) producer cooperatives and
2 associations;

3 “(III) colleges and universities in
4 tobacco-producing States; and

5 “(IV) other interested persons.

6 “(v) DISCOUNTS.—In the case of Bur-
7 ley and other kinds of tobacco that is grad-
8 ed less than the standard commercial
9 grade for Burley and other kinds of to-
10 bacco, respectively, established by the Sec-
11 retary, the Secretary shall reduce the in-
12 vestment protection price for Burley and
13 other kinds of tobacco, respectively, to re-
14 flect the lower quality of the tobacco.

15 “(3) PAYMENT QUANTITY.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graphs (B) through (D), a tobacco producer
18 shall be eligible for a payment under this sub-
19 section for any quantity of Burley and other
20 kinds of tobacco marketed by the producer.

21 “(B) INELIGIBLE PRODUCTION.—A to-
22 bacco producer shall be ineligible for any pay-
23 ment under this subsection for a marketing
24 year with respect to—

1 “(i) any Burley and other kinds of to-
2 bacco that is produced in a nontraditional
3 tobacco county;

4 “(ii) any additional production of
5 Burley and other kinds of tobacco during
6 the marketing year; or

7 “(iii) any pounds of Burley and other
8 kinds of tobacco that are marketed by the
9 tobacco producer at a grade that is—

10 “(I) below the minimum commer-
11 cial grade for Burley and other kinds
12 of tobacco, respectively, established by
13 the Secretary; and

14 “(II) in the case of Burley and
15 other kinds of tobacco marketed
16 under a contract, below the minimum
17 grade established by the contract.

18 “(C) DISASTERS.—If a tobacco producer
19 assigns historic quota production of Burley and
20 other kinds of tobacco for a marketing year to
21 a farm in a county and the county receives an
22 emergency disaster designation by the President
23 or the Secretary for the marketing year, the
24 Secretary may increase the payment quantity
25 for a payment made under this subsection to

1 the tobacco producer for the marketing year to
 2 reflect the loss of production of Burley and
 3 other kinds of tobacco, respectively.

4 “(D) MARKET CONDITIONS.—The Sec-
 5 retary may reduce the payment quantity for
 6 payments made to tobacco producers under this
 7 subsection to reflect the supply and demand
 8 conditions for Burley and other kinds of to-
 9 bacco.

10 “(b) DIRECT PAYMENTS (TIPP 2).—

11 “(1) IN GENERAL.—The Secretary shall make
 12 available to each producer of Burley and other kinds
 13 of tobacco a payment in an amount computed by
 14 multiplying—

15 “(A) 35 cents per pound; by

16 “(B) the historic quota production of Bur-
 17 ley and other kinds of tobacco, respectively, as-
 18 signed to a farm by the producer for the 2003
 19 marketing year pursuant to section 380h.

20 “(2) ELIGIBILITY.—

21 “(A) IN GENERAL.—Except as provided in
 22 subparagraph (B), a tobacco producer shall be
 23 eligible for a payment for a marketing year
 24 under this subsection only if the tobacco pro-
 25 ducer produces, or is considered to have pro-

duced, at least 75 percent of the historic quota production of Burley and other kinds of tobacco, respectively, assigned to a farm by the producer pursuant to section 380h that is eligible for a counter-cyclical payment under subsection (a).

“(B) PRODUCERS THAT DISCONTINUE PRODUCTION OF BURLEY AND OTHER KINDS OF TOBACCO.—Subparagraph (A) shall not apply to a tobacco producer that elects to discontinue production of Burley and other kinds of tobacco, respectively.

“(C) DURATION.—

“(i) IN GENERAL.—Except as provided in clause (ii)(I), payments under this subsection shall be made for each of the 2003 and subsequent marketing years for Burley and other kinds of tobacco.

“(ii) EXCEPTION.—If a producer permanently transfers historic quota production to another producer during any of the 2003 through 2009 marketing years for Burley and other kinds of tobacco, the producer may—

1 “(I) continue to receive payments
 2 under this subsection through the
 3 2009 marketing year for Burley and
 4 other kinds of tobacco; or

5 “(II) transfer the right to receive
 6 payments under this subsection to the
 7 producer to which the historic quota
 8 production is transferred, who shall be
 9 eligible for payments in accordance
 10 with clause (i).

11 “(D) DEATH OF TOBACCO PRODUCER.—If
 12 a tobacco producer who is entitled to receive
 13 payments under this subsection dies and is sur-
 14 vived by a spouse or 1 or more dependents, the
 15 right to receive the payments shall transfer to
 16 the surviving spouse or, if there is no surviving
 17 spouse, to the immediate family members in
 18 equal shares.

19 “(3) PURCHASE OF SURPLUS TOBACCO.—

20 “(A) IN GENERAL.—Subject to subpara-
 21 graphs (B) and (C), not later than the end of
 22 each marketing year, the Commodity Credit
 23 Corporation shall offer to purchase from each
 24 traditional producer, at the investment protec-
 25 tion price determined under subsection

1 (a)(2)(B), any remaining stocks of Burley and
2 other kinds of tobacco that are produced by the
3 producer from the historic quota production of
4 the producer.

5 “(B) MAXIMUM QUANTITY PURCHASED
6 WITH ASSESSMENTS.—Subject to subparagraph
7 (C), the maximum quantity of Burley and other
8 kinds of tobacco for a marketing year that may
9 be purchased with assessments collected under
10 section 380k shall not exceed a quantity deter-
11 mined by the Secretary.

12 “(C) ADDITIONAL PURCHASES.—

13 “(i) IN GENERAL.—If the Secretary
14 determines that the assessments collected
15 pursuant to section 380k are not sufficient
16 to purchase the quantity of tobacco re-
17 quired to be purchased under subpara-
18 graph (A), the Secretary may authorize the
19 Commodity Credit Corporation to purchase
20 the additional quantity of tobacco required
21 to be purchased.

22 “(ii) REPAYMENTS.—Any funds of the
23 Commodity Credit Corporation used to
24 carry out clause (i) shall be repaid with as-

1 assessments collected pursuant to section
2 380k.

3 “(D) PROCEEDS OF SALE OF PURCHASED
4 TOBACCO.—Any amounts realized from the sale
5 of tobacco purchased under this paragraph shall
6 be used in accordance with section 380k.

7 “(c) RECORDS.—The Secretary and the Commodity
8 Credit Corporation may require persons to provide such
9 records relating to the marketing and purchase of Burley
10 and other kinds of tobacco as are necessary to carry out
11 this section.

12 “(d) ADDITIONAL PRODUCTION AND PRODUCTION IN
13 NONTRADITIONAL COUNTIES.—Any tobacco producer
14 that markets any additional production of Burley and
15 other kinds of tobacco, or plants Burley and other kinds
16 of tobacco in a nontraditional county, during a marketing
17 year shall be—

18 “(1) ineligible, as to any commodity marketed
19 during the marketing year on any farm in which the
20 producer has an interest, for—

21 “(A) any payment under this section; or

22 “(B) any payment or loan described in sec-
23 tion 1211(a) of the Food Security Act of 1985
24 (16 U.S.C. 3811(a)); and

1 “(2) subject to a fine assessed by the Secretary
 2 in an amount determined by the Secretary, in con-
 3 sultation with the Tobacco Advisory Board.

4 **“SEC. 380k. ASSESSMENTS.**

5 “(a) ASSESSMENT ON SELLERS, PRODUCERS, AND
 6 PURCHASERS.—

7 “(1) IN GENERAL.—Effective for the 2003 and
 8 subsequent marketing years for each kind of covered
 9 tobacco, subject to paragraph (2), each person that
 10 sells in the United States cigarettes or smokeless to-
 11 bacco produced from covered tobacco, and each pro-
 12 ducer and purchaser of covered tobacco, shall remit
 13 to the Commodity Credit Corporation a nonrefund-
 14 able marketing assessment in an amount equal to—

15 “(A) in the case of a person that sells in
 16 the United States cigarettes produced (in whole
 17 or in part) from covered tobacco, 3 cents for
 18 each pack of cigarettes sold, as adjusted by the
 19 Secretary to enable the collection of a sufficient
 20 amount of funds to carry out this subsection;

21 “(B) in the case of a person that sells in
 22 the United States smokeless tobacco produced
 23 (in whole or in part) from covered tobacco, an
 24 amount determined by the Secretary that is
 25 based on ratio of—

1 “(i) the amount of excise taxes im-
2 posed on the sale of cigarettes under sec-
3 tion 5701(b) of the Internal Revenue Code
4 of 1986; to

5 “(ii) the amount of excise taxes im-
6 posed on the sale of smokeless tobacco
7 under section 5701(c) of that Code;

8 “(C) in the case of a producer of covered
9 tobacco, 1 cent for each pound of covered to-
10 bacco marketed; and

11 “(D) in the case of a purchaser of covered
12 tobacco, 1 cent for each pound of covered to-
13 bacco purchased.

14 “(2) REBATE.—A domestic manufacturer of
15 cigarettes or smokeless tobacco that purchases cov-
16 ered tobacco produced in the United States and uses
17 the tobacco to produce cigarettes or smokeless sold
18 in the United States shall be entitled to a rebate of
19 any assessment payable under paragraph (1)(D) in
20 an amount equal to 1 cent for each such pound of
21 covered tobacco purchased.

22 “(3) USE.—Assessments collected under this
23 subsection shall be used—

24 “(A) to make direct payments under sec-
25 tions 381i(b) and 381j(b);

1 “(B) to establish and operate marketing
 2 centers for covered tobacco in an amount not to
 3 exceed, for each kind of covered tobacco,
 4 \$1,500,000 for each of the 2003 through 2007
 5 fiscal years;

6 “(C) to establish and operate the Center
 7 for Agricultural Innovation in accordance under
 8 section 380m;

9 “(D) to purchase surplus tobacco under
 10 sections 380i(b)(4) and 380j(b)(4); and

11 “(E) to repay the Commodity Credit Cor-
 12 poration for the purchase of surplus tobacco
 13 under sections 380i(b)(4)(C)(ii) and
 14 380j(b)(4)(C)(ii).

15 “(4) NO NET COST TOBACCO FUND AND AC-
 16 COUNT.—Any funds that remain in the No Net Cost
 17 Tobacco Fund and the No Net Cost Tobacco Ac-
 18 count established under sections 106A and 106B of
 19 the Agricultural Act of 1949 (7 U.S.C. 1445–1,
 20 1445–2), respectively, after carrying out those sec-
 21 tions may be used to make direct payments under
 22 sections 381i(b) and 381j(b).

23 “(b) ASSESSMENT ON PRODUCERS FOR ADMINISTRA-
 24 TIVE COSTS.—

1 “(1) IN GENERAL.—Effective for the 2003 and
 2 subsequent marketing years for covered tobacco, in
 3 addition to the assessments imposed under sub-
 4 section (a) and subject to paragraph (2), each pro-
 5 ducer of covered tobacco shall remit to the Com-
 6 modity Credit Corporation a nonrefundable mar-
 7 keting assessment in an amount determined by the
 8 Secretary that, in the aggregate, will cover all ad-
 9 ministrative expenses incurred by the Secretary and
 10 the Corporation in carrying out sections 381i(b) and
 11 381j(b).

12 “(2) LIMITATION.—The amount of the assess-
 13 ment imposed under paragraph (1) shall not exceed
 14 1 cent for each pound of covered tobacco produced.

15 “(c) ASSESSMENT ON PURCHASERS FOR PUR-
 16 CHASING AT LESS THAN INVESTMENT PROTECTION
 17 PRICE.—Effective for the 2003 and subsequent marketing
 18 years for covered tobacco, each person that purchases a
 19 kind of covered tobacco (other than tobacco described in
 20 section 380i(a)(3)(B) or 380j(a)(3)(B)) at a price that is
 21 less than the investment protection price established for
 22 the kind of covered tobacco under section 380i(a)(2)(B)
 23 or 380j(a)(2)(B), as applicable, shall remit to the Com-
 24 modity Credit Corporation a nonrefundable marketing as-
 25 sessment in an amount equal to the difference—

1 “(1) the investment protection price for the
2 kind of covered tobacco (including any applicable in-
3 terest cost incurred by the Commodity Credit Cor-
4 poration); and

5 “(2) the purchase price for the kind of covered
6 tobacco.

7 “(d) ADMINISTRATION AND ENFORCEMENT OF AS-
8 SESSMENTS.—

9 “(1) ADMINISTRATION.—Assessments this sec-
10 tion shall be—

11 “(A) collected in the same manner as pro-
12 vided for in section 106A(d)(2) or 106B(d)(3)
13 of the Agricultural Act of 1949 (7 U.S.C.
14 1445–1(d)(2), 1445–2(d)(3)), as applicable;
15 and

16 “(B) enforced in the same manner as pro-
17 vided in section 106A(h) or 106B(j) of that
18 Act, as applicable.

19 “(2) ENFORCEMENT.—The Secretary may en-
20 force provisions of this section relating to assess-
21 ments in the courts of the United States.”.

1 **TITLE III—ADMINISTRATION**

2 **SEC. 301. ADMINISTRATION.**

3 Subtitle E of title III of the Agricultural Adjustment
4 Act of 1938 (as added by section 201) is amended by add-
5 ing at the end the following:

6 **“CHAPTER 3—ADMINISTRATION**

7 **“SEC. 380m. CENTER FOR AGRICULTURAL INNOVATION.**

8 “(a) ESTABLISHMENT.—

9 “(1) IN GENERAL.—There is authorized to be
10 established a nonprofit corporation, to be known as
11 the ‘Center for Agricultural Innovation’, which will
12 not be an agency or establishment of the United
13 States Government.

14 “(2) LAWS.—The Center shall be subject to—

15 “(A) this section; and

16 “(B) to the extent consistent with this sec-
17 tion, the laws (including regulations) of the
18 State where the Center is incorporated applica-
19 ble to nonprofit corporations.

20 “(3) LOCATION.—The Center shall be located
21 at a land-grant college or university in a traditional
22 tobacco quota State (as defined by the Secretary).

23 “(b) BOARD OF DIRECTORS.—

24 “(1) COMPOSITION.—

1 “(A) IN GENERAL.—The Center shall have
 2 a Board of Directors consisting of 7 members,
 3 of which—

4 “(i) 6 members shall be appointed by
 5 the President, by and with the advice and
 6 consent of the Senate; and

7 “(ii) 1 member shall be appointed by
 8 the other members of the Board, who shall
 9 serve as Executive Director of the Center.

10 “(B) POLITICAL PARTY.—Of the members
 11 appointed by the President under subparagraph
 12 (A)(i), not more than 3 of the members may be
 13 members of the same political party.

14 “(C) QUALIFICATIONS.—Each member of
 15 the Board appointed by the President under
 16 subparagraph (A)(i) shall—

17 “(i) be a citizen of the United States;

18 “(ii) have knowledge and experience
 19 regarding the matters for which the Center
 20 is responsible; and

21 “(iii) be eminent in issues related to
 22 the duties of the Center under subsection
 23 (e).

24 “(2) DUTIES OF INITIAL BOARD.—The mem-
 25 bers of the initial Board of Directors shall—

1 “(A) serve as incorporators; and

2 “(B) take whatever actions are necessary
3 to establish the Center under the laws (includ-
4 ing regulations) of the State where the Center
5 is incorporated.

6 “(3) TERMS.—

7 “(A) IN GENERAL.—The term of office of
8 each member of the Board appointed by the
9 President shall be 4 years, except that of the
10 members initially appointed, 3 members shall
11 serve for a 2-year term.

12 “(B) EXPIRATION OF TERM.—Any member
13 whose term has expired may serve until the suc-
14 cessor of the member has taken office or until
15 the end of the calendar year in which the term
16 of the member has expired, whichever is earlier.

17 “(C) VACANCIES.—

18 “(i) IN GENERAL.—Any member ap-
19 pointed to fill a vacancy occurring prior to
20 the expiration of the term for which the
21 predecessor of the member was appointed
22 shall be appointed for the remainder of the
23 term.

24 “(ii) POWERS.—Any vacancy on the
25 Board shall not affect the powers of the

1 Board and shall be filled in a manner con-
2 sistent with this section.

3 “(D) CONSECUTIVE TERMS.—No member
4 of the Board shall be eligible to serve in excess
5 of 2 consecutive full terms.

6 “(4) MEETINGS.—

7 “(A) IN GENERAL.—A member of the
8 Board shall attend not less than 50 percent of
9 all meetings of the Board in any calendar year.

10 “(B) FAILURE TO ATTEND MEETINGS.—If
11 a member fails to meet the requirement of sub-
12 paragraph (A)—

13 “(i) the member shall forfeit member-
14 ship on the Board; and

15 “(ii) not later than 30 days after the
16 vacancy is determined by the Chairperson
17 of the Board, the President shall appoint a
18 new member to fill the vacancy.

19 “(C) PUBLIC MEETINGS.—All meetings of
20 the Board, including any committee of the
21 Board, shall be open to the public.

22 “(5) ADMINISTRATION.—

23 “(A) CHAIRPERSON AND VICE CHAIR-
24 PERSON.—Members of the Board shall annually
25 elect—

1 “(i) 1 member of the Board to serve
2 as Chairperson; and

3 “(ii) 1 or more members of the Board
4 to serve as Vice Chairpersons.

5 “(B) NONFEDERAL EMPLOYEES.—A mem-
6 ber of the Board shall not, by reason of mem-
7 bership on the Board, be an officer or employee
8 of the United States.

9 “(C) COMPENSATION.—

10 “(i) IN GENERAL.—Subject to clause
11 (ii), a member of the Board shall, while at-
12 tending a meeting of the Board or while
13 engaged in duties related to the meeting or
14 other activities of the Board pursuant to
15 this section, be entitled to receive com-
16 pensation at the rate of \$150 per day, in-
17 cluding travel time.

18 “(ii) LIMITATION.—No member of the
19 Board shall receive compensation of more
20 than \$10,000 for any fiscal year.

21 “(D) EXPENSES.—While away from the
22 home or regular place of business, a member of
23 the Board shall be allowed travel and actual,
24 reasonable, and necessary expenses.

25 “(c) OFFICERS AND EMPLOYEES.—

1 “(1) IN GENERAL.—Subject to paragraph (2),
2 the Center shall have a President, and such other of-
3 ficers and employees as may be appointed by the
4 Board, for terms and at rates of compensation fixed
5 by the Board.

6 “(2) COMPENSATION LIMITATION.—No officer
7 or employee of the Corporation may be compensated
8 by the Corporation at an annual rate of pay that ex-
9 ceeds the rate of basic pay in effect for level I of the
10 Executive Schedule under section 5312 of title 5,
11 United States Code.

12 “(3) CITIZENSHIP.—To be eligible to be an offi-
13 cer or employee of the Center, an individual shall be
14 a citizen of the United States.

15 “(4) OTHER COMPENSATION.—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B), no officer or employee of the
18 Center, other than the Chairperson or Vice
19 Chairperson, may receive any salary or other
20 compensation from any sources other than the
21 Center for services rendered during the period
22 of employment by the Center.

23 “(B) EXCEPTIONS.—With the advance ap-
24 proval of the Board and subject to ethical
25 guidelines established by the Board, an officer

1 or employee of the Center may receive com-
 2 pensation for—

3 “(i) service on a board of directors of
 4 an organization that does not receive funds
 5 from the Center;

6 “(ii) service on a committee of a
 7 board described in clause (i); and

8 “(iii) similar activities for an organi-
 9 zation described in clause (i).

10 “(5) TENURE.—An officer or employee of the
 11 Center shall serve at the pleasure of the Board.

12 “(6) NONPOLITICAL POSITION.—Except as pro-
 13 vided in subsection (b)(1)(B), no political test or
 14 qualification shall be used in selecting, appointing,
 15 promoting, or taking other personnel actions with re-
 16 spect to an officer, employee, or agent of the Center.

17 “(d) NONPROFIT AND NONPOLITICAL NATURE OF
 18 THE CENTER.—

19 “(1) NO STOCK OR DIVIDENDS.—The Center
 20 shall have no power to issue any shares of stock or
 21 to declare or pay any dividends.

22 “(2) USE OF INCOME OR ASSETS.—No part of
 23 the income or assets of the Center shall inure to the
 24 benefit of any director, officer, employee, or any

1 other individual except as salary or reasonable com-
2 pensation for services.

3 “(3) POLITICAL CONTRIBUTIONS.—The Center
4 may not contribute to or otherwise support any po-
5 litical party or candidate for elective public office.

6 “(e) DUTIES.—

7 “(1) IN GENERAL.—The Center shall coordi-
8 nate work among land-grant colleges and univer-
9 sities in the Southeast area of the United States to
10 foster and facilitate development, evaluation, and
11 implementation of economically viable new agricul-
12 tural technologies and enterprises for rural commu-
13 nities.

14 “(2) TOBACCO-DEPENDENT COMMUNITIES.—In
15 carrying out paragraph (1), the Center shall give
16 priority to developing technologies and enterprises
17 described in paragraph (1) in tobacco-dependent
18 communities.

19 “(3) POWERS.—In carrying out paragraph (1),
20 the Center may—

21 “(A) convene meetings and conduct work-
22 shops and conferences;

23 “(B) serve as a clearinghouse for exchange
24 of information;

1 “(C) hire or accept the voluntary services
2 of consultants, experts, advisory boards, and
3 panels to aid the Center in carrying out this
4 section;

5 “(D) accept bequests, donations, and other
6 forms of assistance; and

7 “(E) take such other actions as are nec-
8 essary to carry out this section.

9 “(4) NO FEDERAL FUNDS.—Subject to sub-
10 section (h), nothing in this subsection commits the
11 Federal Government to provide any funds for the
12 payment of any obligation of the Center.

13 “(5) CUSTOMARY POWERS.—To carry out this
14 subsection, the Center shall have the customary pow-
15 ers conferred on a nonprofit corporation by applica-
16 ble laws (including regulations) of the State where
17 the Center is incorporated, except that the Center
18 shall not own or operate any tobacco-related inter-
19 est.

20 “(f) ANNUAL REPORT.—

21 “(1) IN GENERAL.—Not later than May 15 of
22 each year, the Center shall submit an annual report
23 for the preceding fiscal year ending September 30 to
24 the President for transmittal to Congress.

25 “(2) CONTENTS.—The report shall include—

1 “(A) a comprehensive and detailed report
 2 of the operations, activities, financial condition,
 3 and accomplishments of the Center under this
 4 section and such recommendations as the Cen-
 5 ter considers appropriate; and

6 “(B) a listing of each organization that re-
 7 ceives a grant from the Center and the purpose
 8 and amount of each grant.

9 “(3) CONGRESSIONAL TESTIMONY.—An officer
 10 or employee of the Center shall be available to tes-
 11 tify before an appropriate committee of Congress
 12 with respect to—

13 “(A) the report required under paragraph
 14 (1);

15 “(B) the report of any audit made by the
 16 Comptroller General of the United States pur-
 17 suant to this section; or

18 “(C) any other matter that the committee
 19 may determine.

20 “(g) FINANCIAL MANAGEMENT AND RECORDS.—

21 “(1) INDEPENDENT ANNUAL AUDITS.—

22 “(A) IN GENERAL.—The accounts of the
 23 Center shall be audited annually in accordance
 24 with generally accepted auditing standards by 1
 25 or more independent certified public account-

1 ants or independent licensed public accountants
2 certified or licensed by a regulatory authority of
3 a State or political subdivision of a State.

4 “(B) LOCATION.—The audit shall be con-
5 ducted at the 1 or more places where the ac-
6 counts of the Center are normally kept.

7 “(C) INFORMATION AND FACILITIES.—The
8 1 or more persons conducting the audit shall—

9 “(i) have access to all books, accounts,
10 records, reports, files, and other papers,
11 things, or property belonging to or in use
12 by the Center and necessary to facilitate
13 the audit, which shall remain in the pos-
14 session and custody of the Center; and

15 “(ii) be provided full facilities for
16 verifying transactions with the balances or
17 securities held by depositories, fiscal
18 agents, and custodians.

19 “(D) ANNUAL REPORT.—The report of
20 each independent audit conducted under this
21 paragraph shall be included in the annual re-
22 port required by subsection (f)(1).

23 “(E) CONTENTS.—The audit report
24 shall—

1 “(i) provide a description of the scope
2 of the audit;

3 “(ii) include such statements as are
4 necessary to analyze the assets and liabil-
5 ities (including any surplus or deficit) of
6 the Center, with an analysis of the changes
7 in the assets, liabilities, and expenses dur-
8 ing the applicable year; and

9 “(iii) provide a statement of the
10 sources and application of funds, together
11 with the opinion of the independent audi-
12 tor of the statement.

13 “(2) AUDITS BY GENERAL ACCOUNTING OF-
14 FICE.—

15 “(A) IN GENERAL.—The financial trans-
16 actions of the Center for any fiscal year during
17 which Federal funds are available to finance
18 any portion of the operations of the Center may
19 be audited by the General Accounting Office in
20 accordance with the principles and procedures
21 applicable to commercial corporate transactions
22 and under such rules and regulations as may be
23 prescribed by the Comptroller General of the
24 United States.

1 “(B) LOCATION.—The audit shall be con-
 2 ducted at the 1 or more places where accounts
 3 of the Center are normally kept.

4 “(C) INFORMATION AND FACILITIES.—The
 5 representatives of the General Accounting Of-
 6 fice conducting the audit shall—

7 “(i) have access to all books, accounts,
 8 records, reports, files, and other papers,
 9 things, or property belonging to or in use
 10 by the Center and necessary to facilitate
 11 the audit, which shall remain in the pos-
 12 session and custody of the Center; and

13 “(ii) be provided full facilities for
 14 verifying transactions with the balances or
 15 securities held by depositories, fiscal
 16 agents, and custodians.

17 “(D) REPORT.—

18 “(i) IN GENERAL.—A report of each
 19 audit conducted under this paragraph shall
 20 be made by the Comptroller General to
 21 Congress.

22 “(ii) CONTENTS.—The report shall
 23 contain—

24 “(I) such comments and informa-
 25 tion as the Comptroller General deter-

1 mines necessary to inform Congress of
2 the financial operations and condition
3 of the Center;

4 “(II) such recommendations with
5 respect to the operations and condi-
6 tion as the Comptroller General may
7 consider advisable; and

8 “(III) a description of any pro-
9 gram, expenditure, or other financial
10 transaction or undertaking observed
11 in the course of the audit, that, in the
12 opinion of the Comptroller General,
13 has been carried on or made without
14 authority of law.

15 “(iii) COPIES.—At the time the report
16 is submitted to Congress, a copy of the re-
17 port shall be furnished to the President,
18 the Secretary, and the Center.

19 “(3) ACCOUNTING.—

20 “(A) IN GENERAL.—Not later than 1 year
21 after the date of enactment of this section, in
22 consultation with the Comptroller General and
23 other appropriate persons, the Center shall de-
24 velop accounting principles that shall be used
25 uniformly by all individuals and entities receiv-

1 ing funds under this section, taking into ac-
2 count organizational differences among various
3 categories of the individuals and entities.

4 “(B) SCOPE.—The principles shall cover
5 all funds received and expended by the individ-
6 uals or entities under this section.

7 “(C) REQUIREMENTS.—Each individual
8 and entity receiving funds under this section
9 shall be required—

10 “(i) to keep its books, records, and ac-
11 counts in such form as may be required by
12 the Center;

13 “(ii)(I) to undergo a biennial audit by
14 independent certified public accountants or
15 independent licensed public accountants
16 certified or licensed by a regulatory au-
17 thority of a State, which audit shall be in
18 accordance with auditing standards devel-
19 oped by the Center; or

20 “(II) to submit a financial statement
21 in lieu of the audit required by subclause
22 (I) if the Center determines that the cost
23 of the audit imposed on the individual or
24 entity is excessive in light of the financial
25 condition of the individual or entity; and

1 “(iii) to furnish biennially to the
2 Center—

3 “(I) a copy of the audit report
4 required under clause (ii); and

5 “(II) such other information re-
6 garding finances (including an annual
7 financial report) as the Center may
8 require.

9 “(D) MAINTENANCE OF RECORDS BY RE-
10 CIPIENTS.—Any recipient of assistance by grant
11 under this section shall keep—

12 “(i) such records as may be reason-
13 ably necessary to disclose fully—

14 “(I) the amount and the disposi-
15 tion by the recipient of the assistance;

16 “(II) the total cost of the project
17 or undertaking in connection with
18 which the assistance is given or used;
19 and

20 “(III) the amount and nature of
21 that portion of the cost of the project
22 or undertaking supplied by other
23 sources; and

24 “(ii) such other records as will facili-
25 tate an effective audit.

1 “(E) ACCESS TO RECIPIENT RECORDS.—

2 “(i) CENTER.—The Center (including
3 an authorized representative) shall have
4 access to any books, documents, papers,
5 and records of any recipient of assistance
6 for the purpose of auditing and examining
7 all funds received or expended by the re-
8 cipient under this section.

9 “(ii) COMPTROLLER GENERAL.—The
10 Comptroller General of the United States
11 (including an authorized representative)
12 shall have access to such books, docu-
13 ments, papers, and records for the purpose
14 of auditing and examining all funds re-
15 ceived or expended under this section dur-
16 ing any fiscal year for which Federal funds
17 are available to the Center.

18 “(4) PUBLIC ACCESS.—

19 “(A) IN GENERAL.—The Center shall
20 maintain the information described in subpara-
21 graphs (C), (D), and (E) of paragraph (3) at
22 the offices of the Center for public inspection
23 and copying for at least 3 years, according to
24 such reasonable guidelines as the Center may
25 issue.

1 “(B) UPDATES.—The Center shall regu-
2 larly update the information.

3 “(C) APPLICABILITY.—This paragraph
4 shall apply to all assistance provided under this
5 section after the date of enactment of this sec-
6 tion.

7 “(h) FUNDING.—

8 “(1) IN GENERAL.—Of the assessments col-
9 lected under section 380k(a), the Commodity Credit
10 Corporation shall transfer to the Center to carry out
11 this section not less than \$10,000,000 for fiscal year
12 2003 and each subsequent fiscal year.

13 “(2) AVAILABILITY.—Funds appropriated
14 under this subsection shall remain available until ex-
15 pended.

16 “(3) DISTRIBUTION.—Funds made available
17 under this subsection shall be disbursed by the Sec-
18 retary on a fiscal year basis.

19 “(4) ANNUAL BUDGET.—The Center shall es-
20 tablish an annual budget for use in allocating
21 amounts made available to the Center under this
22 subsection.

1 **“SEC. 380n. TOBACCO ADVISORY BOARD.**

2 “(a) ESTABLISHMENT.—There is established, within
3 the Department of Agriculture, a Tobacco Advisory
4 Board.

5 “(b) MEMBERSHIP.—

6 “(1) IN GENERAL.—The Advisory Board shall
7 consist of 13 members appointed by the Secretary,
8 including—

9 “(A) 6 active growers of covered tobacco,
10 including—

11 “(i) 2 active growers of Flue-cured to-
12 bacco;

13 “(ii) 2 active growers of Burley-to-
14 bacco;

15 “(iii) 1 active growers of Fire-cured
16 tobacco; and

17 “(iv) 1 other active grower of covered
18 tobacco;

19 “(B) 6 representatives of the tobacco in-
20 dustry, including—

21 “(i) 4 domestic manufacturers of ciga-
22 rettes produced from covered tobacco;

23 “(ii) 1 export dealer of products pro-
24 duced from covered tobacco; and

1 “(iii) 1 domestic manufacturer of
2 smokeless tobacco produced from covered
3 tobacco; and

4 “(C) the Secretary or the designee of the
5 Secretary, who shall serve as chairperson.

6 “(2) TERM.—A member of the Advisory shall
7 serve for a term determined by the Secretary at the
8 time of appointment.

9 “(3) COMPENSATION.—A member of the Advi-
10 sory Board shall receive no compensation for the
11 service of the member on the Advisory Board, other
12 than reimbursement for per diem and travel-related
13 expenses.

14 “(c) DUTIES.—The Advisory Board shall advise—

15 “(1) the Secretary on implementation of this
16 subtitle; and

17 “(2) the heads of other Federal agencies on the
18 economic and technical feasibility of actions that the
19 agencies are considering regarding tobacco produc-
20 tion and product control.

21 “(d) AGENCIES.—The Secretary, the Administrator
22 of the Environmental Protection Agency, the Commis-
23 sioner of Food and Drugs, the United States Trade Rep-
24 resentative, and the heads of other agencies with respon-
25 sibilities related to tobacco production and product control

1 shall ensure that mechanisms are in place for the Advisory
 2 Board to provide its advice and assistance regarding ac-
 3 tions described in subsection (c).

4 “(e) FEDERAL ADVISORY COMMITTEE ACT.—The
 5 Federal Advisory Committee Act (5 U.S.C. App) shall not
 6 apply to the Advisory Board.”.

7 **TITLE IV—TERMINATION OF**
 8 **MARKETING QUOTAS FOR**
 9 **CERTAIN TOBACCO**

10 **SEC. 401. DEFINITIONS.**

11 (a) IN GENERAL.—Section 301 of the Agricultural
 12 Adjustment Act of 1938 (7 U.S.C. 1301) is amended—

13 (1) in paragraph (14), by striking subpara-
 14 graphs (C) and (D);

15 (2) in paragraph (15), by striking “Flue-cured
 16 tobacco,” and all that follows through “Burley to-
 17 bacco, comprising type 31;” and

18 (3) by striking “demand: *Provided further*,” and
 19 all that follows through the period at the end and
 20 inserting a period.

21 (b) COVERED TOBACCO.—Part I of subtitle B of title
 22 III of the Agricultural Adjustment Act of 1938 is amended
 23 by inserting before section 311 (7 U.S.C. 1311) the fol-
 24 lowing:

1 **“SEC. 310. DEFINITION OF COVERED TOBACCO.**

2 “In this part, the term ‘covered tobacco’ means—

3 “(1) Maryland tobacco;

4 “(2) cigar-filler and cigar-binder tobacco; and

5 “(3) cigar-filler tobacco.”.

6 **SEC. 402. NATIONAL MARKETING QUOTA.**

7 Section 312 of the Agricultural Adjustment Act of
8 1938 (7 U.S.C. 1312) is amended—

9 (1) in subsection (a), by striking “December 1”
10 and all that follows through “other kinds of to-
11 bacco” and inserting “March 1 of any marketing
12 year with respect to covered tobacco”; and

13 (2) in the first sentence of subsection (b), by
14 striking “the first day of December” and all that fol-
15 lows through “other kinds of tobacco” and inserting
16 “March 1 with respect to covered tobacco”.

17 **SEC. 403. APPORTIONMENT OF NATIONAL MARKETING**
18 **QUOTA.**

19 Section 313 of the Agricultural Adjustment Act of
20 1938 (7 U.S.C. 1313) is amended—

21 (1) in subsection (a)—

22 (A) by striking “quota: *Provided*,” and all
23 that follows through “acre: *And provided fur-*
24 *ther*, That” and inserting “quota, except that”;
25 and

1 (B) by striking “practices: *And provided*
 2 *further,*” and all that follows and inserting
 3 “practices.”;

4 (2) in the proviso of subsection (b), by striking
 5 “(1)” and all that follows through “or (2)” and in-
 6 serting “(1) 2,400 pounds, in the case of covered to-
 7 bacco, or (2)”;

8 (3) by striking subsection (e); and

9 (4) in paragraph (2) of the third sentence of
 10 subsection (g), by striking “three thousand” and all
 11 that follows through “tobacco: *Provided, That*” and
 12 inserting “2,400 pounds, in the case of covered to-
 13 bacco, except that”.

14 **SEC. 404. BURLEY TOBACCO ACREAGE ALLOTMENTS.**

15 The Act entitled “An Act relating to burley tobacco
 16 farm acreage allotments under the Agricultural Adjust-
 17 ment Act of 1938, as amended”, approved July 12, 1952
 18 (7 U.S.C. 1315), is repealed.

19 **SEC. 405. LEASE AND TRANSFER OF ACREAGE ALLOT-**
 20 **MENTS.**

21 Section 316 of the Agricultural Adjustment Act of
 22 1938 (7 U.S.C. 1314b) is amended—

23 (1) by striking the section heading and all that
 24 follows through “(A)(i) The” and inserting the fol-
 25 lowing:

1 **“SEC. 316. LEASE AND TRANSFER OF ACREAGE ALLOT-**
 2 **MENTS.**

3 “(a) IN GENERAL.—Notwithstanding any other pro-
 4 vision of law, the”;

5 (2) in subsection (a)—

6 (A) by striking “Burley, Flue-cured, dark
 7 air-cured, Fire-cured, Virginia sun-cured and”;
 8 and

9 (B) by striking “(ii) The Secretary” and
 10 all that follows;

11 (3) in subsection (e)—

12 (A) by striking paragraph (2); and

13 (B) by redesignating paragraph (3) as
 14 paragraph (2); and

15 (4) by striking subsection (g) through the end
 16 of the section.

17 **SEC. 406. MANDATORY SALE OF FLUE-CURED TOBACCO**
 18 **ACREAGE ALLOTMENTS AND MARKETING**
 19 **QUOTAS.**

20 Section 316A of the Agricultural Adjustment Act of
 21 1938 (7 U.S.C. 1314b–1) is repealed.

22 **SEC. 407. MANDATORY SALE OF BURLEY TOBACCO ACRE-**
 23 **AGE ALLOTMENTS AND MARKETING QUOTAS.**

24 Section 316B of the Agricultural Adjustment Act of
 25 1938 (7 U.S.C. 1314b–2) is repealed.

1 **SEC. 408. ACREAGE—POUNDAGE QUOTAS.**

2 Section 317 of the Agricultural Adjustment Act of
3 1938 (7 U.S.C. 1314c) is amended—

4 (1) in subsection (a)—

5 (A) in paragraph (1)—

6 (i) by striking “(1)(A)” and inserting

7 “(1)”; and

8 (ii) by striking subparagraphs (B) and

9 (C);

10 (B) in paragraph (2), by striking the last
11 sentence;

12 (C) in paragraph (4), by striking the sec-
13 ond and third sentences; and

14 (D) by striking paragraph (5) and all that
15 follows through the end of the first sentence of
16 paragraph (6)(B) and inserting the following:

17 “(5) COMMUNITY AVERAGE YIELD.—The term
18 ‘community average yield’ means, for covered to-
19 bacco, the average yield per acre in the community
20 designated by the Secretary as a local administrative
21 area under section 8(b) of the Soil Conservation and
22 Domestic Allotment Act (16 U.S.C. 590h(b)), which
23 is determined by averaging the yields per acre for
24 the 3 highest years of the 1960 through 1964 crop
25 years, except that if the yield for any of the 3 high-
26 est years is less than 80 percent of the average for

the 3 years, that 1 or more years shall be eliminated and the average of the remaining years shall be the community average yield.

“(6) PRELIMINARY FARM YIELD.—

“(A) IN GENERAL.—The term ‘preliminary farm yield’ for covered tobacco means a farm yield per acre determined by averaging the yield per acre for the 3 highest years of the immediately preceding 5 crops year, except that—

“(i) if that average exceeds 120 percent of the community average yield the preliminary farm yield shall be the sum of 50 percent of the average of the 3 highest years and 50 percent of the national average yield goal but not less than 120 percent of the community average yield; and

“(ii) if the average of the 3 highest years is less than 80 percent of the community average yield the preliminary farm yield shall be 80 percent of the community average yield.

“(B) ADMINISTRATION.—”;

(2) by striking subsection (b);

(3) in the first sentence of subsection (c)—

1 (A) by striking “, including Flue-cured to-
2 bacco,”; and

3 (B) in the proviso, by striking “except
4 Flue-cured tobacco”;
5 (4) in subsection (d)—

6 (A) in the first sentence, by striking “De-
7 cember 15 of any marketing year with respect
8 to Flue-cured tobacco, and March 1 with re-
9 spect to other kinds of tobacco” and inserting
10 “March 1 with respect to covered tobacco”;

11 (B) by striking the second and fourth sen-
12 tences;

13 (C) in the eighth sentence, by striking “the
14 December 15 with respect to Flue-cured to-
15 bacco and the March 1 with respect to other
16 kinds of tobacco” and inserting “the March 1
17 with respect to covered tobacco”; and

18 (D) by striking the last 2 sentences;

19 (5) in subsection (f), by striking the last sen-
20 tence;

21 (6) in subsection (g)(1), by striking “(120 per
22 centum” and all that follows through “section”;

23 (7) by striking subsections (h), (i), (k), and (l);
24 and

1 (8) by redesignating subsection (j) as sub-
2 section (h).

3 **SEC. 409. SALE OR LEASE OF ACREAGE ALLOTMENTS.**

4 Section 318 of the Agricultural Adjustment Act of
5 1938 (7 U.S.C. 1314d) is repealed.

6 **SEC. 410. FARM POUNDAGE QUOTAS FOR CERTAIN KINDS**
7 **OF TOBACCO.**

8 (a) IN GENERAL.—Section 319 of the Agricultural
9 Adjustment Act of 1938 (7 U.S.C. 1314e) is repealed.

10 (b) CONFORMING AMENDMENT.—Section 378 of the
11 Agricultural Adjustment Act of 1938 (7 U.S.C. 1378) is
12 amended by striking subsection (f).

13 **SEC. 411. IMPROVED TOBACCO FIELD MEASUREMENT.**

14 Section 1112(c) of the Omnibus Budget Reconcili-
15 ation Act of 1987 (Public Law 100–203; 101 Stat. 1330–
16 8) is amended in the first sentence by striking “cigar and
17 dark-air and fire-cured tobaccos” and inserting “cigar to-
18 bacco”.

19 **TITLE V—ADMINISTRATION**

20 **SEC. 501. MARKETING YEARS.**

21 Except as otherwise provided in this Act, this Act and
22 the amendments made by this Act apply beginning with
23 the marketing year for the 2003 crop of each kind of to-
24 bacco.

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