

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.

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## 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

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## 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)”; and  
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)—

1 (A) in the first sentence, by striking “all  
 2 persons engaged in the business of redrying,  
 3 prizing, or stemming tobacco for producers,”;  
 4 and

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)”; and

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.

8 (s) BURLEY TOBACCO ACREAGE ALLOTMENTS.—The  
 9 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 RECOURSE 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)—

1 (A) by striking “, except tobacco,”; and

2 (B) by striking “and no price support shall  
3 be made available for any crop of tobacco for  
4 which marketing quotas have been disapproved  
5 by producers;”; and

6 (4) by redesignating subsections (d) and (e) as  
7 subsections (c) and (d), respectively.

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.—Sec-  
16 tion 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 Geor-  
 2 gia under section 380I, the term includes a county  
 3 that is contiguous to a county described in the pre-  
 4 ceding 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 transi-  
 11 tion payments under this section to each tobacco quota  
 12 holder.

13 “(b) TOBACCO QUOTA HOLDER.—

14 “(1) IN GENERAL.—Except as otherwise pro-  
 15 vided in this subsection, the Secretary shall consider  
 16 a person to be a tobacco quota holder under this sec-  
 17 tion if the person was an owner of a farm, as of July  
 18 1, 2002, for which a basic tobacco farm marketing  
 19 quota or farm acreage allotment for quota tobacco  
 20 was established with respect to the 2002 tobacco  
 21 marketing year under a marketing quota program  
 22 established under part I of subtitle B of this title (as  
 23 in effect on the day before the date of the enactment  
 24 of the Tobacco Reduction, Accountability, and Com-  
 25 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           representatives 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       bacco producers of that kind of tobacco in the tradi-  
2       tional tobacco county. The Secretary shall distribute  
3       the unused crop poundage base among those pro-  
4       ducers that request a portion of the unused crop  
5       poundage base according to the percentage of pre-  
6       vious year production, by pound, of that kind of to-  
7       bacco in that county.

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 AGRI-  
5 CULTURAL REQUIREMENTS.—As a condition of the estab-  
6 lishment of a crop poundage base for an active tobacco  
7 producer for a crop of a kind of tobacco, the producer shall  
8 agree, during the crop year for which the crop poundage  
9 base is established—

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

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

16 “(3) to use the land of the active tobacco pro-  
17 ducer, in a quantity consistent with the crop pound-  
18 age base, for an agricultural or conserving use, and  
19 not for a nonagricultural commercial or industrial  
20 use, as determined by the Secretary; and

21 “(4) to effectively control noxious weeds and  
22 otherwise maintain the land in accordance with  
23 sound agricultural practices, as determined by the  
24 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-

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

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

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

“(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall make competitive grants under section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626) to colleges and universities located in eligible States to conduct research—

“(1) to assist tobacco producers to diversify crops or implement other means to reduce or eliminate the reliance of the producers on the production of tobacco or to promote alternative uses of tobacco or enhance the quality of tobacco produced in the United States; and

“(2) to foster and facilitate development, evaluation, and implementation of economically viable new agricultural technologies and enterprises for rural communities.

“(b) GRANT DISTRIBUTION.—In making grants under this section, the Secretary shall provide for an equitable 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 subpara-  
19 graph (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 charter  
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.

