

108TH CONGRESS
1ST SESSION

H. R. 3160

To eliminate the Federal quota and price support programs for tobacco, to provide transitional assistance to tobacco quota holders and traditional producers of tobacco affected by the elimination of these programs, to ensure the future quality and availability of United States-grown tobacco, to protect against the disruption of tobacco markets, to establish a trust fund to finance this Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2003

Mr. FLETCHER (for himself, Mr. MCINTYRE, Mr. GOODE, Mr. ETHERIDGE, Mr. BALLANCE, Mr. BALLENGER, Mr. BARRETT of South Carolina, Mr. BISHOP of Georgia, Mrs. BLACKBURN, Mr. BOUCHER, Mr. BOYD, Mr. BROWN of South Carolina, Mr. CLYBURN, Mr. COLLINS, Mr. COOPER, Mr. DAVIS of Tennessee, Mr. TOM DAVIS of Virginia, Mr. DEMINT, Mr. GORDON, Mr. HAYES, Mr. HILL, Mr. KINGSTON, Mr. LEWIS of Kentucky, Mr. LUCAS of Kentucky, Mr. MARSHALL, Mr. MILLER of North Carolina, Mr. NORWOOD, Mr. PETERSON of Minnesota, Mr. PRICE of North Carolina, Mr. ROGERS of Kentucky, Mr. SCOTT of Georgia, Mr. SPRATT, Mr. THOMPSON of Mississippi, Mr. WAMP, Mr. WHITFIELD, Mr. WILSON of South Carolina, Mr. DUNCAN, Mr. MURTHA, and Mr. ISAKSON) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To eliminate the Federal quota and price support programs for tobacco, to provide transitional assistance to tobacco quota holders and traditional producers of tobacco affected by the elimination of these programs, to ensure the future quality and availability of United States-grown tobacco, to protect against the disruption of tobacco mar-

kets, to establish a trust fund to finance this Act, 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 “Tobacco Reduction, Accountability, and Community En-
6 hancement Act of 2003”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Termination of tobacco production adjustment programs.
- Sec. 3. Termination of tobacco price support program.
- Sec. 4. Liability.
- Sec. 5. Replacement tobacco assistance programs.
- Sec. 6. Regulations.
- Sec. 7. Severability.
- Sec. 8. Effective date.

9 **SEC. 2. TERMINATION OF TOBACCO PRODUCTION ADJUST-
10 MENT PROGRAMS.**

11 (a) TOBACCO STANDARDS.—The Tobacco Inspection
12 Act (7 U.S.C. 511 et seq.) is repealed.

13 (b) TOBACCO FIELD MEASUREMENT.—Section 1112
14 of the Omnibus Budget Reconciliation Act of 1987 (Public
15 Law 100–203) is amended by striking subsection (c).

16 (c) TOBACCO INSPECTIONS.—Section 213 of the To-
17 bacco Adjustment Act of 1983 (7 U.S.C. 511r) is repealed.

1 (d) TOBACCO CONTROL.—The Act of April 25, 1936
2 (commonly known as the Tobacco Control Act; 7 U.S.C.
3 515 et seq.), is repealed.

4 (e) COMMODITY HANDLING ORDERS.—Section
5 8c(2)(A) of the Agricultural Adjustment Act (7 U.S.C.
6 608c(2)(A)), reenacted with amendments by the Agricul-
7 tural Marketing Agreement Act of 1937, is amended by
8 striking “tobacco.”.

9 (f) PROCESSING TAX.—Section 9(b) of the Agricul-
10 tural Adjustment Act (7 U.S.C. 609(b)), reenacted with
11 amendments by the Agricultural Marketing Agreement
12 Act of 1937, is amended—

13 (1) in paragraph (2), by striking “tobacco,”;
14 and

15 (2) in paragraph (6)(B)(i), by striking “, or, in
16 the case of tobacco, is less than the fair exchange
17 value by not more than 10 per centum.”.

18 (g) BURLEY TOBACCO IMPORT REVIEW.—Section 3
19 of Public Law 98-59 (7 U.S.C. 625) is repealed.

20 (h) DECLARATION OF POLICY.—Section 2 of the Ag-
21 ricultural Adjustment Act of 1938 (7 U.S.C. 1282) is
22 amended by striking “tobacco.”.

23 (i) DEFINITIONS.—Section 301(b) of the Agricultural
24 Adjustment Act of 1938 (7 U.S.C. 1301(b)) is amended—

25 (1) in paragraph (3)—

1 (A) by striking subparagraph (C); and
2 (B) by redesignating subparagraph (D) as
3 subparagraph (C);
4 (2) in paragraph (6)(A), by striking “tobacco,”;
5 (3) in paragraph (10)—
6 (A) by striking subparagraph (B); and
7 (B) by redesignating subparagraph (C) as
8 subparagraph (B);
9 (4) in paragraph (11)(B), by striking “and to-
10 bacco”;
11 (5) in paragraph (12), by striking “tobacco,”;
12 (6) in paragraph (14)—
13 (A) in subparagraph (A), by striking
14 “(A)”;
15 (B) by striking subparagraphs (B), (C),
16 and (D);
17 (7) by striking paragraph (15);
18 (8) in paragraph (16)—
19 (A) by striking subparagraph (B); and
20 (B) by redesignating subparagraph (C) as
21 subparagraph (B);
22 (9) by striking paragraph (17); and
23 (10) by redesignating paragraph (16) as para-
24 graph (15).

1 (j) PARITY PAYMENTS.—Section 303 of the Agricul-
2 tural Adjustment Act of 1938 (7 U.S.C. 1303) is amended
3 in the first sentence by striking “rice, or tobacco,” and
4 inserting “or rice.”.

5 (k) MARKETING QUOTAS.—Part I of subtitle B of
6 title III of the Agricultural Adjustment Act of 1938 (7
7 U.S.C. 1311 et seq.) is repealed.

8 (l) ADMINISTRATIVE PROVISIONS.—Section 361 of
9 the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361)
10 is amended by striking “tobacco.”.

11 (m) ADJUSTMENT OF QUOTAS.—Section 371 of the
12 Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is
13 amended—

14 (1) in the first sentence of subsection (a), by
15 striking “rice, or tobacco” and inserting “or rice”;
16 and

17 (2) in the first sentence of subsection (b), by
18 striking “rice, or tobacco” and inserting “or rice”.

19 (n) REPORTS AND RECORDS.—Section 373 of the Ag-
20 ricultural Adjustment Act of 1938 (7 U.S.C. 1373) is
21 amended—

22 (1) by striking “rice, or tobacco” each place it
23 appears in subsections (a) and (b) and inserting “or
24 rice”; and

25 (2) in subsection (a)—

5 (B) in the last sentence, by striking
6 "\$500;" and all that follows through the period
7 at the end of the sentence and inserting
8 "\$500."

9 (o) REGULATIONS.—Section 375 of the Agricultural
10 Adjustment Act of 1938 (7 U.S.C. 1375) is amended—

11 (1) in subsection (a), by striking “peanuts, or
12 tobacco” and inserting “or peanuts”; and

13 (2) by striking subsection (c).

14 (p) EMINENT DOMAIN.—Section 378 of the Agricul-
15 tural Adjustment Act of 1938 (7 U.S.C. 1378) is amend-
16 ed—

17 (1) in the first sentence of subsection (c), by
18 striking “cotton, and tobacco” and inserting “and
19 cotton”; and

20 (2) by striking subsections (d), (e), and (f).

21 (q) BURLEY TOBACCO FARM RECONSTITUTION.—
22 Section 379 of the Agricultural Adjustment Act of 1938
23 (7 U.S.C. 1379) is amended—

24 (1) in subsection (a)—

25 (A) by striking “(a)”;

1 (B) in paragraph (6), by striking “, but
2 this clause (6) shall not be applicable in the
3 case of burley tobacco”; and
4 (2) by striking subsections (b) and (c).

5 (r) ACREAGE-POUNDAGE QUOTAS.—Section 4 of the
6 Act of April 16, 1955 (Public Law 89-12; 7 U.S.C. 1314c
7 note), is repealed.

(s) BURLEY TOBACCO ACREAGE ALLOTMENTS.—The Act of July 12, 1952 (7 U.S.C. 1315), is repealed.

10 (t) TRANSFER OF ALLOTMENTS.—Section 703 of the
11 Food and Agriculture Act of 1965 (7 U.S.C. 1316) is re-
12 pealed.

13 (u) ADVANCE RE COURSE LOANS.—Section
14 13(a)(2)(B) of the Food Security Improvements Act of
15 1986 (7 U.S.C. 1433c-1(a)(2)(B)) is amended by striking
16 “tobacco and”.

17 SEC. 3. TERMINATION OF TOBACCO PRICE SUPPORT PRO-
18 GRAM.

19 (a) PARITY PRICE SUPPORT.—Section 101 of the Ag-
20 ricultural Act of 1949 (7 U.S.C. 1441) is amended—

21 (1) in the first sentence of subsection (a), by
22 striking “tobacco (except as otherwise provided here-
23 in), corn,” and inserting “corn”;

24 (2) by striking subsections (c), (g), (h), and (i);
25 (3) in subsection (d)(3)—

8 (b) TERMINATION OF TOBACCO PRICE SUPPORT AND
9 NO NET COST PROVISIONS.—Sections 106, 106A, and
10 106B of the Agricultural Act of 1949 (7 U.S.C. 1445,
11 1445–1, 1445–2) are repealed.

12 (c) DEFINITION OF BASIC AGRICULTURAL COM-
13 MODITY.—Section 408(c) of the Agricultural Act of 1949
14 (7 U.S.C. 1428(c)) is amended by striking “tobacco.”.

15 (d) REVIEW OF BURLEY TOBACCO IMPORTS.—Section 3 of Public Law 98-59 (7 U.S.C. 625) is repealed.

17 (e) POWERS OF COMMODITY CREDIT CORPORA-
18 TION.—Section 5 of the Commodity Credit Corporation
19 Charter Act (15 U.S.C. 714c) is amended by inserting
20 “(other than tobacco)” after “agricultural commodities”
21 each place it appears.

22 SEC. 4. LIABILITY.

23 The amendments made by sections 2 and 3 shall not
24 affect the liability of any person under any provision of

1 law so amended with respect to any crop of tobacco plant-
2 ed before the effective date of this Act.

3 **SEC. 5. REPLACEMENT TOBACCO ASSISTANCE PROGRAMS.**

4 (a) IN GENERAL.—Title III of the Agricultural Ad-
5 justment Act of 1938 is amended by inserting after sub-
6 title D (7 U.S.C. 1379a et seq.) the following:

7 **“Subtitle E—Tobacco Assistance**

8 **“SEC. 380A. DEFINITIONS.**

9 “In this subtitle:

10 “(1) ACTIVE TOBACCO PRODUCER.—The term
11 ‘active tobacco producer’, with respect to a kind of
12 tobacco, means a person that—

13 “(A) is actively engaged in the production
14 of tobacco marketed or considered planted; and

15 “(B) shares in the risk of producing the
16 tobacco.

17 “(2) APPLICABLE FISCAL YEAR.—The term ‘ap-
18 plicable fiscal year’ means each of fiscal years 2004
19 through 2011.

20 “(3) BASE PERIOD.—The term ‘base period’
21 means the six-month period from January 1, 2004,
22 through June 30, 2004, and each three-month pe-
23 riod thereafter through the three-month period end-
24 ing on June 30, 2011.

1 “(4) CONSIDERED PLANTED.—The term ‘con-
2 sidered planted’ means tobacco planted but failed to
3 be produced as a result of a natural disaster, as de-
4 termined by the Secretary.

5 “(5) DEPARTMENT.—The term ‘Department’
6 means the Department of Agriculture.

7 “(6) ELIGIBLE STATE.—The term ‘eligible
8 State’ means each of the States of Alabama, Arkan-
9 sas, Florida, Georgia, Indiana, Kansas, Kentucky,
10 Minnesota, Missouri, North Carolina, Ohio, Okla-
11 homa, South Carolina, Tennessee, Virginia, West
12 Virginia, and Wisconsin.

13 “(7) MARKET SHARE.—The term ‘market
14 share’ means the share of each manufacturer or im-
15 porter of a class of tobacco product (expressed as a
16 decimal to the fourth place) of the total volume of
17 domestic sales of the class of tobacco product during
18 the base period for the applicable fiscal year for an
19 assessment under section 380T.

20 “(8) QUOTA TOBACCO.—The term ‘quota to-
21 bacco’ means a kind of tobacco that is subject to a
22 farm marketing quota or farm acreage allotment for
23 the 2002 tobacco marketing year under a marketing
24 quota or allotment program established under part
25 I of subtitle B of this title (as in effect on the day

1 before the date of the enactment of the Tobacco Re-
2 duction, Accountability, and Community Enhance-
3 ment Act of 2003).

4 “(9) TOBACCO.—The term ‘tobacco’ means
5 each of the following kinds of tobacco:

6 “(A) Flue-cured tobacco, comprising types
7 11, 12, 13, and 14.

8 “(B) Fire-cured tobacco, comprising types
9 22 and 23.

10 “(C) Dark air-cured tobacco, comprising
11 types 35 and 36.

12 “(D) Virginia sun-cured tobacco, com-
13 prising type 37.

14 “(E) Virginia fire-cured tobacco, com-
15 prising type 21.

16 “(F) Burley tobacco, comprising type 31.

17 “(G) Cigar-filler and cigar-binder tobacco,
18 comprising types 42, 43, 44, 53, 54, and 55.

19 “(10) TOBACCO ADVISORY BOARD.—The terms
20 ‘Tobacco Advisory Board’ and ‘Board’ mean a To-
21 bacco Advisory Board established under section
22 380G for a kind of tobacco.

23 “(11) TOBACCO QUOTA HOLDER.—The term
24 ‘tobacco quota holder’ means a person that is con-

1 sidered a tobacco quota holder under section
2 380B(b).

3 “(12) TOBACCO TRUST FUND.—The terms ‘To-
4 bacco Trust Fund’ and ‘Fund’ mean the Tobacco
5 Trust Fund established under section 380S.

6 “(13) TRADITIONAL PRODUCER OF TOBACCO.—
7 The term ‘traditional producer of tobacco’ means a
8 person that, for at least 1 of the 2000, 2001, or
9 2002 tobacco marketing years—

10 “(A) was actively engaged in the produc-
11 tion of tobacco marketed, or considered planted,
12 under a marketing quota established under part
13 I of subtitle B of this title (as in effect on the
14 day before the date of the enactment of the To-
15 bacco Reduction, Accountability, and Commu-
16 nity Enhancement Act of 2003); and

17 “(B) shared in the risk of producing the
18 tobacco.

19 “(14) TRADITIONAL TOBACCO COUNTY.—The
20 term ‘traditional tobacco county’ means a county in
21 the United States that had 1 or more farms oper-
22 ated by traditional producers of tobacco under a
23 marketing quota for at least 1 of the 2000, 2001,
24 or 2002 tobacco marketing years. To determine the
25 crop poundage base of an active tobacco producer

1 for a kind of tobacco produced in the State of Georgia under section 380I, the term includes a county
2 that is contiguous to a county described in the preceding sentence.

5 **“CHAPTER 1—PAYMENTS TO TOBACCO**
6 **QUOTA HOLDERS AND TRADITIONAL**
7 **PRODUCERS**

8 **“SEC. 380B. EQUITY RELIEF PAYMENTS TO TOBACCO**
9 **QUOTA HOLDERS.**

10 “(a) IN GENERAL.—The Secretary shall make transition payments under this section to each tobacco quota holder.

13 “(b) TOBACCO QUOTA HOLDER.—

14 “(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall consider 15 a person to be a tobacco quota holder under this section if the person was an owner of a farm, as of July 16 1, 2002, for which a basic tobacco farm marketing 17 quota or farm acreage allotment for quota tobacco 18 was established with respect to the 2002 tobacco 19 marketing year under a marketing quota program 20 established under part I of subtitle B of this title (as 21 in effect on the day before the date of the enactment 22 of the Tobacco Reduction, Accountability, and Com- 23 munity Enhancement Act of 2003).

1 “(2) EFFECT OF PURCHASE CONTRACT.—If
2 there was an agreement for the purchase of all or
3 part of a farm described in paragraph (1) as of July
4 1, 2002, and the parties to the sale are unable to
5 agree to the disposition of eligibility for payments
6 under this section, the Secretary, taking into ac-
7 count any transfer of quota that has been agreed to,
8 shall provide for the equitable division of the pay-
9 ments among the parties by adjusting the deter-
10 mination of who is the tobacco quota holder with re-
11 spect to particular pounds of the quota.

12 “(3) EFFECT OF AGREEMENT FOR PERMANENT
13 QUOTA TRANSFER.—If the Secretary determines
14 that there was in existence, as of July 1, 2002, an
15 agreement for the permanent transfer of quota, but
16 that the transfer was not completed by that date,
17 the Secretary shall consider the tobacco quota holder
18 to be the party to the agreement that, as of that
19 date, was the owner of the farm to which the quota
20 was to be transferred.

21 “(4) PROTECTED BASES.—A person that owns
22 a farm with a tobacco poundage quota that is pro-
23 tected under a conservation reserve program con-
24 tract entered into under section 1231 of the Food
25 Security Act of 1985 (16 U.S.C. 3831) shall be con-

1 sidered to be a tobacco quota holder with respect to
2 the protected poundage.

3 “(5) SECRETARIAL DISCRETION.—Notwith-
4 standing paragraphs (1) through (4), the Secretary
5 may declare a person to be the tobacco quota holder
6 with respect to certain pounds of quota or otherwise
7 for purposes of this section if the Secretary—

8 “(A) considers the declaration is needed to
9 ensure a fair and equitable administration of
10 the payments provided for in this section, in-
11 cluding such actions as are necessary to prevent
12 payments based on speculation; and

13 “(B) does not, in exercising the authority
14 provided under this paragraph, effectively in-
15 crease the total quota in excess of the quota
16 that was available to all producers for the 2002
17 marketing year for other than seed or experi-
18 mental use.

19 “(6) LIMITATION ON QUANTITY OF QUOTA
20 HELD.—

21 “(A) IN GENERAL.—A person shall be con-
22 sidered a tobacco quota holder for purposes of
23 this section only with respect to the quantity of
24 basic quota that qualifies the person as a to-
25 bacco quota holder.

1 “(B) INCLUDED QUOTA.—The determina-
2 tion of the tobacco poundage amount for which
3 the person qualifies shall—

4 “(i) be made based on the 2002 crop
5 quota levels; and

6 “(ii) take into account sales of the
7 farm that occurred before July 1, 2002,
8 and any permanent transfers of quota that
9 took place before that date.

10 “(c) APPLICATION.—To be eligible to receive pay-
11 ments under this section, a person shall prepare and sub-
12 mit to the Secretary an application at such time, in such
13 manner, and containing such information as the Secretary
14 may require, including information sufficient to dem-
15 onstrate that the person satisfies the definition of tobacco
16 quota holder.

17 “(d) TOTAL AMOUNT AVAILABLE FOR PAYMENTS.—
18 “(1) IN GENERAL.—The Secretary shall deter-
19 mine the total amount to be paid to all tobacco
20 quota holders under this section with respect to each
21 kind of tobacco.

22 “(2) POUNDAGE QUOTA TOBACCO.—For each
23 kind of tobacco for which the marketing quota is ex-
24 pressed in pounds, the total amount available for
25 payments to tobacco quota holders under this section

1 shall be equal to the product obtained by multi-
2 plying—

3 “(A) \$8 per pound; by

4 “(B) the annual average of tobacco farm
5 basic quotas established under this Act for the
6 1997 through 2002 marketing years for that
7 kind of tobacco.

8 “(3) MARKETING QUOTAS OTHER THAN POUND-
9 AGE QUOTAS.—For each kind of tobacco for which
10 there is a marketing quota or allotment on an acre-
11 age basis, the Secretary shall convert the tobacco
12 farm marketing quotas or allotments established
13 under this Act for the 1997 through 2002 marketing
14 year for that kind of tobacco to a poundage basis be-
15 fore executing the mathematical equation specified
16 in paragraph (2).

17 “(e) BASE QUOTA LEVEL.—

18 “(1) IN GENERAL.—The Secretary shall deter-
19 mine the base quota level of each tobacco quota
20 holder with respect to each kind of tobacco.

21 “(2) POUNDAGE QUOTA TOBACCO.—For each
22 kind of tobacco for which the marketing quota is ex-
23 pressed in pounds, the base quota level for a tobacco
24 quota holder shall be equal to the tobacco farm mar-
25 keting quota established under this Act for the 2002

1 marketing year for quota tobacco on the farm owned
2 by the tobacco quota holder.

3 "(3) MARKETING QUOTAS OTHER THAN POUND-
4 AGE QUOTAS.—For each kind of tobacco for which
5 there is a marketing quota or allotment on an acre-
6 age basis, the base quota level for a tobacco quota
7 holder shall be equal to the product obtained (based
8 on a poundage conversion) by multiplying—

9 "(A) the tobacco farm marketing quota or
10 allotment established under this Act for the
11 2002 marketing year for the tobacco quota
12 holder's farm; by

13 "(B) the average yield per acre for the to-
14 bacco quota holder's farm for the kind of to-
15 bacco for that marketing year.

16 "(f) PAYMENT AMOUNT.—The Secretary shall make
17 payments to a tobacco quota holder with respect to a kind
18 of tobacco under this section in a total amount that bears
19 the same ratio to the amount determined by the Secretary
20 under subsection (d) with respect to that kind of tobacco
21 as the base quota level of the tobacco quota holder with
22 respect to that kind of tobacco bears to the base quota
23 level of all tobacco quota holders with respect to that kind
24 of tobacco.

1 “(g) TIME FOR PAYMENT.—The amount determined
2 under subsection (f) for a tobacco quota holder shall be
3 paid in seven equal installments on November 1 of each
4 of the calendar years 2004 through 2010, except that 50
5 percent of the payment required to be made on November
6 1, 2004, shall be paid on September 30, 2004.

7 “(h) DEATH OF TOBACCO QUOTA HOLDER.—If a to-
8 bacco quota holder who is entitled to payments under this
9 section dies and is survived by a spouse or one or more
10 dependents, the right to receive the payments shall trans-
11 fer to the surviving spouse or, if there is no surviving
12 spouse, to the estate of the tobacco quota holder.

13 **“SEC. 380C. DIRECT PAYMENTS TO TRADITIONAL PRO-
14 DUCERS OF TOBACCO.**

15 “(a) IN GENERAL.—The Secretary shall make direct
16 payments under this section to traditional producers of to-
17 bacco.

18 “(b) APPLICATION.—To be eligible to receive pay-
19 ments under this section, a person shall prepare and sub-
20 mit to the Secretary an application at such time, in such
21 manner, and containing such information as the Secretary
22 may require, including information sufficient to dem-
23 onstrate that the person satisfies the definition of tradi-
24 tional producer of tobacco.

25 “(c) TOTAL AMOUNT AVAILABLE FOR PAYMENTS.—

1 “(1) IN GENERAL.—The Secretary shall deter-
2 mine the total amount to be paid to traditional pro-
3 ducers of tobacco under this section with respect to
4 each kind of tobacco.

5 “(2) POUNDAGE QUOTA TOBACCO.—For each
6 kind of tobacco for which the marketing quota is ex-
7 pressed in pounds, the total amount available for
8 payments to traditional producers of tobacco under
9 this section shall be equal to the product obtained by
10 multiplying—

11 “(A) \$4 per pound; by
12 “(B) the annual average of tobacco farm
13 effective quotas established under this Act for
14 the 1997 through 2002 marketing years for
15 that kind of tobacco.

16 “(3) MARKETING QUOTAS OTHER THAN POUND-
17 AGE QUOTAS.—For each kind of tobacco for which
18 there is a marketing quota or allotment on an acre-
19 age basis, the Secretary shall convert the tobacco
20 farm marketing quotas or allotments established
21 under this Act for the 1997 through 2002 marketing
22 years for that kind of tobacco to a poundage basis
23 before executing the mathematical equation specified
24 in paragraph (2).

25 “(d) PAYMENT QUANTITY.—

1 “(1) IN GENERAL.—The Secretary shall deter-
2 mine the payment quantity of tobacco for each tradi-
3 tional producer of tobacco with respect to each kind
4 of tobacco.

5 “(2) POUNDAGE QUOTA TOBACCO.—For each
6 kind of tobacco for which the marketing quota is ex-
7 pressed in pounds, the payment quantity for a tradi-
8 tional producer of tobacco shall be equal to the aver-
9 age of the July 1 effective quota for that quota to-
10 bacco produced by the producer under this Act for
11 the 2000, 2001 and 2002 marketing years.

12 “(3) MARKETING QUOTAS OTHER THAN POUND-
13 AGE QUOTAS.—For each kind of tobacco for which
14 there is a marketing quota or allotment on an acre-
15 age basis, the payment quantity for a traditional
16 producer of tobacco shall be equal to the average of
17 the actual pounds of that kind of tobacco produced
18 by the traditional producer of tobacco for the 2000,
19 2001 and 2002 marketing years.

20 “(e) PAYMENT AMOUNT.—The Secretary shall make
21 payments to each traditional producer of tobacco with re-
22 spect to a kind of tobacco under this section in a total
23 amount that bears the same ratio to the amount deter-
24 mined by the Secretary under subsection (c) with respect
25 to that kind of tobacco as the payment quantity of the

1 producer with respect to that kind of tobacco bears to the
2 payment quantities of all traditional producers of tobacco
3 with respect to that kind of tobacco.

4 “(f) TIME FOR PAYMENT.—The amount determined
5 under subsection (e) for a traditional producer of tobacco
6 shall be paid in seven equal installments on November 1
7 of each of the calendar years 2004 through 2010, except
8 that 50 percent of the payment required to be made on
9 November 1, 2004, shall be paid on September 30, 2004.

10 “(g) DEATH OF ACTIVE TOBACCO PRODUCER.—If a
11 traditional producer of tobacco who is entitled to transi-
12 tion payments under this section dies and is survived by
13 a spouse or one or more dependents, the right to receive
14 the payments shall transfer to the surviving spouse or, if
15 there is no surviving spouse, to the estate of the producer.

16 **“SEC. 380D. ADMINISTRATION.**

17 “(a) RESOLUTION OF DISPUTES.—

18 “(1) IN GENERAL.—Any dispute regarding the
19 eligibility of a person to receive a payment under
20 this subtitle, or the amount of the payment, may be
21 appealed to the county committee established under
22 section 8 of the Soil Conservation and Domestic Al-
23 lotment Act (16 U.S.C. 590h) for the county or
24 other area in which the farming operation of the
25 person is located.

1 “(2) NATIONAL APPEALS DIVISION.—Any ad-
2 verse determination of a county committee under
3 subsection (a) may be appealed to the National Ap-
4 peals Division established under subtitle H of the
5 Department of Agriculture Reorganization Act of
6 1994 (7 U.S.C. 6991 et seq.).

7 “(b) USE OF QUALIFIED FINANCIAL INSTITU-
8 TIONS.—The Secretary may use qualified financial institu-
9 tions to manage assets, make payments, and otherwise
10 carry out this subtitle.

11 **“CHAPTER 2—TOBACCO QUALITY AND**
12 **QUANTITY**

13 **“SEC. 380G. TOBACCO ADVISORY BOARDS.**

14 “(a) ESTABLISHMENT.—The Secretary shall estab-
15 lish in the Department a permanent advisory board for
16 each kind of tobacco, to be known as a ‘Tobacco Advisory
17 Board’.

18 “(b) MEMBERSHIP.—

19 “(1) NUMBER.—Each Tobacco Advisory Board
20 shall have 11 members.

21 “(2) COMPOSITION.—The Board for a kind of
22 tobacco shall consist of the following:

23 “(A) 5 members appointed by the Sec-
24 retary from nominations submitted by rep-

1 resentatives of active tobacco producers in the
2 United States of that kind of tobacco.

3 “(B) 5 members appointed by the Sec-
4 retary from nominations submitted by rep-
5 resentatives of tobacco product manufacturers
6 in the United States that purchase that type of
7 tobacco, including at least 1 representative of
8 export dealers of tobacco or tobacco products
9 appointed from nominations submitted by ex-
10 port dealers.

11 “(C) An officer or employee of the Depart-
12 ment appointed by the Secretary.

13 “(3) ALLOCATION OF PRODUCER MEMBER-
14 SHIP.—In appointing members to the Tobacco Advi-
15 sory Board for a kind of tobacco under paragraph
16 (2)(A), the number of members appointed by the
17 Secretary to represent active tobacco producers of
18 that kind of tobacco in a particular State shall, to
19 the maximum extent practicable, bear the same ratio
20 to the total number of members of the Board as—

21 “(A) the total volume of domestic sales of
22 the kind of tobacco produced in the State dur-
23 ing the most recent period for which data is
24 available; bears to

1 “(B) the total volume of domestic sales of
2 the kind of tobacco produced in all States dur-
3 ing the most recent period for which data is
4 available.

5 “(c) CHAIRPERSON.—The Secretary shall appoint the
6 chairperson of each Tobacco Advisory Board, with a dif-
7 ferent member serving as chairperson of a Board every
8 2 years.

9 "(d) TERMS.—Members of a Tobacco Advisory Board
10 shall serve for 2-year terms, except that the terms of the
11 members first appointed to the Boards shall be staggered
12 so as to establish a rotating membership of the Boards,
13 as determined by the Secretary.

14 "SEC. 380H. DUTIES AND ADMINISTRATION OF TOBACCO
15 ADVISORY BOARDS.

16 "(a) DUTIES.—The Tobacco Advisory Board for a
17 kind of tobacco shall—

18 “(1) determine and describe the physical char-
19 acteristics of that kind of tobacco produced in the
20 United States and unmanufactured tobacco of that
21 kind imported into the United States;

22 “(2) assemble and evaluate, in a systematic
23 manner, concerns and problems with the quality of
24 that kind of tobacco produced in the United States,

1 expressed by domestic and foreign buyers and manu-
2 facturers of tobacco products;

3 “(3) review data collected by Federal agencies
4 on the physical and chemical integrity of that kind
5 of tobacco produced in the United States and un-
6 manufactured tobacco imported into the United
7 States, to ensure that tobacco being used in domesti-
8 cally-manufactured tobacco products is of the high-
9 est quality and is free from prohibited physical and
10 chemical agents;

11 “(4) not later than a date determined by the
12 Secretary, make recommendations to the Secretary
13 on the base year, for the maximum crop poundage
14 base under section 380I(f) for each crop of that kind
15 of tobacco;

16 “(5) establish a registration system to monitor
17 the production of that kind of tobacco;

18 “(6) investigate and communicate to the Sec-
19 retary—

20 “(A) conditions with respect to the produc-
21 tion of that kind of tobacco that discourage im-
22 provements in the quality of tobacco produced
23 in the United States; and

1 “(B) recommendations for regulatory
2 changes that would address tobacco quality
3 issues affecting that kind of tobacco;

4 “(7) conduct oversight regarding tobacco mar-
5 keting issues (such as opening sales dates and mar-
6 keting regulations) affecting that kind of tobacco
7 and applicable to auction markets;

8 “(8) provide assistance to Federal agencies on
9 actions taken by the Federal agencies that affect the
10 quality or quantity of that kind of tobacco produced
11 in the United States; and

12 “(9) carry out such other related activities as
13 are assigned to the Board by the Secretary.

14 “(b) ADMINISTRATION.—The Secretary shall provide
15 the Tobacco Advisory Boards with (as determined by the
16 Secretary)—

17 “(1) a staff that is—

18 “(A) experienced in the sampling and anal-
19 ysis of unmanufactured tobacco; and

20 “(B) capable of collecting data and moni-
21 toring tobacco production information; and

22 “(2) other resources and information necessary
23 for the Boards to perform their duties, including in-
24 formation concerning acreage devoted to the produc-
25 tion of each kind of tobacco.

1 “(c) APPLICABILITY OF FEDERAL ADVISORY COM-
2 MITTEE ACT.—The Federal Advisory Committee Act (5
3 U.S.C. App.) shall not apply to the Tobacco Advisory
4 Boards.

5 **“SEC. 380I. TOBACCO POUNDAGE LIMITATION PROGRAM.**

6 “(a) DEFINITIONS.—In this section:

7 “(1) CROP POUNDAGE BASE.—The term ‘crop
8 poundage base’ means the crop poundage base for a
9 kind of tobacco for a crop for an active tobacco pro-
10 ducer, as determined by the Secretary under sub-
11 section (e).

12 “(2) PERMITTED POUNDAGE.—The term ‘per-
13 mitted poundage’ means the number of pounds of a
14 kind of tobacco authorized to be produced by an ac-
15 tive tobacco producer, consistent with the annual
16 poundage limitation program announced by the Sec-
17 retary for the kind of tobacco.

18 “(b) ESTABLISHMENT AND MAINTENANCE.—

19 “(1) IN GENERAL.—The Secretary shall estab-
20 lish and may maintain a poundage limitation pro-
21 gram for each crop of each kind of tobacco.

22 “(2) SUPPLY.—In determining whether to
23 maintain the poundage limitation program for a crop
24 of a kind of tobacco, the Secretary shall determine
25 whether the total supply of that kind of tobacco, in

1 the absence of limitations, will be excessive, taking
2 into account the need for an adequate carry-over to
3 maintain reasonable and stable supplies and prices.

4 “(3) ANNOUNCEMENT.—

5 “(A) IN GENERAL.—The Secretary shall
6 announce the annual poundage limitation pro-
7 gram for a kind of tobacco as soon as prac-
8 ticable preceding the year in which the crop is
9 harvested.

10 “(B) SPECIAL RULE FOR 2004 CROP.—In
11 the case of the 2004 crop for a kind of tobacco,
12 the Secretary shall announce the poundage limi-
13 tation program as soon as practicable after the
14 date of the enactment of the Tobacco Reduc-
15 tion, Accountability, and Community Enhance-
16 ment Act of 2003.

17 “(4) CONSULTATION.—The Secretary shall
18 carry out this subsection with regard to a kind of to-
19 bacco in consultation with the Tobacco Advisory
20 Board established for that kind of tobacco.

21 “(c) APPLICATION OF LIMITATION.—Under a pound-
22 age limitation program for a kind of tobacco, the Sec-
23 retary shall achieve the limitation by applying a uniform
24 percentage adjustment to the crop poundage base for the
25 kind of tobacco in each traditional tobacco county for the

1 crop for active tobacco producers that produce that kind
2 of tobacco in that county, as determined by the Secretary.

3 “(d) COMPLIANCE.—

4 “(1) LOANS, PURCHASES, OR PAYMENTS.—An
5 active tobacco producer that knowingly produces a
6 kind of tobacco in excess of the permitted poundage
7 for the kind of tobacco, or violates any lease or
8 transfer requirements of this section, shall be ineli-
9 gible for any loans, purchases, or payments for the
10 kind of tobacco.

11 “(2) NO CARRY OVER.—An active tobacco pro-
12 ducer may not carry over permitted poundage for a
13 crop of a kind of tobacco, which is not produced by
14 the producer, for production in a subsequent crop
15 year.

16 “(3) PENALTIES.—

17 “(A) CRIMINAL PENALTY.—A producer
18 that violates this subsection may be fined not
19 more than \$100,000 or imprisoned not more
20 than 2 years, or both.

21 “(B) CIVIL PENALTY.—In addition to any
22 penalty imposed under paragraph (1), the Sec-
23 retary may assess against a producer that vio-
24 lates this subsection a civil penalty in an
25 amount not to exceed 2 percent of the value of

1 the kind of tobacco produced by the producer
2 during the crop year in which the violation oc-
3 curred, as determined by the Secretary.

4 “(3) JURISDICTION TO PREVENT AND RE-
5 STRAIN VIOLATIONS.—A United States district court
6 shall have jurisdiction to prevent and restrain a pro-
7 ducer from producing a kind of tobacco in excess of
8 the permitted poundage for the kind of tobacco.

9 “(e) DETERMINATION OF CROP POUNDAGE
10 BASES.—

11 “(1) 2004 CROP YEAR.—Subject to subsections
12 (f) through (i), the crop poundage base for an active
13 tobacco producer for the 2004 crop of each kind of
14 tobacco shall equal the average of the number of
15 pounds of that kind of tobacco harvested by the ac-
16 tive tobacco producer in a traditional tobacco county
17 and marketed in each of the 5 crop years preceding
18 the crop year, as determined and adjusted by the
19 Secretary.

20 “(2) SUBSEQUENT CROP YEARS.—Subject to
21 subsections (f) through (i), in the case of the 2005
22 and subsequent crops of each kind of tobacco, the
23 crop poundage base for an active tobacco producer
24 of a kind of tobacco shall equal the number of
25 pounds of that kind of tobacco harvested by the ac-

1 tive tobacco producer in a traditional tobacco county
2 and marketed in the preceding crop year, as deter-
3 mined and adjusted by the Secretary.

4 “(3) CONSULTATION.—The Secretary shall
5 carry out this subsection with regard to a kind of to-
6 bacco in consultation with the Tobacco Advisory
7 Board established for that kind of tobacco.

8 “(f) MAXIMUM CROP POUNDAGE BASES.—

9 “(1) IN GENERAL.—Subject to paragraph (2),
10 the total number of pounds devoted to a kind of to-
11 bacco by active tobacco producers during a crop year
12 shall not exceed the total number of pounds devoted
13 to the kind of tobacco by active tobacco producers
14 during a crop year determined by the Secretary.

15 “(2) ADJUSTMENT.—If the active tobacco pro-
16 ducers of a kind of tobacco demonstrate to the Sec-
17 retary that the application of paragraph (1) to a
18 crop of a kind of tobacco will result in unbalanced
19 supply and demand conditions, the Secretary may
20 adjust the total number of pounds that may be de-
21 voted to the kind of tobacco by active tobacco pro-
22 ducers during the crop year.

23 “(g) SALE, LEASE, OR TRANSFER OF CROP POUND-
24 AGE BASES.—

1 “(1) PROHIBITION.—Except as provided in
2 paragraph (2), an active tobacco producer shall not
3 directly or indirectly sell, lease, or transfer to an-
4 other person or other legal entity a crop poundage
5 base established for an active tobacco producer
6 under this section.

7 “(2) EXCEPTION.—If the crop poundage base
8 of an active tobacco producer for a type of tobacco
9 covers tobacco that was produced by the producer in
10 more than one traditional tobacco county, the pro-
11 ducer may elect to consolidate the base in a single
12 traditional tobacco county in which the producer
13 bore or shared in the risk of producing a crop of
14 that kind of tobacco for the 2002 crop year.

15 “(h) REALLOCATION OF UNUSED CROP POUNDAGE
16 BASES.—

17 “(1) COUNTY POOL.—Subject to paragraphs
18 (2), (3), and (4), if an active tobacco producer with
19 a crop poundage base for a kind of tobacco elects
20 not to use all or part of the crop poundage base to
21 continue to produce that kind of tobacco, the unused
22 crop poundage base shall be placed in a pool estab-
23 lished for the traditional tobacco county where the
24 unused crop poundage base was originally located
25 for reallocation by the Secretary to other active to-

1 tobacco producers of that kind of tobacco in the traditional tobacco county. The Secretary shall distribute
2 the unused crop poundage base among those producers
3 that request a portion of the unused crop
4 poundage base according to the percentage of previous
5 year production, by pound, of that kind of tobacco
6 in that county.

7
8 “(2) STATE POOL.—Subject to paragraph (4),
9 if any crop poundage base for a kind of tobacco re-
10 mains after the crop poundage base is made avail-
11 able to producers of that kind of tobacco in the tra-
12 ditional tobacco county in a State under paragraph
13 (1), the unused crop poundage base shall be placed
14 in a pool established for the State for reallocation by
15 the Secretary to other producers of that kind of to-
16 bacco in traditional tobacco counties. The Secretary
17 shall distribute the available unused crop poundage
18 base among those producers that request a portion
19 of the unused crop poundage base according to the
20 percentage of previous year production, by pound, of
21 that kind of tobacco in the State.

22 “(3) TRADITIONAL GROWING AREA POOL.—
23 Subject to paragraph (4), if any crop poundage base
24 for a kind of tobacco remains after the crop pound-
25 age base is made available to producers of that kind

1 of tobacco in the traditional tobacco county in a
2 State under paragraph (1), and remains after the
3 crop poundage base is made available to producers
4 of that kind of tobacco in the State under paragraph
5 (2), the unused crop poundage base shall be placed
6 in a pool established for reallocation by the Sec-
7 retary to other producers of that kind of tobacco in
8 a traditional tobacco county for that kind of tobacco.
9 The Secretary shall distribute the available unused
10 crop poundage base among those producers that re-
11 quest a portion of the unused crop poundage base
12 according to the percentage of previous year produc-
13 tion, by pound, of that kind of tobacco in that tradi-
14 tional growing area.

15 “(4) NEW PRODUCERS.—In reallocating unused
16 crop poundage bases for a kind of tobacco in a tradi-
17 tional tobacco county made available under any of
18 the preceding paragraphs, the Secretary shall make
19 available to any new producers of that kind of to-
20 bacco in the traditional tobacco county up to 10 per-
21 cent of the crop poundage bases available for re-
22 allocation for the kind of tobacco in the traditional
23 tobacco county.

24 “(5) REALLOCATION PROCEDURES.—The Sec-
25 retary shall establish procedures by which producers

1 of a kind of tobacco, including new producers under
2 paragraph (4), may request the reallocation unused
3 crop poundage base available under this subsection.

4 **“(i) COMPLIANCE WITH CONSERVATION AND AGRICULTURAL REQUIREMENTS.”**—As a condition of the establishment of a crop poundage base for an active tobacco producer for a crop of a kind of tobacco, the producer shall agree, during the crop year for which the crop poundage base is established—

10 “(1) to comply with applicable conservation requirements under subtitle B of title XII of the Food
11 Security Act of 1985 (16 U.S.C. 3811 et seq.);

13 “(2) to comply with applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.);

16 “(3) to use the land of the active tobacco producer, in a quantity consistent with the crop poundage base, for an agricultural or conserving use, and not for a nonagricultural commercial or industrial use, as determined by the Secretary; and

21 “(4) to effectively control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices, as determined by the Secretary, if the agricultural or conserving use in-

1 volves the noncultivation of any portion of the land
2 referred to in paragraph (3).

3 **“CHAPTER 3—TOBACCO MARKET**
4 **STABILITY PROGRAM**

5 **“SEC. 380M. TOBACCO MARKET STABILITY PROGRAM.**

6 “(a) IN GENERAL.—If during any period of a mar-
7 keting year, to be established by the Secretary, the insured
8 price for the crop of a kind of tobacco exceeds the average
9 domestic price for the crop of the kind of tobacco, as de-
10 termined by the Secretary, the Secretary shall make avail-
11 able to active tobacco producers of that kind of tobacco
12 market stability payments for the marketing year in an
13 amount obtained by multiplying—

14 “(1) the payment rate for the crop (as deter-
15 mined under subsection (b)); and

16 “(2) the permitted poundage for the active to-
17 bacco producer (as determined under section 380I).

18 “(b) PAYMENT RATE.—

19 “(1) IN GENERAL.—Subject to paragraphs (2)
20 and (3), the payment rate for a crop of a kind of
21 tobacco under this section shall be the amount by
22 which—

23 “(A) the insured price for the crop; ex-
24 ceeds

25 “(B) the domestic price for the crop.

1 “(2) INSURED PRICES.—

2 “(A) IN GENERAL.—Except as provided in
3 subparagraph (B), the insured price for each
4 crop of a kind of tobacco under this section
5 shall be a price, which is determined by the
6 Secretary to be necessary to provide market
7 stability for that kind of tobacco and for which
8 private insurance may be obtained in accord-
9 ance with subsection (c) at a cost that does not
10 exceed (but may be less than) the assessment
11 imposed for that kind of tobacco pursuant to
12 subsection (f).

13 “(B) MINIMUM PRICE.—The insured price
14 for each crop of a kind of tobacco under this
15 section shall not be less than \$1.00 per pound,
16 unless the Secretary determines that lower in-
17 sured price is necessary.

18 “(3) DOMESTIC PRICES.—The domestic price
19 for the crop of a kind of tobacco under this section
20 shall be determined by the Secretary.

21 “(c) DELIVERY THROUGH PRIVATE PROVIDERS.—

22 “(1) IN GENERAL.—The Secretary shall carry
23 out this section, to the maximum extent practicable,
24 through contracts with private insurance companies

1 and other private entities approved by the Secretary
2 (referred to in this section as 'private providers').

3 "(2) REIMBURSEMENT.—The Secretary shall
4 reimburse private providers for administrative ex-
5 penses incurred in carrying out this section, as de-
6 termined by the Secretary.

7 "(d) DELIVERY THROUGH LOCAL DEPARTMENT OF-
8 FICES.—If the Secretary determines that there are an in-
9 sufficient number of private providers to carry out this
10 section in all or part of a State, the Secretary (acting
11 through local offices of the Department) shall carry out
12 this section directly in all or part of the State.

13 "(e) ADDITIONAL COVERAGE.—The Secretary may
14 offer additional coverage to active tobacco producers on
15 a farm of a crop of a kind of tobacco under this section
16 under which a higher level of price coverage is made avail-
17 able to the active tobacco producers on the farm, in ex-
18 change for an additional premium paid by the active to-
19 bacco producers on the farm.

20 "(f) ASSESSMENT.—

21 "(1) IN GENERAL.—Effective for each mar-
22 keting year for a kind of tobacco for which tobacco
23 market stability payments are made available under
24 this section, subject to paragraph (2), each producer
25 and purchaser of that kind of tobacco shall remit to

1 the Commodity Credit Corporation a marketing as-
2 sessment in an amount determined by the Secretary
3 that is sufficient to provide the payments for that
4 kind of tobacco.

5 “(2) LIMITATION ON ASSESSMENT.—The Sec-
6 retary shall not impose or collect an assessment
7 under this section for a marketing year until and
8 unless the Secretary determines that the amounts
9 made available under section 380S(c)(1)(C) to carry
10 out this section for that marketing year will be in-
11 sufficient.

12 “(3) AMOUNT.—Subject to paragraph (2), the
13 amount of producer and purchaser assessments for
14 a kind of tobacco under this subsection—

15 “(A) shall be determined in such a manner
16 that producers and purchasers share equally in
17 paying assessments required under this sub-
18 section; and

19 “(B) shall not exceed 5 cents per pound.

20 “(4) COLLECTION.—The producer and pur-
21 chaser assessments shall be—

22 “(A) collected in the same manner as pro-
23 vided for in section 106A(d)(2) or 106B(d)(3)
24 of the Agricultural Act of 1949 (7 U.S.C.
25 1445–1(d)(2), 1445–2(d)(3)) (as in effect on

1 the day before the date of the enactment of the
2 Tobacco Reduction, Accountability, and Com-
3 munity Enhancement Act of 2003), as applica-
4 ble; and

5 “(B) enforced in the same manner as pro-
6 vided in section 106A(h) or 106B(j) of the Ag-
7 ricultural Act of 1949 (7 U.S.C. 1445–1(h),
8 1445–2(j)) (as in effect on the day before the
9 date of the enactment of the Tobacco Reduc-
10 tion, Accountability, and Community Enhance-
11 ment Act of 2003), as applicable.

12 “(5) USE OF QUALIFIED FINANCIAL INSTITU-
13 TIONS.—The Secretary may use qualified financial
14 institutions to manage assets, make collections, and
15 otherwise carry out this subsection.

16 “(6) ENFORCEMENT.—The Secretary may en-
17 force this subsection in the courts of the United
18 States.

19 “(g) CONSULTATION.—The Secretary shall make the
20 determinations required by this section with regard to a
21 kind of tobacco in consultation with the Tobacco Advisory
22 Board established for that kind of tobacco. After the Sec-
23 retary announces the terms and conditions of the tobacco
24 market stability program for a crop year for a kind of
25 tobacco, the Secretary shall consult with the Tobacco Ad-

1 visory Board established for that kind of tobacco before
2 making any change to the program for the crop year.

3 **“CHAPTER 4—COMPETITIVE GRANTS FOR**
4 **TOBACCO RESEARCH**

5 **“SEC. 380Q. COMPETITIVE GRANTS FOR TOBACCO RE-**
6 **SEARCH.**

7 “(a) IN GENERAL.—Notwithstanding any other pro-
8 vision of law, the Secretary shall make competitive grants
9 under section 406 of the Agricultural Research, Exten-
10 sion, and Education Reform Act of 1998 (7 U.S.C. 7626)
11 to colleges and universities located in eligible States to
12 conduct research—

13 “(1) to assist tobacco producers to diversify
14 crops or implement other means to reduce or elimi-
15 nate the reliance of the producers on the production
16 of tobacco or to promote alternative uses of tobacco
17 or enhance the quality of tobacco produced in the
18 United States; and

19 “(2) to foster and facilitate development, eval-
20 uation, and implementation of economically viable
21 new agricultural technologies and enterprises for
22 rural communities.

23 “(b) GRANT DISTRIBUTION.—In making grants
24 under this section, the Secretary shall provide for an equi-
25 table distribution of the grants based on the volume of

1 each kind of tobacco that is produced in each eligible
2 State, as determined by the Secretary

3 **“CHAPTER 5—FUNDING**

4 **“SEC. 380S. TOBACCO TRUST FUND.**

5 “(a) ESTABLISHMENT.—There is established in the
6 Commodity Credit Corporation a revolving trust fund to
7 be known as the ‘Tobacco Trust Fund’ and to be used
8 in carrying out this subtitle. The Fund shall consist of—

9 “(1) such amounts as are deposited in the
10 Fund under subsection (b);

11 “(2) such amounts as are necessary from the
12 Commodity Credit Corporation; and

13 “(3) any interest earned on investment of
14 amounts in the Fund under subsection (d).

15 “(b) DEPOSITS.—Revenues from assessments col-
16 lected under section 380T shall be deposited in the Fund.

17 “(c) EXPENDITURES.—

18 “(1) IN GENERAL.—Subject to paragraphs (2)
19 and (3) and notwithstanding any other provision of
20 law, in addition to any other funds that may be
21 available, the Secretary may use from the Fund such
22 amounts as the Secretary determines are nec-
23 essary—

1 “(A) to make payments to tobacco quota
2 holders and traditional producers of tobacco
3 under chapter 1;

4 “(B) to pay necessary expenses of the To-
5 bacco Advisory Boards and to carry out the
6 poundage limitation program under chapter 2;

7 “(C) to carry out the tobacco market sta-
8 bility program under chapter 3, in an amount
9 equal to \$50,000,000 for each of fiscal years
10 2005 through 2008;

11 “(D) to make competitive grants for to-
12 bacco research under chapter 4, in an amount
13 equal to \$12,000,000 for each of fiscal years
14 2005 through 2009;

15 “(E) to make grants to each association
16 that has entered into a loan agreement with the
17 Commodity Credit Corporation under section
18 106A or 106B of the Agricultural Act of 1949
19 (7 U.S.C. 1445–1, 1445–2) (as in effect on the
20 day before the date of the enactment of the To-
21 bacco Reduction, Accountability, and Commu-
22 nity Enhancement Act of 2003) to assist the
23 association to transition to alternative methods
24 of marketing tobacco in accordance with a plan
25 approved by the Secretary, with the grants allo-

1 cated on the basis of the proportion of the kind
2 of tobacco marketed by each association, in an
3 amount not to exceed \$1,500,000 for each kind
4 of tobacco for each of fiscal years 2004 through
5 2008;

6 “(F) to make payments to appropriate to-
7 bacco warehouse associations, as determined by
8 the Secretary, in an amount not to exceed
9 \$1,500,000 for each of fiscal years 2004
10 through 2008; and

11 “(G) to pay administrative costs incurred
12 by the Secretary in carrying out this subtitle
13 and reimburse the Commodity Credit Corpora-
14 tion for costs incurred by the Commodity Credit
15 Corporation under paragraph (2).

16 “(2) EXPENDITURES BY COMMODITY CREDIT
17 CORPORATION.—

18 “(A) IN GENERAL.—Subject to subparagraph
19 (B) and notwithstanding any other provi-
20 sion of law, the Secretary may use funds of the
21 Commodity Credit Corporation to make pay-
22 ments under paragraph (1).

23 “(B) REIMBURSEMENT TO COMMODITY
24 CREDIT CORPORATION.—Not later than Janu-
25 ary 1, 2011, the Commodity Credit Corporation

1 shall be reimbursed in full, with interest, for all
2 funds of the Commodity Credit Corporation ex-
3 pended under subparagraph (A).

4 “(3) ADMINISTRATIVE EXPENSES.—An amount
5 not to exceed \$20,000,000 for each fiscal year of the
6 amounts in the Fund shall be available to pay the
7 administrative expenses necessary to carry out this
8 subtitle.

9 “(d) INVESTMENT OF AMOUNTS.—

10 “(1) IN GENERAL.—The Commodity Credit
11 Corporation shall invest such portion of the Fund as
12 is not, in the judgment of the Commodity Credit
13 Corporation, required to meet current withdrawals.

14 “(2) INTEREST-BEARING OBLIGATIONS.—In-
15 vestments may be made only in interest-bearing obli-
16 gations of the United States.

17 “(3) ACQUISITION OF OBLIGATIONS.—For the
18 purpose of investments under paragraph (1), obliga-
19 tions may be acquired—

20 “(A) on original issue at the issue price; or
21 “(B) by purchase of outstanding obliga-
22 tions at the market price.

23 “(4) SALE OF OBLIGATIONS.—Any obligation
24 acquired by the Fund may be sold by the Com-
25 modity Credit Corporation at the market price.

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

5 “(e) ADMINISTRATION.—In administering the Fund,
6 the Secretary shall make payments, reimburse agencies of
7 the Department, and accept deposits without regard to
8 limitations on total amounts of allotments and fund trans-
9 fers under section 11 of the Commodity Credit Corpora-
10 tion Charter Act (15 U.S.C. 714i).

11 “(f) USE OF QUALIFIED FINANCIAL INSTITU-
12 TIONS.—The Secretary may use qualified financial institu-
13 tions to manage assets, make payments, and otherwise
14 carry out this subtitle.

15 **“SEC. 380T. ASSESSMENTS.**

16 “(a) IN GENERAL.—The Secretary, acting through
17 the Commodity Credit Corporation, shall impose quarterly
18 assessments, calculated in accordance with this section, on
19 each tobacco product manufacturer and tobacco product
20 importer that sells tobacco products in domestic commerce
21 in the United States.

22 “(b) TOBACCO TRUST FUND.—Assessments collected
23 under this section shall be deposited in the Tobacco Trust
24 Fund.

1 “(c) ASSESSMENT FOR EACH CLASS OF TOBACCO

2 PRODUCT.—

3 “(1) ALLOCATION BY CLASS OF TOBACCO PROD-

4 UCTS.—The percentage of the total amount to be as-
5 sessed against, and paid by, the manufacturers and
6 importers of each class of tobacco product in each
7 applicable fiscal year shall be—

8 “(A) for cigarette manufacturers and im-
9 porters, 98.303 percent;

10 “(B) for snuff manufacturers and import-
11 ers, 0.428 percent;

12 “(C) for chewing tobacco manufacturers
13 and importers, 0.098 percent;

14 “(D) for manufacturers and importers of
15 small cigars, 0.011 percent;

16 “(E) for manufacturers and importers of
17 large cigars, 1.095 percent;

18 “(F) for pipe tobacco manufacturers and
19 importers, 0.021 percent; and

20 “(G) for roll-your-own tobacco manufactur-
21 ers and importers, 0.044 percent.

22 “(2) ADJUSTMENT.—The Secretary shall adjust
23 the percentage of the total amount to be assessed
24 against, as determined by paragraph (1), and paid
25 by, the manufacturers and importers of each class of

1 tobacco product in each applicable fiscal year by
2 multiplying the percentage of the total amount to
3 be assessed, as determined by such paragraph, by
4 a fraction—

5 “(A) the numerator of which is the total
6 volume of domestic sales of that class of to-
7 bacco product during the preceding applicable
8 fiscal year; and

9 “(B) the denominator of which is the total
10 volume of domestic sales of that class of to-
11 bacco product during the fiscal year ending
12 September 30, 2003.

13 “(3) TOTAL ASSESSMENT.—The total amount
14 to be assessed against all manufacturers and import-
15 ers of all classes of tobacco product in each applica-
16 ble fiscal year shall be equal to the amount required
17 to carry out this subtitle during the applicable fiscal
18 year, as determined by the Secretary. If the amount
19 to be assessed after the application of paragraphs
20 (1) and (2) is insufficient to carry out this subtitle
21 during the applicable fiscal year, the Secretary may
22 assess such additional amount as the Secretary de-
23 termines to be necessary to carry out this subtitle
24 during the applicable fiscal year. Such additional
25 amount shall be allocated to the manufacturers and

1 importers of each class of tobacco product in the
2 same manner and based on the same percentages
3 applied in determining the total amount to be as-
4 sessed under paragraph (1), as adjusted by para-
5 graph (2) during the applicable fiscal year.

6 “(4) NOTIFICATION OF ASSESSMENTS.—The
7 Secretary shall notify all manufacturers and import-
8 ers of tobacco products of the amount of the assess-
9 ment for each quarterly payment period. The notice
10 for a quarterly payment period shall refer gross do-
11 mestic sales and market shares for the quarterly
12 payment period and conform with the requirements
13 of subsection (h).

14 “(5) TIMING OF ASSESSMENT PAYMENTS.—

15 “(A) IN GENERAL.—Assessments shall be
16 collected at the end of each calendar year quar-
17 ter, and the assessment for a calendar year
18 quarter shall correspond to the base period
19 quarter that ended at the end of the preceding
20 calendar year quarter. The payments over four
21 calendar quarters, beginning with the calendar
22 quarter ending on December 31 of each applica-
23 ble fiscal year, shall be sufficient to cover the
24 payments required under chapter 1 on Novem-
25 ber 1 of that same applicable fiscal year and

1 other expenditures of the Tobacco Trust Fund
2 required by section 380S during the base quar-
3 ter periods corresponding to those four calendar
4 quarters.

5 “(B) SPECIAL RULE.—In the case of the
6 chapter 1 payments required to be made on
7 September 30, 2004, the assessments shall be
8 paid on that same date and correspond to the
9 first base period of six months.

10 “(d) ALLOCATION OF ASSESSMENT WITHIN EACH
11 CLASS OF TOBACCO PRODUCT.—

12 “(1) ALLOCATION.—The assessment for each
13 class of tobacco product shall be allocated on a pro
14 rata basis among manufacturers and importers
15 based on each manufacturer’s or importer’s share of
16 gross domestic volume. No manufacturer or importer
17 shall be required to pay an assessment in excess of
18 the manufacturer’s or importer’s share of domestic
19 volume.

20 “(2) GROSS DOMESTIC VOLUME DEFINED.—In
21 this section, the term ‘gross domestic volume’ means
22 the volume of tobacco products removed, as defined
23 by section 5702(k) of the Internal Revenue Code of
24 1986, and not exempt from tax under chapter 52 of
25 the Internal Revenue Code at the time of their re-

1 moval under such chapter or the Harmonized Tariff
2 Schedule of the United States (19 U.S.C. 1202).

3 “(e) ALLOCATION OF TOTAL ASSESSMENTS BY MAR-
4 KET SHARE.—The amount of the assessment for each
5 class of tobacco product to be paid by each manufacturer
6 or importer of the class of tobacco product under sub-
7 section (a) shall be determined for each quarterly payment
8 period by multiplying—

9 “(1) the market share of the manufacturer or
10 importer, as calculated with respect to that payment
11 period, of the class of tobacco product; by

12 “(2) the total amount of the assessment for
13 that quarterly payment period under subsection (c),
14 for the class of tobacco product.

15 “(f) DETERMINATION OF VOLUME OF DOMESTIC
16 SALES.—

17 “(1) IN GENERAL.—The calculation of the vol-
18 ume of domestic sales of a class of tobacco product
19 by a manufacturer or importer, and by all manufac-
20 turers and importers as a group, shall be made by
21 the Secretary based on information provided by the
22 manufacturers and importers pursuant to subsection
23 (g), as well as any other relevant information pro-
24 vided to or obtained by the Secretary. The volume

1 of domestic sales shall be calculated based on gross
2 domestic volume.

3 “(2) MEASUREMENT.—For purposes of the cal-
4 culations under this subsection and the certifications
5 under subsection (g) by the Secretary, the volumes
6 of domestic sales shall be measured by—

7 “(A) in the case of cigarettes, the numbers
8 of cigarettes;

9 “(B) in the case of small cigars, the num-
10 ber of cigars weighing not more than three
11 pounds per thousand;

12 “(C) in the case of large cigars, the num-
13 ber of cigars weighing more than three pounds
14 per thousand; and

15 “(D) in the case of other classes of tobacco
16 products, in terms of number of pounds, or
17 fraction thereof, of these products.

18 “(g) MEASUREMENT OF VOLUME OF DOMESTIC
19 SALES.—

20 “(1) IN GENERAL.—Each manufacturer and
21 importer of tobacco products shall submit to the
22 Secretary a certified copy of each of the returns or
23 forms described by this paragraph that are required
24 to be filed with a Government agency on the same
25 date that those returns or forms are filed, or re-

1 quired to be filed, with such agency. The returns
2 and forms described by this paragraph are those re-
3 turns and forms related to the release of tobacco
4 products into domestic commerce, as defined by sec-
5 tion 5702(k) of the Internal Revenue Code of 1986
6 and the payment of the taxes imposed under chapter
7 52 of the Internal Revenue Code of 1986, including
8 AFT Form 5000.24 and United States Customs
9 Form 7501 under currently applicable regulations.

10 “(2) PENALTIES.—Any person that knowingly
11 fails to provide information required under this sub-
12 section or that provides false information under this
13 subsection shall be subject to the penalties described
14 in section 1003 of title 18, United States Code. In
15 addition, the Secretary may assess against the per-
16 son a civil penalty in an amount not to exceed 2 per-
17 cent of the value of the kind of tobacco products
18 manufactured or imported by such person during the
19 applicable fiscal year, as determined by the Sec-
20 retary.

21 “(h) ASSESSMENT NOTIFICATION; CONTENT.—The
22 Secretary shall provide each manufacturer or importer
23 subject to an assessment under subsection (a) with written
24 notice setting forth the amount to be assessed against
25 such manufacturer or importer for the applicable quar-

1 terly period. The notice for a quarterly period shall be pro-
2 vided not later than 30 days before the date payment is
3 due under subsection (c)(5). The notice shall include the
4 following information with respect to such quarterly period
5 used by the Secretary in calculating such amount:

6 “(1) The total combined assessment for all
7 manufacturers and importers of tobacco products.

8 “(2) The total assessment with respect to the
9 class of tobacco products manufactured or imported
10 by such manufacturer or importer.

11 “(3) Any adjustments to the percentage alloca-
12 tions among the classes of tobacco products made
13 pursuant to subsection (c)(2).

14 “(4) The volume of gross sales of the applicable
15 class of tobacco product treated as made by such
16 manufacturer or importer for purposes of calculating
17 such manufacturer’s or importer’s market share
18 under subsection (e).

19 “(5) The total volume of gross sales of the ap-
20 plicable class of tobacco product that the Secretary
21 treated as made by all manufacturers and importers
22 for purposes of calculating such manufacturer’s or
23 importer’s market share under subsection (e).

1 “(6) Such manufacturer’s or importer’s market
2 share of the applicable class of tobacco product as
3 determined by the Secretary under subsection (e).

4 “(7) The market share, as determined by the
5 Secretary under subsection (e), of each other manu-
6 facturer and importer, for each applicable class of
7 tobacco product.

8 “(i) CHALLENGE TO ASSESSMENT.—

9 “(1) APPEAL TO SECRETARY.—A manufacturer
10 or importer subject to this section may contest an
11 assessment imposed on such person pursuant to this
12 section by notifying the Secretary within 10 business
13 days after receiving the assessment notification re-
14 quired by subsection (h). Such manufacturer and
15 importer may place into escrow, in accordance with
16 rules promulgated by the Secretary, only the portion
17 of the assessment being challenged in good faith
18 pending final determination of the assessment under
19 this subsection.

20 “(2) PROCEDURE FOR APPEAL.—The Secretary
21 shall by regulation establish a procedure whereby a
22 person contesting an assessment pursuant to this
23 subsection may present information to the Secretary
24 to demonstrate that such assessment is incorrect, in-
25 cluding information to demonstrate the following:

1 “(A) The total combined assessment im-
2 posed by the Secretary on all manufacturers
3 and importers is excessive.

4 “(B) The Secretary’s allocation of the total
5 assessment among the classes of tobacco prod-
6 ucts is incorrect.

7 “(C) The total volume of gross domestic
8 sales of all manufacturers and importers of the
9 relevant class of tobacco product calculated by
10 the Secretary under subsection (e) is incorrect.

11 “(D) The level of gross domestic sales at-
12 tributed to such person by the Secretary for
13 purposes of calculating such person’s market
14 share under subsection (e) exceeds such per-
15 son’s actual domestic sales of such class of to-
16 bacco product.

17 “(E) The amount of the assessment attrib-
18 uted to such person by the Secretary exceeds
19 such person’s pro rata share based on such per-
20 son’s share of gross domestic sales.

21 “(3) CHALLENGE.—In challenging an assess-
22 ment under this subsection, the manufacturer or im-
23 porter may use any information that is available, in-
24 cluding third party data on industry or individual
25 company sales volumes. Such information may con-

1 stitute evidence sufficient to establish that the Sec-
2 retary's initial determination was incorrect, in which
3 event the assessment shall be revised so that the
4 manufacturer or importer is required only to pay the
5 amount correctly determined.

6 "(4) TIME FOR REVIEW.—Within 30 days after
7 receiving notice from a manufacturer or importer
8 under paragraph (2), the Secretary shall decide
9 whether the information provided to the Secretary
10 pursuant to such paragraph and any other informa-
11 tion which the Secretary determines is appropriate is
12 sufficient to establish that the original assessment
13 was incorrect, and shall make any revisions nec-
14 essary to ensure that each manufacturer and im-
15 porter pays only its correct pro rata share of total
16 gross domestic volume from all sources.

17 "(5) IMMEDIATE PAYMENT OF UNDISPUTED
18 AMOUNTS.—The regulations promulgated by the
19 Secretary under paragraph (2) shall provide for the
20 immediate payment by a manufacturer or importer
21 challenging an assessment of such portion of the as-
22 sessment that is not in dispute.

23 "(6) JUDICIAL REVIEW.—Any manufacturer or
24 importer aggrieved by a determination of the Sec-
25 retary with respect to the amount of any assessment

1 may seek review of such determination in the United
2 States District Court for the District of Columbia or
3 for the district in which the manufacturer or im-
4 porter resides or has its principal place of business
5 at any time following exhaustion of the administra-
6 tive remedies under this subsection. Administrative
7 remedies shall be deemed exhausted if no decision by
8 the Secretary is made within the time limits under
9 paragraph (4). The court shall restrain collection of
10 the excessive portion of any assessment or order a
11 refund of excessive assessments already paid, along
12 with interest calculated at the rate prescribed in sec-
13 tion 3717 of title 31, United States Code, if it finds
14 that the Secretary's determination is not supported
15 by a preponderance of the information available to
16 the Secretary.

17 “(7) REGULATIONS.—The Secretary shall issue
18 regulations to implement this subsection within 6
19 months after the date of the enactment of this Act.
20 “(j) TERMINATION DATE.—The authority provided
21 by this section terminates on September 30, 2011.

22 **“SEC. 380U. COMMODITY CREDIT CORPORATION.**

23 The Secretary shall use the funds, facilities, and au-
24 thorities of the Commodity Credit Corporation to carry
25 out this subtitle, to remain available until expended.

1 **“SEC. 380V. TRANSITION PROVISIONS.**

2 “(a) TOBACCO STOCKS.—

3 “(1) IN GENERAL.—To provide for the orderly
4 disposition of quota tobacco held by an association
5 that has entered into a loan agreement with the
6 Commodity Credit Corporation under section 106A
7 or 106B of the Agricultural Act of 1949 (7 U.S.C.
8 1445–1, 1445–2) (referred to in this section as an
9 ‘association’), loan pool stocks for each kind of to-
10 bacco held by the association shall be disposed of in
11 accordance with this subsection.

12 “(2) ASSOCIATIONS.—For each kind of tobacco
13 held by an association, the proportion of loan pool
14 stocks for each kind of tobacco held by the associa-
15 tion that shall be transferred to the association shall
16 be equal to—

17 “(A) the amount of funds held by the asso-
18 ciation in the No Net Cost Tobacco Fund and
19 the No Net Cost Tobacco Account established
20 under sections 106A and 106B of the Agricul-
21 tural Act of 1949 (7 U.S.C. 1445–1, 1445–2),
22 respectively, for the kind of tobacco; divided by

23 “(B) the average list price per pound for
24 the kind of tobacco, as determined by the Sec-
25 retary.

1 “(3) COMMODITY CREDIT CORPORATION.—Any
2 loan pool stocks of a kind of tobacco of an associa-
3 tion that are not disposed of in accordance with
4 paragraph (2) shall be—

5 “(A) transferred by the association to the
6 Commodity Credit Corporation;

7 “(B) disposed of in a manner determined
8 by the Secretary; and

9 “(C) should any loss be incurred by the
10 disposals described in subparagraph (B), these
11 losses shall first be paid by the association for
12 that kind of tobacco to the extent of the rev-
13 enue received from the sale of tobacco trans-
14 ferred to the association pursuant to paragraph
15 (2).

16 “(b) NO NET COST FUNDS.—

17 “(1) IN GENERAL.—Any funds in the No Net
18 Cost Tobacco Fund or the No Net Cost Tobacco Ac-
19 count of an association established under sections
20 106A and 106B of the Agricultural Act of 1949 (7
21 U.S.C. 1445–1, 1445–2), respectively, that remain
22 after the application of subsection (a) and sections
23 106A and 106B of the Agricultural Act of 1949 (7
24 U.S.C. 1445, 1445–1) (as in effect on the day before
25 the date of the enactment of the Tobacco Reduction,

1 Accountability, and Community Enhancement Act of
2 2003) shall be transferred to the association for dis-
3 tribution to members of the association in accord-
4 ance with a plan approved by the Secretary.

5 “(2) ASSOCIATIONS WITH NO LOAN POOL
6 STOCKS.—In the case of an association that does not
7 hold any loan pool stocks that are covered by sub-
8 section (a)(2), any funds in the No Net Cost To-
9 bacco Fund or the No Net Cost Tobacco Account of
10 the association established under sections 106A and
11 106B of the Agricultural Act of 1949 (7 U.S.C.
12 1445–1, 1445–2), respectively, shall be transferred
13 to the association for distribution to members of the
14 association in accordance with a plan approved by
15 the Secretary.”.

16 (b) CONFORMING AMENDMENTS.—Section
17 320B(c)(1) of the Agricultural Adjustment Act of 1938
18 (7 U.S.C. 1314h(c)(1)) is amended—

19 (1) by inserting “(A)” after “(1)”;
20 (2) by striking “by” at the end and inserting
21 “or”; and

22 (3) by adding at the end the following:
23 “(B) in the case of the 2003 marketing year,
24 the price support rate for the kind of tobacco in-
25 volved in effect under section 106 of the Agricultural

1 Act of 1949 (7 U.S.C. 1445) at the time of the vio-
2 lation; by".

3 **SEC. 6. REGULATIONS.**

4 (a) IN GENERAL.—In accordance with the notice and
5 comment provisions of section 533 of title 5, United States
6 Code, the Secretary of Agriculture may promulgate such
7 regulations as are necessary to implement this Act and
8 the amendments made by this Act.

9 (b) PROCEDURE.—The promulgation of the regula-
10 tions and administration of this Act and the amendments
11 made by this Act shall be made without regard to chapter
12 35 of title 44, United States Code (commonly known as
13 the "Paperwork Reduction Act").

14 (c) CONGRESSIONAL REVIEW OF AGENCY RULE-
15 MAKING.—In carrying out this section, the Secretary shall
16 use the authority provided under section 808 of title 5,
17 United States Code.

18 **SEC. 7. SEVERABILITY.**

19 If any provision of this Act or the application of any
20 provision of this Act to any person or circumstance is held
21 to invalid, the remainder of this Act and the application
22 of the provisions of the Act to any other person or cir-
23 cumstance shall not be affected thereby and shall continue
24 to be enforced to the fullest extent possible.

1 **SEC. 8. EFFECTIVE DATE.**

2 This Act and the amendments made by this Act shall
3 apply to the 2004 and subsequent crops of each kind of
4 tobacco.

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