

108TH CONGRESS
2D SESSION

H. R. 4033

To terminate the Federal tobacco quota and price support programs, to require the payment of fair and equitable compensation for tobacco quota holders and active tobacco producers adversely affected by the termination of such programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 25, 2004

Mr. JENKINS (for himself, Mr. MCINTYRE, Mr. BALLANCE, Mr. BALLENGER, Mr. BARRETT of South Carolina, Mr. BISHOP of Georgia, Mrs. BLACKBURN, Mr. BOUCHER, Mr. BROWN of South Carolina, Mr. BURNS, Mr. BURR, Mr. CHANDLER, Mr. COLLINS, Mr. COBLE, Mr. COOPER, Mr. DAVIS of Tennessee, Mr. GINGREY, Mr. GOODE, Mr. GORDON, Mr. HAYES, Mr. ISAKSON, Mr. JONES of North Carolina, Mr. KINGSTON, Mr. LEWIS of Kentucky, Mr. LUCAS of Kentucky, Mr. PETERSON of Minnesota, Mr. ROGERS of Kentucky, Mr. SCOTT of Georgia, Mr. TANNER, Mr. TAYLOR of North Carolina, Mr. TURNER of Ohio, Mr. WAMP, Mr. WHITFIELD, Mr. WILSON of South Carolina, and Mr. BOYD) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To terminate the Federal tobacco quota and price support programs, to require the payment of fair and equitable compensation for tobacco quota holders and active tobacco producers adversely affected by the termination of such programs, 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,*

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

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Fair and Equitable Tobacco Reform Act of 2004”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Effective date.

**TITLE I—TERMINATION OF FEDERAL TOBACCO QUOTA AND
PRICE SUPPORT PROGRAMS**

Sec. 101. Termination of tobacco quota program and related provisions.

Sec. 102. Termination of tobacco price support program and related provisions.

Sec. 103. Liability.

**TITLE II—TRANSITIONAL PAYMENTS TO TOBACCO QUOTA
HOLDERS AND ACTIVE PRODUCERS OF TOBACCO**

Sec. 201. Definitions of active tobacco producer and quota holder.

Sec. 202. Payments to tobacco quota holders.

Sec. 203. Transition payments for active producers of quota tobacco.

Sec. 204. Geographical restrictions on expansion of tobacco production.

Sec. 205. Resolution of disputes.

Sec. 206. Source of funds for payments.

6 **SEC. 2. EFFECTIVE DATE.**

7 This Act and the amendments made by this Act shall
8 apply to the 2005 and subsequent crops of each kind of
9 tobacco.

10 **TITLE I—TERMINATION OF FED-**
11 **ERAL TOBACCO QUOTA AND**
12 **PRICE SUPPORT PROGRAMS**

13 **SEC. 101. TERMINATION OF TOBACCO QUOTA PROGRAM**
14 **AND RELATED PROVISIONS.**

15 (a) MARKETING QUOTAS.—Part I of subtitle B of
16 title III of the Agricultural Adjustment Act of 1938 (7
17 U.S.C. 1311 et seq.) is repealed.

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

5 (1) in paragraph (2), by striking “tobacco,”;
 6 and

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

10 (c) DECLARATION OF POLICY.—Section 2 of the Ag-
 11 ricultural Adjustment Act of 1938 (7 U.S.C. 1282) is
 12 amended by striking “tobacco,”.

13 (d) DEFINITIONS.—Section 301(b) of the Agricul-
 14 tural Adjustment Act of 1938 (7 U.S.C. 1301(b)) is
 15 amended—

16 (1) in paragraph (3)—

17 (A) by striking subparagraph (C); and

18 (B) by redesignating subparagraph (D) as
 19 subparagraph (C);

20 (2) in paragraph (6)(A), by striking “tobacco,”;

21 (3) in paragraph (10)—

22 (A) by striking subparagraph (B); and

23 (B) by redesignating subparagraph (C) as
 24 subparagraph (B);

1 (4) in paragraph (11)(B), by striking “and to-
2 bacco”;

3 (5) in paragraph (12), by striking “tobacco,”;

4 (6) in paragraph (14)—

5 (A) in subparagraph (A), by striking
6 “(A)”; and

7 (B) by striking subparagraphs (B), (C),
8 and (D);

9 (7) by striking paragraph (15);

10 (8) in paragraph (16)—

11 (A) by striking subparagraph (B); and

12 (B) by redesignating subparagraph (C) as
13 subparagraph (B);

14 (9) by striking paragraph (17); and

15 (10) by redesignating paragraph (16) as para-
16 graph (15).

17 (e) PARITY PAYMENTS.—Section 303 of the Agricul-
18 tural Adjustment Act of 1938 (7 U.S.C. 1303) is amended
19 in the first sentence by striking “rice, or tobacco,” and
20 inserting “or rice,”.

21 (f) ADMINISTRATIVE PROVISIONS.—Section 361 of
22 the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361)
23 is amended by striking “tobacco,”.

1 (g) ADJUSTMENT OF QUOTAS.—Section 371 of the
2 Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is
3 amended—

4 (1) in the first sentence of subsection (a), by
5 striking “rice, or tobacco” and inserting “or rice”;
6 and

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

9 (h) 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 (i) 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 (j) 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 (k) 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 (l) BURLEY TOBACCO ACREAGE ALLOTMENTS.—The
 9 Act of July 12, 1952 (7 U.S.C. 1315), is repealed.

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

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

20 **SEC. 102. TERMINATION OF TOBACCO PRICE SUPPORT**
 21 **PROGRAM AND RELATED PROVISIONS.**

22 (a) TERMINATION OF TOBACCO PRICE SUPPORT AND
 23 NO NET COST PROVISIONS.—Sections 106, 106A, and
 24 106B of the Agricultural Act of 1949 (7 U.S.C. 1445,
 25 1445–1, 1445–2) are repealed.

1 (b) PARITY PRICE SUPPORT.—Section 101 of the Ag-
 2 ricultural Act of 1949 (7 U.S.C. 1441) is amended—

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

6 (2) by striking subsections (c), (g), (h), and (i);

7 (3) in subsection (d)(3)—

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

9 (B) by striking “and no price support shall
 10 be made available for any crop of tobacco for
 11 which marketing quotas have been disapproved
 12 by producers;”; and

13 (4) by redesignating subsections (d) and (e) as
 14 subsections (c) and (d), respectively.

15 (c) DEFINITION OF BASIC AGRICULTURAL COM-
 16 MODITY.—Section 408(c) of the Agricultural Act of 1949
 17 (7 U.S.C. 1428(c)) is amended by striking “tobacco,”.

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

23 **SEC. 103. LIABILITY.**

24 The amendments made by this title shall not affect
 25 the liability of any person under any provision of law so

1 amended with respect to any crop of tobacco planted be-
2 fore the effective date of this Act.

3 **TITLE II—TRANSITIONAL PAY-**
4 **MENTS TO TOBACCO QUOTA**
5 **HOLDERS AND ACTIVE PRO-**
6 **DUCERS OF TOBACCO**

7 **SEC. 201. DEFINITIONS OF ACTIVE TOBACCO PRODUCER**
8 **AND QUOTA HOLDER.**

9 In this title:

10 (1) ACTIVE TOBACCO PRODUCER.—The term
11 “active tobacco producer” means an owner, oper-
12 ator, landlord, tenant, or sharecropper who, as of
13 the day before the date of the enactment of this
14 Act—

15 (A) shared in the risk of producing tobacco
16 on a farm where tobacco was produced pursu-
17 ant to a tobacco farm marketing quota or farm
18 acreage allotment established under part I of
19 subtitle B of title III of the Agricultural Ad-
20 justment Act of 1938 (7 U.S.C. 1311 et seq.),
21 as in effect on the day before the date of the
22 enactment of this Act; and

23 (B) was actively engaged on that farm in
24 the production of tobacco marketed or consid-
25 ered planted.

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

5 (3) TOBACCO QUOTA HOLDER.—The term “to-
6 bacco quota holder” means an owner, as of the day
7 before the date of the enactment of this Act, of a
8 tobacco farm marketing quota or a farm acreage al-
9 lotment established under part I of subtitle B of title
10 III of the Agricultural Adjustment Act of 1938 (7
11 U.S.C. 1311 et seq.), as in effect on the day before
12 the date of the enactment of this Act.

13 (4) SECRETARY.—The term “Secretary” means
14 the Secretary of Agriculture.

15 **SEC. 202. PAYMENTS TO TOBACCO QUOTA HOLDERS.**

16 (a) PAYMENT REQUIRED.—The Secretary shall make
17 payments to each eligible tobacco quota holder for the ter-
18 mination of tobacco marketing quotas and related price
19 support under title I, which shall constitute full and fair
20 compensation for any losses relating to such termination.

21 (b) ELIGIBILITY.—To be eligible to receive a payment
22 under this section, a person shall submit to the Secretary
23 an application containing such information as the Sec-
24 retary may require to demonstrate to the satisfaction of
25 the Secretary that the person satisfies the definition of

1 tobacco quota holder. The application shall be submitted
2 within such time, in such form, and in such manner as
3 the Secretary may require.

4 (c) INDIVIDUAL BASE QUOTA LEVEL.—

5 (1) IN GENERAL.—The Secretary shall establish
6 a base quota level applicable to each eligible tobacco
7 quota holder identified under subsection (b).

8 (2) POUNDAGE QUOTAS.—Subject to adjust-
9 ment under subsection (d), for each kind of tobacco
10 for which the marketing quota is expressed in
11 pounds, the base quota level for each tobacco quota
12 holder shall be equal to the basic tobacco marketing
13 quota under the Agriculture Adjustment Act of 1938
14 for the marketing year in effect on the date of the
15 enactment of this Act for quota tobacco on the farm
16 owned by the tobacco quota holder.

17 (3) MARKETING QUOTAS OTHER THAN POUND-
18 AGE QUOTAS.—Subject to adjustment under sub-
19 section (d), for each kind of tobacco for which there
20 is marketing quota or allotment on an acreage basis,
21 the base quota level for each tobacco quota holder
22 shall be the amount equal to the product obtained
23 by multiplying—

24 (A) the basic tobacco farm marketing
25 quota or allotment for the marketing year in ef-

fect on the date of the enactment of this Act,
as established by the Secretary for quota tobacco on the farm owned by the tobacco quota holder; by

(B) the average county production yield per acre for the county in which the farm is located for the kind of tobacco for that marketing year.

(d) TREATMENT OF CERTAIN CONTRACTS AND AGREEMENTS.—

(1) EFFECT OF PURCHASE CONTRACT.—If there was an agreement for the purchase of all or part of a farm described in subsection (c) as of the date of the enactment of this Act, and the parties to the sale are unable to agree to the disposition of eligibility for payments under this section, the Secretary, taking into account any transfer of quota that has been agreed to, shall provide for the equitable division of the payments among the parties by adjusting the determination of who is the tobacco quota holder with respect to particular pounds of the quota.

(2) EFFECT OF AGREEMENT FOR PERMANENT QUOTA TRANSFER.—If the Secretary determines that there was in existence, as of the day before the

1 date of the enactment of this Act, an agreement for
2 the permanent transfer of quota, but that the trans-
3 fer was not completed by that date, the Secretary
4 shall consider the tobacco quota holder to be the
5 party to the agreement that, as of that date, was the
6 owner of the farm to which the quota was to be
7 transferred.

8 (e) TOTAL PAYMENT AMOUNTS BASED ON 2002
9 MARKETING YEAR.—

10 (1) CALCULATION OF ANNUAL PAYMENT
11 AMOUNT.—During fiscal years 2005 through 2009,
12 the Secretary shall make payments to all eligible to-
13 bacco quota holders identified under subsection (b)
14 in an annual amount equal to the product obtained
15 by multiplying, for each kind of tobacco for which
16 the marketing quota is expressed in pounds—

17 (A) \$1.40 per pound; by

18 (B) the total tobacco farm marketing
19 quotas established under the Agriculture Ad-
20 justment Act of 1938 for the 2002 marketing
21 year for that kind of tobacco.

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

1 farm marketing quotas or allotments established
2 under the Agriculture Adjustment Act of 1938 for
3 the 2002 marketing year for that kind of tobacco to
4 a poundage basis before executing the mathematical
5 equation specified in paragraph (1).

6 (f) INDIVIDUAL PAYMENT AMOUNTS.—The annual
7 payment amount for each eligible tobacco quota holder
8 with respect to a kind of tobacco under this section shall
9 bear the same ratio to the amount determined by the Sec-
10 retary under subsection (e) with respect to that kind of
11 tobacco as the individual base quota level of that eligible
12 tobacco quota holder under subsection (c) with respect to
13 that kind of tobacco bears to the total base quota levels
14 of all eligible tobacco quota holders with respect to that
15 kind of tobacco.

16 (g) DEATH OF TOBACCO QUOTA HOLDER.—If a to-
17 bacco quota holder who is entitled to payments under this
18 section dies and is survived by a spouse or one or more
19 dependents, the right to receive the payments shall trans-
20 fer to the surviving spouse or, if there is no surviving
21 spouse, to the estate of the tobacco quota holder.

1 **SEC. 203. TRANSITION PAYMENTS FOR ACTIVE PRODUCERS**
2 **OF QUOTA TOBACCO.**

3 (a) **TRANSITION PAYMENTS REQUIRED.**—The Sec-
4 retary shall make transition payments under this section
5 to eligible active producers of quota tobacco.

6 (b) **ELIGIBILITY.**—To be eligible to receive a transi-
7 tion payment under this section, a person shall submit to
8 the Secretary an application containing such information
9 as the Secretary may require to demonstrate to the satis-
10 faction of the Secretary that the person satisfies the defi-
11 nition of active producer of quota tobacco. The application
12 shall be submitted within such time, in such form, and
13 in such manner as the Secretary may require.

14 (c) **CURRENT PRODUCTION BASE.**—The Secretary
15 shall establish a production base applicable to each eligible
16 active producer of quota tobacco identified under sub-
17 section (b). A producer's production base shall be equal
18 to the quantity, in pounds, of quota tobacco subject to the
19 basic marketing quota marketed or considered planted by
20 the producer under the Agriculture Adjustment Act of
21 1938 for the marketing year in effect on the date of the
22 enactment of this Act.

23 (d) **TOTAL PAYMENT AMOUNTS BASED ON 2002**
24 **MARKETING YEAR.**—

25 (1) **CALCULATION OF ANNUAL PAYMENT**
26 **AMOUNT.**—During fiscal years 2005 through 2009,

1 the Secretary shall make payments to all eligible ac-
2 tive producers of quota tobacco identified under sub-
3 section (b) in an annual amount equal to the prod-
4 uct obtained by multiplying, for each kind of tobacco
5 for which the marketing quota is expressed in
6 pounds—

7 (A) \$0.60 per pound; by

8 (B) the total tobacco farm marketing
9 quotas established under the Agriculture Ad-
10 justment Act of 1938 for the 2002 marketing
11 year for that kind of tobacco.

12 (2) 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 Secretary shall convert the tobacco
16 farm marketing quotas or allotments established
17 under the Agriculture Adjustment Act of 1938 for
18 the 2002 marketing year for that kind of tobacco to
19 a poundage basis before executing the mathematical
20 equation specified in paragraph (1).

21 (e) INDIVIDUAL PAYMENT AMOUNTS.—The annual
22 payment amount for each eligible active producer of quota
23 tobacco identified under subsection (b) with respect to a
24 kind of tobacco under this section shall bear the same
25 ratio to the amount determined by the Secretary under

1 subsection (d) with respect to that kind of tobacco as the
 2 individual production base of that eligible active producer
 3 under subsection (c) with respect to that kind of tobacco
 4 bears to the total production bases determined under that
 5 subsection for all eligible active producers of that kind of
 6 tobacco.

7 (f) DEATH OF TOBACCO PRODUCER.—If a tobacco
 8 producer who is entitled to payments under this section
 9 dies and is survived by a spouse or one or more depend-
 10 ents, the right to receive the payments shall transfer to
 11 the surviving spouse or, if there is no surviving spouse,
 12 to the estate of the tobacco producer.

13 **SEC. 204. GEOGRAPHICAL RESTRICTIONS ON EXPANSION**
 14 **OF TOBACCO PRODUCTION.**

15 (a) PURPOSE.—The purpose of this section is to pro-
 16 vide an orderly economic transition away from the mar-
 17 keting of tobacco based on quotas and price support while
 18 also addressing the economic dislocation, and the resulting
 19 impact on interstate commerce, that the termination of the
 20 tobacco quota and price support programs might cause.

21 (b) PENALTY APPLICABLE TO TOBACCO GROWN
 22 OUTSIDE TRADITIONAL TOBACCO COUNTIES.—The mar-
 23 keting of tobacco in the 2005 or subsequent marketing
 24 years, of a kind of tobacco that was subject to a marketing
 25 quota in the 2002 marketing year, shall be subject to a

1 penalty equal to 100 percent of the total amount received
2 on the marketing of the tobacco unless the tobacco was
3 grown in a traditional tobacco county.

4 (c) DEFINITIONS.—In this section:

5 (1) The term “marketing year” means July 1
6 to June 30 for flue-cured tobacco and October 1 to
7 September 30 for all other kinds of tobacco.

8 (2) The term “marketing quota in the 2002
9 marketing year” means a quota established for that
10 year pursuant to part I of subtitle B of title III of
11 the Agricultural Adjustment Act of 1938 (7 U.S.C.
12 1311 et seq.) and related provisions, as in effect for
13 that marketing year.

14 (3) The term “traditional tobacco county”, with
15 respect to a kind of tobacco, means—

16 (A) a county in the United States that had
17 1 or more farms operated by active producers
18 of quota tobacco of that kind of tobacco under
19 a marketing quota in the 2002 marketing year;
20 or

21 (B) a county contiguous to a county de-
22 scribed in subparagraph (A) for that kind of to-
23 bacco.

1 **SEC. 205. RESOLUTION OF DISPUTES.**

2 Any dispute regarding the eligibility of a person to
3 receive a payment under this title, or the amount of the
4 payment, shall be resolved by the county committee estab-
5 lished under section 8 of the Soil Conservation and Do-
6 mestic Allotment Act (16 U.S.C. 590h) for the county or
7 other area in which the farming operation of the person
8 is located.

9 **SEC. 206. SOURCE OF FUNDS FOR PAYMENTS.**

10 There is hereby appropriated to the Secretary, from
11 amounts in the general fund of the Treasury, such
12 amounts as the Secretary needs in order to make the pay-
13 ments required by sections 202 and 203, provided such
14 amounts do not exceed amounts received in the Treasury
15 under chapter 52 of the Internal Revenue Code of 1986
16 (relating to tobacco products and cigarette papers and
17 tubes).

○