

105TH CONGRESS
2D SESSION

S. 1582

To provide market transition assistance for quota holders, active tobacco producers, and tobacco-growing counties, to authorize a private Tobacco Production Control Corporation and tobacco loan associations to control the production and marketing and ensure the quality of tobacco in the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 28, 1998

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

A BILL

To provide market transition assistance for quota holders, active tobacco producers, and tobacco-growing counties, to authorize a private Tobacco Production Control Corporation and tobacco loan associations to control the production and marketing and ensure the quality of tobacco in the United States, 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 Market Transition Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Purposes.

TITLE I—TOBACCO COMMUNITY REVITALIZATION TRUST FUND

- Sec. 101. Tobacco Community Revitalization Trust Fund.

TITLE II—TOBACCO MARKET TRANSITION ASSISTANCE

- Sec. 201. Compensation to quota holders for loss of tobacco quota asset value.
- Sec. 202. Transition payments for active tobacco producers.
- Sec. 203. Tobacco Loan associations.
- Sec. 204. Tobacco community economic development grants.
- Sec. 205. Tax treatment of compensation and transition payments.

TITLE III—ESTABLISHMENT OF PRIVATE TOBACCO PRODUCTION
 ADJUSTMENT AND QUALITY ASSURANCE PROGRAMS

- Sec. 301. Tobacco Production Control Corporation.
- Sec. 302. Tobacco loan associations
- Sec. 303. Tobacco price support levels.
- Sec. 304. Penalties.
- Sec. 305. Referenda.

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

5 (1) ACTIVE TOBACCO PRODUCER.—The term
 6 “active tobacco producer” means a person that—

7 (A) is the actual producer, as determined
 8 by the Secretary, of tobacco on a farm where
 9 tobacco is produced pursuant to a tobacco from
 10 marketing quota or farm acreage allotment es-
 11 tablished under the Agricultural Adjustment
 12 Act of 1938 (7 U.S.C. 1281 et seq.) for the
 13 1997 crop year; and

14 (B) planted the crop, or is considered to
 15 have planted the crop under that Act, in 1997.

1 (2) QUOTA HOLDER.—The term “quota holder”
2 means an owner of a farm on January 1, 1998 for
3 which a tobacco farm marketing quota or farm acre-
4 age allotment was established under the Agricultural
5 Adjustment Act of 1938 (7 U.S.C. 1281 et seq.)

6 (3) SECRETARY.—The term “Secretary” means
7 the Secretary of Agriculture.

8 (4) TOBACCO LOAN ASSOCIATION.—The term
9 “Association” means a producer-owned cooperative
10 marketing association.

11 (5) TOBACCO PRODUCTION CONTROL CORPORA-
12 TION.—The term “Corporation” means the Tobacco
13 Production Control Corporation established by sec-
14 tion 301.

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

18 **SEC. 3. PURPOSES**

19 It is the purpose of this Act to—

20 (1) dismantle the existing federal tobacco pro-
21 gram and establish a private program to ensure the
22 stability of the price and supply of domestically
23 produce tobacco;

1 (2) compensate quota holders for the value of
2 assets that may be diminished as a result of this leg-
3 islation;

4 (3) provide targeted economic development
5 funds to tobacco dependent communities for the cre-
6 ation of jobs, training of individuals, and long-term
7 economic development of the communities;

8 (4) reduce the operating costs of tobacco pro-
9 ducers by eliminating expenses associated with buy-
10 ing or leasing tobacco quota; and

11 (5) make domestically produced tobacco more
12 competitive with tobacco produced in other coun-
13 tries.

14 **TITLE I—TOBACCO COMMUNITY**
15 **REVITALIZATION TRUST FUND**

16 **SEC. 101. TOBACCO COMMUNITY REVITALIZATION TRUST**
17 **FUND.**

18 (a) **IN GENERAL.**—There is established in the Treas-
19 ury of the United States a trust fund to be known as the
20 “Tobacco Community Revitalization Trust Fund”, con-
21 sisting of such amounts as may be appropriated or cred-
22 ited to the Trust Fund. The Trust Fund shall be adminis-
23 tered by the Corporation.

24 (b) **TRANSFERS TO TRUST FUND.**—There are appro-
25 priated and transferred to the Trust Fund, from amounts

1 made available to the Trust Fund out of funds allocated
2 through national tobacco settlement legislation,
3 \$3,500,000,000 for each of fiscal years 1999 through
4 2003 and \$265,000,000 for each of fiscal years 2004
5 through 2023.

6 (c) REPAYABLE ADVANCES.—

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

11 (2) REPAYMENT WITH INTEREST.—Repayable
12 advances made to the Trust Fund shall be repaid,
13 and interest on the advances shall be paid, to the
14 general fund of the Treasury when the Secretary of
15 the Treasury determines that moneys are available
16 in the Trust Fund to make the payments.

17 (3) RATE OF INTEREST.—Interest on an ad-
18 vance made under this subsection shall be at a rate
19 determined by the Secretary of Treasury (as of the
20 close of the calendar month preceding the month in
21 which the advance is made) that is equal to the cur-
22 rent average market yield on outstanding marketable
23 obligations of the United States with remaining pe-
24 riod to maturity comparable to the anticipated pe-
25 riod during which the advance will be outstanding.

1 (d) EXPENDITURES FROM TRUST FUND.—Amounts
2 in the Trust Fund shall be available for making expendi-
3 tures to defray—

4 (1) the costs of providing compensation to
5 quota holders for the loss of tobacco quota asset
6 value under section 201;

7 (2) the costs of making transition payments to
8 active tobacco producers under section 202;

9 (3) the costs of forgiving loans and transferring
10 title to inventories of tobacco and funds to Associa-
11 tions under section 203;

12 (4) the costs of making tobacco community eco-
13 nomic development grants under section 204, but
14 not to exceed \$250,000,000 for each of fiscal years
15 1999 through 2003 and an amount determined by
16 the Corporation to be appropriate for each of fiscal
17 years 2004 through 2023;

18 (5) the costs of carrying out the duties of the
19 Corporation and the Associations, including assuring
20 the quality and controlling the production and mar-
21 keting of domestic tobacco and otherwise carrying
22 out title III;

23 (6) the costs to the Secretary of enforcing title
24 III;

1 (7) the costs of providing crop insurance to to-
2 bacco producers; and

3 (8) any other costs incurred by the Department
4 of Agriculture associated with tobacco.

5 **TITLE II—TOBACCO MARKET**
6 **TRANSITION ASSISTANCE**

7 **SEC. 201. COMPENSATION TO QUOTA HOLDERS FOR LOSS**
8 **OF TOBACCO QUOTA ASSET VALUE.**

9 (a) IN GENERAL.—The Corporation shall make pay-
10 ments for tobacco quota to eligible quota holders.

11 (b) ELIGIBILITY.—To be eligible to receive payments
12 under this section, a quota holder shall prepare and sub-
13 mit to the Corporation an application at such time, in such
14 manner, and containing such information as the Corpora-
15 tion may require, including information sufficient to dem-
16 onstrate to the satisfaction of the Corporation that the
17 person was a quota holder on January 1, 1998.

18 (c) BASE QUOTA LEVEL.—

19 (1) IN GENERAL.—The Secretary shall deter-
20 mine, for each quota holder, the base quota level for
21 the 1995 through 1997 marketing years.

22 (2) LEVEL.—The base quota level for a quota
23 holder shall be equal to the average tobacco farm
24 marketing quota established for the 1995 through

1 1997 marketing years for the farm owned by the
2 quota holder on January 1, 1998.

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 each quota holder
7 shall be determined in accordance with this sub-
8 section (based on a poundage conversion) in an
9 amount equal to the product obtained by multiply-
10 ing—

11 (A) the average tobacco farm marketing
12 quota or allotment for the 1995 through 1997
13 marketing years; by

14 (B) the average county yield per acre for
15 the county in which the farm is located for the
16 kind of tobacco for the marketing years.

17 (d) PAYMENTS.—The Corporation shall make pay-
18 ments to each quota holder that is eligible under sub-
19 section (b) in 5 equal installments, 1 for each of the 1999
20 through 2003 crops of tobacco, in an aggregate amount
21 that is equal to the product obtained by multiplying—

22 (1) \$8 per pound; by

23 (2) the base quota level established for the
24 quota holder under subsection (c).

1 **SEC. 202. TRANSITION PAYMENTS FOR ACTIVE TOBACCO**
2 **PRODUCERS.**

3 (a) **IN GENERAL.**—The Corporation shall make tran-
4 sition payments to eligible active tobacco producers.

5 (b) **ELIGIBILITY.**—To be eligible to receive payments
6 under this section, an active tobacco producer shall—

7 (1) prepare and submit to the Corporation an
8 application at such time, in such manner, and con-
9 taining such information as the Corporation may re-
10 quire, including information sufficient to make the
11 demonstration required under paragraph (2); and

12 (2) demonstrate to the satisfaction of the Cor-
13 poration that, the person planted, or is considered to
14 have planted, a 1997 crop of tobacco.

15 (c) **PAYMENT QUANTITY.**—

16 (1) **IN GENERAL.**—The Secretary shall deter-
17 mine and provide to the Corporation, for each active
18 tobacco producer, the production quantity eligible for
19 payment for the 1995 through 1997 marketing
20 years.

21 (2) **ELIGIBLE PRODUCTION QUANTITY.**—The
22 production quantity eligible for payment for an ac-
23 tive tobacco producer shall be equal to the average
24 number of pounds of tobacco quota established for
25 a farm for the 1995 through 1997 marketing years

1 for which the producer was the actual producer of
2 the tobacco on the farm.

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 production quantity eligible for pay-
7 ment for each active tobacco producer shall be deter-
8 mined in accordance with this subsection (based on
9 a poundage conversion) in an amount equal to the
10 product obtained by multiplying—

11 (A) the average tobacco farm marketing
12 quota or allotment for the 1995 through 1997
13 marketing years; by

14 (B) the average county yield per acre for
15 the county in which the farm is located for the
16 kind of tobacco for the marketing years.

17 (d) PAYMENTS.—The Corporation shall make pay-
18 ments for each of the 1999 through 2003 crops of tobacco
19 to each active tobacco producer that is eligible under sub-
20 section (b) in an amount that is equal to the product ob-
21 tained by multiplying—

22 (1) \$0.40 per pound; by

23 (2) the payment quantity established for the
24 producer under subsection (c).

1 (e) DEATH OF ACTIVE TOBACCO PRODUCER.—If an
2 active tobacco producer who is entitled to payments under
3 this section dies and is survived by a spouse or 1 or more
4 dependents, the right to receive the payments shall trans-
5 fer to the surviving spouse or, if there is no surviving
6 spouse, to the estate of the producer.

7 **SEC. 203. TOBACCO LOAN ASSOCIATIONS.**

8 (a) PRIOR LOANS.—The Secretary shall forgive each
9 loan made to an Association under section 106A or 106B
10 of the Agricultural Act of 1949 (7 U.S.C. 1445 1, 1445
11 2) that is outstanding on the date of enactment of this
12 Act.

13 (b) TRANSFER OF TITLE FOR LOAN INVENTORIES.—
14 The Secretary shall transfer to each Association described
15 in subsection (a) the title to all inventories of tobacco held
16 by the Secretary to secure loans made to the Association
17 under section 106A or 106B of the Agricultural Act of
18 1949 (7 U.S.C. 1445 1, 1445 2).

19 (c) NO NET COST TOBACCO FUNDS.—Notwithstand-
20 ing sections 106A(f) and 106B(g) of the Agricultural Act
21 of 1949 (7 U.S.C. 1445–1(f) and 1445–2(g)), all funds
22 held in a No Net Cost Tobacco Fund or No Net Cost To-
23 bacco Account on behalf of an Association under section
24 106A or 106B of that Act (7 U.S.C. 1445–1, 1445–2)

1 on the date of enactment of this Act shall be the property
2 of the Association.

3 **SEC. 204. TOBACCO COMMUNITY ECONOMIC DEVELOP-**
4 **MENT GRANTS.**

5 (a) **AUTHORITY.**—The Corporation shall make grants
6 to eligible tobacco-growing political subdivisions in accord-
7 ance with this section to enable the political subdivisions
8 to carry out economic development activities.

9 (b) **ELIGIBILITY.**—To be eligible to receive payments
10 under this section, a political subdivisions in a State
11 shall—

12 (1) have in excess of \$100,000 in gross income
13 from sales of tobacco produced within the political
14 subdivision during 1 or more of the 1995 through
15 1997 marketing years, as determined by the Cor-
16 poration;

17 (2) prepare and submit to the Corporation an
18 application at such time, in such manner, and con-
19 taining such information as the Corporation may re-
20 quire, including—

21 (A) a description of the activities that the
22 political subdivision will carry out using
23 amounts received under the grant;

1 (B) a designation of an appropriate politi-
2 cal subdivision agency to administer amounts
3 received under the grant;

4 (C) a description of the steps to be taken
5 to ensure that the funds are distributed in ac-
6 cordance with subsection (e); and

7 (D) an economic development plan, ap-
8 proved by a regional authority authorized to co-
9 ordinate economic development efforts in the re-
10 gion where the political subdivision is located,
11 or approved by the State if no such regional au-
12 thority exists, that describes the activities that
13 the political subdivision will carry out using
14 amounts received under the grant. Where a po-
15 litical subdivision ineligible to receive payments
16 under subsection (b)(1) is surrounded within
17 the State by a political subdivision eligible to
18 receive payments under subsection (b)(1), an
19 economic development plan shall not be ap-
20 proved unless submitted jointly by both jurisdic-
21 tions.

22 (c) AMOUNT OF GRANT.—

23 (1) IN GENERAL.—From the amounts available
24 to carry out this section for a fiscal year, the Cor-
25 poration shall allot to each eligible tobacco-growing

1 political subdivision an amount that bears the same
2 ratio to the total funds available as the total income
3 of the tobacco-growing political subdivision derived
4 from the production of tobacco within the political
5 subdivision during the 1995 and through 1997 mar-
6 keting years (as determined under paragraph (2))
7 bears to the total income of all tobacco-growing po-
8 litical subdivisions derived from the production of to-
9 bacco during the 1995 through 1997 marketing
10 years.

11 (2) TOBACCO INCOME.—For the 1995 through
12 1997 marketing years, the Secretary shall determine
13 and provide to the Corporation the amount of in-
14 come derived from the production of tobacco in each
15 tobacco-growing political subdivision and in all to-
16 bacco-growing political subdivisions.

17 (d) PAYMENTS.—

18 (1) IN GENERAL.—A tobacco-growing political
19 subdivision that has an application approved by the
20 Corporation under subsection (b) shall be entitled to
21 a payment under this section in an amount that is
22 equal to its allotment under subsection (c).

23 (2) FORM OF PAYMENTS.—The Corporation
24 may make payments under this section to a tobacco-
25 growing political subdivision in installments, and in

1 advance or by way of reimbursement, with necessary
2 adjustments on account of overpayments or under-
3 payments, as the Corporation may determine.

4 (3) REALLOTMENTS.—Any portion of the allot-
5 ment of a political subdivision under subsection (c)
6 that the Corporation determines will not be used to
7 carry out this section in accordance with an ap-
8 proved political subdivision application required
9 under subsection (b), shall be reallocated by the Cor-
10 poration to other tobacco-growing political subdivi-
11 sions in proportion to the original allotments to the
12 other tobacco-growing political subdivisions.

13 (3) USE AND DISTRIBUTION OF FUNDS.—

14 (1) IN GENERAL.—Amounts received by a to-
15 bacco-growing political subdivision under this section
16 shall be used to carry out economic development ac-
17 tivities, including—

18 (A) activities designed to help create pro-
19 ductive farm or off-farm employment in rural
20 areas to provide a more viable economic base
21 and enhance opportunities for improved in-
22 comes, living standards, and contributions by
23 rural individuals to the economic and social de-
24 velopment of tobacco communities;

1 (B) activities designed to provide training
2 and transition assistance to quota holders and
3 active tobacco producers to enable the holders
4 and producers to produce alternative agricul-
5 tural commodities or obtain alternative employ-
6 ment;

7 (C) activities to improve the quality of edu-
8 cation in tobacco communities;

9 (D) activities to promote tourism in to-
10 bacco communities through natural resource
11 protection;

12 (E) activities to construct advanced manu-
13 facturing centers, industrial parks, water and
14 sewer facilities, and transportation improve-
15 ments in tobacco communities;

16 (F) activities to establish small business
17 incubators in tobacco communities;

18 (G) activities to install high technology in-
19 frastructure improvements in tobacco commu-
20 nities;

21 (H) rural business enterprise activities de-
22 scribed in subsections (c) and (e) of section
23 310B of the Consolidated Farm and Rural De-
24 velopment Act (7 U.S.C 1932);

1 (I) downpayment loan assistance programs
2 that are similar to the program described in
3 section 310E of the Consolidated Farm and
4 Rural Development Act (7 U.S.C 1935);

5 (J) activities that expand existing infra-
6 structure, facilities, and services to capitalize on
7 opportunities to diversify economies in tobacco
8 communities and that support the development
9 of new industries or commercial ventures;

10 (K) activities by agricultural organizations
11 that provide assistance directly to quota holders
12 and active tobacco producers to assist in devel-
13 oping other agricultural activities that supple-
14 ment tobacco-producing activities;

15 (L) initiatives designed to create or expand
16 locally owned value-added processing and mar-
17 keting operations in tobacco communities; and

18 (M) technical assistance activities by per-
19 sons to support farmer-owned enterprises, or
20 agriculture-based rural development enterprises,
21 of the type described in section 252 or 253 of
22 the Trade Act of 1974 (19 U.S.C 2342, 2343).

23 (2) MAINTENANCE OF EFFORT.—The political
24 subdivision and the State shall provide assurances to
25 the Corporation that funds provided to the political

1 subdivision under this section will be used only to
 2 supplement, not to supplant, the amount of Federal,
 3 State, and local funds otherwise expended for eco-
 4 nomic development activities in the political subdivi-
 5 sion.

6 **SEC. 205. TAX TREATMENT OF TOBACCO QUOTA HOLDER**
 7 **COMPENSATION AND TRANSITION PAY-**
 8 **MENTS.**

9 (a) IN GENERAL.—Part II of subchapter B of chap-
 10 ter 1 of the Internal Revenue Code of 1986 (relating to
 11 items specifically included in gross income) is amended by
 12 adding at the end the following:

13 **“SEC. 91. CERTAIN TOBACCO PROGRAM PAYMENTS.**

14 “(a) GENERAL RULE.—Gross income includes
 15 amounts received under section 201 or 202 of the Tobacco
 16 Market Transition Act.

17 “(b) EXCEPTION FOR AMOUNTS TRANSFERRED
 18 DURING REINVESTMENT PERIOD.—

19 “(1) IN GENERAL.—Subsection (a) shall not
 20 apply to any amount if during reinvestment period
 21 such amount is—

22 “(A) used to make a qualified debt repay-
 23 ment, or

1 shall be treated for purposes of this title in the same man-
2 ner as an individual retirement plan.

3 “(b) DEFINITIONS AND SPECIAL RULES.—For pur-
4 poses of this title—

5 “(1) TOBACCO FARMER INDIVIDUAL RETIRE-
6 MENT ACCOUNT.—The term ‘tobacco farmer individ-
7 ual retirement account’ means an individual retire-
8 ment plan (as defined in section 7701(a)(37)) other
9 than a Roth IRA which is designated (in such man-
10 ner as the Corporation may prescribe) at the time
11 of establishment of the plan as a tobacco farmer in-
12 dividual retirement account.

13 “(2) TREATMENT OF CONTRIBUTIONS.—

14 “(A) CASH ONLY.—No contribution will be
15 accepted unless it is in cash.

16 “(B) SOURCE OF CONTRIBUTIONS.—The
17 only contributions which will be accepted are—

18 “(i) payments under section 201 or
19 202 of the Tobacco Market Transition Act,
20 and

21 “(ii) trustee-to-trustee transfers to
22 such trust from another tobacco farmer in-
23 dividual retirement account of the account
24 beneficiary.

1 “(C) NO DEDUCTION ALLOWED.—No de-
2 duction shall be allowed under section 219 for
3 a contribution to a tobacco farmer individual
4 retirement account.

5 “(D) NO ROLLOVER CONTRIBUTIONS AL-
6 LOWED.—No rollover contribution may be made
7 to or from a tobacco farmer individual retire-
8 ment account.

9 “(3) TAX TREATMENT OF DISTRIBUTIONS.—
10 Any amount distributed from a tobacco farmer indi-
11 vidual retirement account attributable to payments
12 made under section 201 or 202 of the Tobacco Mar-
13 ket Transition Act (including earnings thereon) shall
14 be includible in the gross income of the distributee
15 under the rules described in section 91(c). Any such
16 distribution shall be made first from amounts in
17 such account (if any) attributable to payments under
18 such section 202 (and earnings thereon).

19 “(4) COORDINATION WITH INDIVIDUAL RETIRE-
20 MENT ACCOUNTS.—Section 408(d)(2) shall be ap-
21 plied separately with respect to tobacco farmer indi-
22 vidual retirement accounts and other individual re-
23 tirement plans.”.

24 (c) CONFORMING AMENDMENTS.—

1 (1) The table of sections for part II of sub-
2 chapter B of chapter 1 of the Internal Revenue Code
3 of 1986 is amended by adding at the end the follow-
4 ing:

“Sec. 91. Certain tobacco program payments.”.

5 (2) The table of sections for part IV of sub-
6 chapter F of chapter 1 of such Code is amended by
7 adding at the end the following:

“Sec. 522. Tobacco farmer individual retirement accounts.”.

8 (3) The heading for part IV of subchapter F of
9 chapter 1 of such code is amended by striking
10 **“FARMERS’ COOPERATIVES”** and inserting
11 **“CERTAIN FARMER ENTITIES”**.

12 (4) The table of parts for subchapter F of
13 chapter 1 of such Code is amended by striking
14 “FARMERS’ COOPERATIVES” and inserting “CERTAIN
15 FARMER ENTITIES”.

16 (d) **EFFECTIVE DATE.**—The amendments made by
17 this section shall apply to taxable years beginning after
18 December 31, 1997.

1 **TITLE III—ESTABLISHMENT OF**
2 **PRIVATE TOBACCO PRODUCTION**
3 **ADJUSTMENT AND**
4 **QUALITY ASSURANCE PRO-**
5 **GRAM**

6 **SEC. 301. TOBACCO PRODUCTION CONTROL CORPORATION.**

7 (a) **ESTABLISHMENT.**—There is established a cor-
8 poration to be known as the “Tobacco Production Control
9 Corporation”, which shall be a federally chartered instru-
10 mentality of the United States.

11 (b) **DUTIES.**—Effective for the 1999 and each subse-
12 quent crop of each kind of tobacco, on at least a two-thirds
13 vote of the Board of Directors of the Corporation, the Cor-
14 poration shall—

15 (1) promulgate rules that govern the produc-
16 tion, marketing, importation, exportation, and con-
17 sumer quality assurances for each kind of tobacco;

18 (2) establish a licensing system that provides
19 for the orderly production and marketing of tobacco
20 in the United States under which—

21 (A) the Corporation shall issue a license to
22 each active tobacco producer, or other person
23 that meets requirements established by the Cor-
24 poration, initially based upon the eligible pro-

1 duction quantity determined for each producer
2 under section 202(c)(1);

3 (B) the licensee shall surrender the license
4 to the Corporation if the licensee fails to ac-
5 tively engage in the production of tobacco;

6 (C) the sale or marketing of a type of to-
7 bacco which prior to the date of enactment was
8 produced pursuant to a tobacco farm marketing
9 quota or farm acreage allotment issued under
10 the Agricultural Act of 1938 is prohibited with-
11 out a license;

12 (D) the sale, lease, or other transfer of a
13 license shall be prohibited except pursuant to
14 subsection (c); and

15 (E) the Corporation shall issue marketing
16 licenses to tobacco marketing facilities and to-
17 bacco purchasing entities;

18 (3) ensure compliance, through whatever means
19 is available, of all persons with any license, regula-
20 tion, rule, limitation, or guideline issued under, or in
21 order to carry out, this Act;

22 (4) offer crop insurance for tobacco producers;

23 (5) establish a system that will provide assur-
24 ance to consumers of the quality of all tobacco mar-

1 keted in the United States and that, at a mini-
2 mum—

3 (A) provides for the inspection and grading
4 of domestically produced tobacco and imported
5 tobacco;

6 (B) determines and describes the physical
7 characteristics of domestically produced tobacco
8 and imported tobacco;

9 (C) ensures the physical and chemical in-
10 tegrity of domestically produced tobacco and
11 imported tobacco;

12 (6) carry out its duties, functions, and deter-
13 minations through loan associations and local com-
14 mittees, to the extent practicable and appropriate;
15 and

16 (7) continue to maintain and carry out a to-
17 bacco program in accordance with the rules and reg-
18 ulations contained in chapter 7 of the Code of Fed-
19 eral Regulations unless and until rules are promul-
20 gated under subsection (c).

21 (c) TRANSFER OF LICENSE.—

22 (1) RIGHT OF SURVIVORSHIP.—

23 (A) IN GENERAL.—In the case of the
24 death of a person to whom a license has been
25 issued under this section, the license shall

1 transfer to the surviving spouse of the person
2 or, if there is no surviving spouse, to surviving
3 direct descendants of the persons.

4 (B) HARDSHIP.—In the case of the death
5 of a person to whom a license has been issued
6 under this section and whose descendants are
7 temporarily unable to produce a crop of to-
8 bacco, the Corporation may hold the license in
9 the name of the descendants for a period of not
10 more than 18 months, at the discretion of the
11 Corporation.

12 (2) LIFETIME TRANSFER.—A person that is eli-
13 gible to obtain a license under this section may at
14 any time transfer all or part of the license to the
15 person's spouse or direct descendants that are ac-
16 tively engaged in the production of tobacco.

17 (d) BOARD OF DIRECTORS.—

18 (1) IN GENERAL.—The powers of the Corpora-
19 tion shall be vested in a Board of Directors.

20 (2) MEMBERS.—The Board of Directors shall
21 consist of 25 members as follows:

22 (A) The Secretary of Agriculture.

23 (B) The Secretary of Health and Human
24 Services.

1 (C) The Administrator of the Environ-
2 mental Protection Agency.

3 (D) The United States Trade Representa-
4 tive.

5 (E) 1 member from each state that pro-
6 duces more than 50,000,000 pounds of tobacco.
7 All members appointed under this subpara-
8 graph shall be actively engaged in the produc-
9 tion of tobacco and shall be elected by the to-
10 bacco producers from each respective state.

11 (F) 3 members appointed by the flue-cured
12 tobacco association and 2 members appointed
13 by the burley tobacco associations, all such
14 members to be licensees under this Act.

15 (G) 1 member appointed by tobacco asso-
16 ciations other than those specified in subpara-
17 graph (F), on a rotating basis.

18 (H) 3 members representing public health
19 interests, appointed by the Secretary of Health
20 and Human Services.

21 (I) 1 member representing domestic ciga-
22 rette manufacturers.

23 (J) 1 member representing domestic export
24 leaf dealers, appointed by the Leaf Tobacco Ex-
25 porters Association (LTEA).

1 (K) 2 members representing tobacco mar-
2 keting facilities, 1 each appointed by the Bright
3 Belt Warehouse Association (BBWA) and the
4 Burley Auction Warehouse Association
5 (BAWA).

6 (L) 1 member that is the person respon-
7 sible for operating the quality assurance system
8 of the Corporation described in subsection
9 (b)(4).

10 (M) 1 member who is a Dean of Agri-
11 culture of a Land Grant University from a to-
12 bacco producing state.

13 (3) MEMBERSHIP QUALIFICATIONS.—A member
14 of the Board shall not hold any Federal, State, or
15 local elected office.

16 (4) CHAIRPERSONS.—The Secretary of Agri-
17 culture shall serve as chairperson of the Board.

18 (5) EXECUTIVE DIRECTOR.—

19 (A) APPOINTMENT.—The Board shall ap-
20 point an Executive Director.

21 (B) DUTIES.—The Executive Director
22 shall be the chief executive officer of the Cor-
23 poration, with such power and authority as may
24 be conferred by the Board.

1 (C) COMPENSATION.—The Executive Di-
2 rector shall receive basic pay at the rate pro-
3 vided for level IV of the Executive Schedule
4 under section 5315 of title 5, United States
5 Code.

6 (6) OFFICERS.—The Board shall establish the
7 offices and appoint the officers of the Corporation,
8 including a Secretary, and define the duties of the
9 officers in a manner consistent with this section.

10 (7) MEETINGS.—

11 (A) IN GENERAL.—The Board shall meet
12 at least 3 times each fiscal year at the call of
13 a Chairperson or at the request of the Execu-
14 tive Director.

15 (B) LOCATION.—The location of a meeting
16 shall be subject to approval of the Executive Di-
17 rector.

18 (C) QUORUM.—A quorum of the Board
19 shall consist of a majority of the members.

20 (8) TERM; VACANCIES.—

21 (A) TERM.—The term of office of a mem-
22 ber of the Board appointed under any of sub-
23 paragraphs (E) through (K) of paragraph (2)
24 shall be 4 years.

1 (B) VACANCIES.—A vacancy on the Board
2 shall be filled in the same manner as the origi-
3 nal appointment was made.

4 (9) COMPENSATION.—

5 (A) FEDERAL MEMBERS.—A member of
6 the Board who is an officer or employee of the
7 United States shall not receive any additional
8 compensation by reason of service on the
9 Board.

10 (B) NON-FEDERAL MEMBERS.—Any other
11 member shall receive compensation, for each
12 day (including travel time) that the member is
13 engaged in the performance of the functions of
14 the Board, at a rate determined appropriate by
15 the Board.

16 (C) EXPENSES.—A member of the Board
17 shall be reimbursed for travel, subsistence, and
18 other necessary expenses incurred by the mem-
19 ber in the performance of the duties of the
20 member.

21 (10) CONFLICT OF INTEREST; FINANCIAL DIS-
22 CLOSURE.—

23 (A) CONFLICT OF INTEREST.—Except as
24 provided in subparagraph (C), a member of the
25 Board shall not vote on any matter concerning

1 any application, contract, or claim, or other
2 particular matter pending before the Corpora-
3 tion, in which, to the knowledge of the member,
4 the member, spouse, or child of the member,
5 partner of the member, or organization in
6 which the member is serving as officer, director,
7 trustee, partner, or employee, or any person or
8 organization with which the member is nego-
9 tiating or has any arrangement concerning pro-
10 spective employment, has a financial interest.

11 (B) VIOLATIONS.—Violation of subpara-
12 graph (A) by a member of the Board shall be
13 cause for removal of the member, but shall not
14 impair or otherwise affect the validity of any
15 otherwise lawful action by the Corporation in
16 which the member participated.

17 (C) EXCEPTIONS.—The prohibitions con-
18 tained in subparagraph (A) shall not apply to
19 a member of the Board that is a tobacco pro-
20 ducer if the member advises the Board of the
21 nature of the particular matter in which the
22 member proposes to participate, and if the
23 member makes a full disclosure of the financial
24 interest, prior to any participation.

1 (D) FINANCIAL DISCLOSURE.—A Board
2 member shall be subject to the financial disclo-
3 sure requirements of subchapter B of chapter
4 XVI of title 5, Code of Federal Regulations (or
5 any corresponding or similar regulation or rul-
6 ing), applicable to a special Government em-
7 ployee (as defined in section 202(a) of title 18,
8 United States Code).

9 (E) REPRESENTATION.—No member of
10 the Board shall receive compensation from more
11 than one interest represented on the Board.

12 (11) BYLAWS.—The Board shall adopt, and
13 may from time to time amend, any bylaw that is
14 necessary for the proper management and function-
15 ing of the Corporation.

16 (12) PERSONNEL.—The Corporation may select
17 and appoint officers, attorneys, employees, and
18 agents, who shall be vested with such powers and
19 duties as the Corporation may determine.

20 (e) GENERAL POWERS.—In addition to any other
21 powers granted to the Corporation under this title, the
22 Corporation—

23 (1) shall have succession in its corporate name;

1 (2) may adopt, alter, and rescind any bylaw and
2 adopt and alter a corporate seal, which shall be judi-
3 cially noticed;

4 (3) may enter into any agreement or contract
5 with a person or private or governmental agency;

6 (4) may lease, purchase, accept a gift or dona-
7 tion of, or otherwise acquire, use, own, hold, im-
8 prove, or otherwise deal in or with, and sell, convey,
9 mortgage, pledge, lease, exchange, or otherwise dis-
10 pose of, any property or interest in property, as the
11 Corporation considers necessary in the transaction
12 of the business of the Corporation;

13 (5) may sue and be sued in the corporate name
14 of the Corporation, except that—

15 (A) no attachment, injunction, garnish-
16 ment, or similar process shall be issued against
17 the Corporation or property of the Corporation;
18 and

19 (B) exclusive original jurisdiction shall re-
20 side in the district courts of the United States,
21 and the Corporation may intervene in any court
22 in any suite, action, or proceeding in which the
23 Corporation has an interest;

24 (6) may independently retain legal representa-
25 tion;

1 (7) may provide for and designate such commit-
2 tees, and the functions of the committees, as the
3 Board considers necessary or desirable;

4 (8) may indemnify officers of the Corporation,
5 as the Board considers necessary and desirable, ex-
6 cept that the officers shall not be indemnified for an
7 act outside the scope of employment;

8 (9) may, with the consent of any board, com-
9 mission, independent establishment, or executive de-
10 partment of the Federal Government, including any
11 field service, use information, services, facilities, offi-
12 cials, and employees in carrying out this section, and
13 pay for the use, which payments shall be transferred
14 to the applicable appropriation account that incurred
15 the expense;

16 (10) may obtain the services and fix the com-
17 pensation of any consultant and otherwise procure
18 temporary and intermittent services under section
19 3109(b) of title 5, United States Code;

20 (11) shall have the rights, privileges, and immu-
21 nities of the United States with respect to the right
22 to priority of payment with respect to debts due
23 from bankrupt, insolvent, or deceased creditors;

24 (12) may collect or compromise any obligations
25 assigned to or held by the Corporation, including

1 any legal or equitable rights accruing to the Cor-
2 poration;

3 (13) shall determine the character of, and ne-
4 cessity for, obligations and expenditures of the Cor-
5 poration and the manner in which the obligations
6 and expenditures shall be incurred, allowed, and
7 paid, subject to provisions of law specifically applica-
8 ble to Government corporations;

9 (14) may make final and conclusive settlement
10 and adjustment of any claim by or against the Cor-
11 poration or a fiscal officer of the Corporation;

12 (15) may sell assets, loans, and equity interests
13 acquired in connection with the financing of projects
14 funded by the Corporation; and

15 (16) may exercise all other lawful powers nec-
16 essarily or reasonably related to the establishment of
17 the Corporation to carry out this title and the pow-
18 ers, purposes, functions, duties, and authorized ac-
19 tivities of the Corporation.

20 **SEC. 302. TOBACCO LOAN ASSOCIATIONS.**

21 The Corporation shall enter into an agreement with
22 producer-owned cooperative marketing loan associations
23 for each kind of tobacco to—

24 (1) make price support available to producers of
25 the kind of tobacco;

1 (2) carry out the licensing system established
2 under subsection (b)(2);

3 (3) arrange for financing and the administra-
4 tion of price supports for the kind of tobacco; and

5 (4) receive, process, store, and sell any domesti-
6 cally produced tobacco received as collateral for a
7 price support loan.

8 **SEC. 303. TOBACCO PRICE SUPPORT LEVELS.**

9 (a) INITIAL LEVEL.—Effective for the 1999 crop of
10 each kind of tobacco, the support level in cents per pound
11 established under this title shall be equal to—

12 (1) the simple average price received by produc-
13 ers of the kind of tobacco, as determined by the Cor-
14 poration, during the marketing years for the imme-
15 diately preceding 5 crops of the kind of tobacco; less

16 (2) the average return to quota for 1994
17 through 1998 crops of the kind of tobacco, as deter-
18 mined by the Corporation.

19 (b) SUBSEQUENT ADJUSTMENT.—The Corporation,
20 in consultation with the Associations, shall adjust and es-
21 tablish the support level for each kind of tobacco at an
22 appropriate level for each year after 1999.

23 **SEC. 304. PENALTIES.**

24 (a) IN GENERAL.—The violation of any provision of
25 this Act, or any rule or regulation issued to carry out this

1 Act, or the terms of any license issued under this Act,
2 by a person (including the marketing of any kind of to-
3 bacco without a license issued under this title or in excess
4 of the quantity permitted under such a license) shall sub-
5 ject the person to revocation or suspension of the person's
6 license, a penalty of 75 percent of the average market
7 price (calculated to the nearest whole cent) for the kind
8 of tobacco for the immediately preceding marketing year,
9 or both, in the discretion of the Secretary.

10 (b) PAYOR.—

11 (1) IN GENERAL.—Except as otherwise pro-
12 vided in this subsection, the penalty shall be paid by
13 the person who acquired the tobacco from the pro-
14 ducer.

15 (2) DEDUCTION FROM PRICE.—An amount
16 equivalent to the penalty may be deducted by the
17 buyer from the price paid to the producer in any
18 case in which the tobacco is marketed by sale.

19 (3) WAREHOUSEMAN OR AGENT.—If the to-
20 bacco is marketed by the producer through a ware-
21 houseman or other agent, the penalty shall be paid
22 by the warehouseman or agent who may deduct an
23 amount equivalent to the penalty from the price paid
24 to the producer.

1 (4) DIRECT MARKETING OUTSIDE UNITED
2 STATES.—In any case in which tobacco is marketed
3 directly to any person outside the United States, the
4 penalty shall be paid and remitted by the producer.

5 (c) FALSE STATEMENT OR OMISSION.—If any pro-
6 ducer falsely identifies or fails to account for the disposi-
7 tion of any tobacco—

8 (1) an amount of tobacco equal to the normal
9 yield of the number of acres harvested in excess of
10 the quantity permitted under a license issued under
11 this title shall be considered to have been marketed
12 in excess of the license for the farm; and

13 (2) the penalty for the excess marketing shall
14 be paid and remitted by the producer.

15 (d) CARRYOVER.—Tobacco carried over by the pro-
16 ducer of the tobacco from 1 marketing year to another
17 marketing year may be marketed without payment of the
18 penalty imposed by this section if—

19 (1) the total quantity of tobacco available for
20 marketing from the farm in the marketing year from
21 which the tobacco is carried over does not exceed the
22 quantity that may be marketed under a license
23 issued for the farm for the marketing year; or

24 (2) the quantity of tobacco carried over does
25 not exceed the normal production of that number of

1 acres by which the harvested acreage of tobacco in
2 the calendar year in which the marketing year be-
3 gins is less than the quantity that may be marketed
4 under the license.

5 (e) TOBACCO MARKETED PRIOR TO MARKETING
6 YEAR.—Tobacco produced in a calendar year for the mar-
7 keting year beginning during the calendar year shall be
8 subject to licenses issued for the marketing year even
9 though the tobacco is marketed prior to the date on which
10 the marketing year begins.

11 (f) PROPORTIONAL PAYMENTS.—The Secretary shall
12 require collection of the penalty on a proportion of each
13 lot of tobacco marketed from the farm equal to the propor-
14 tion that the tobacco available for marketing from the
15 farm in excess of the quantity that may be marketed under
16 a license is of the total quantity of tobacco available for
17 marketing from the farm if satisfactory proof is not fur-
18 nished as to the disposition to be made of the excess to-
19 bacco prior to the marketing of any tobacco from the farm.

20 (g) LIEN.—Until the amount of the penalty provided
21 by this section is paid, a lien on the tobacco with respect
22 to which the penalty is incurred, and on any subsequent
23 tobacco subject to licenses issued under this title in which
24 the person liable for payment of the penalty has an inter-

1 est, shall be in effect in favor of the Corporation for the
2 amount of the penalty.

3 **SEC. 305. PROGRAM REFERENDA.**

4 (a) INITIAL REFERENDUM.—Not later than 3 years
5 after the date of enactment of this Act, the Corporation
6 shall conduct a referendum among licensees engaged in
7 the production of each kind of tobacco to determine wheth-
8 er such producers are in favor of continuing the operation
9 of the program established under this Act with respect to
10 that kind of tobacco. If more than one half of the licensees
11 voting oppose the continuation of the program, the Cor-
12 poration shall announce the result and shall conduct a sec-
13 ond referendum one year later. If more than one half of
14 the licensees voting in the second referendum also oppose
15 the continuation of the program, the Corporation shall an-
16 nounce the result and the program shall cease to be in
17 effect for that kind of tobacco.

18 (b) SUBSEQUENT REFERENDA.—The Corporation
19 may conduct subsequent referenda from time to time as
20 the Corporation deems appropriate to determine whether
21 producers are in favor of continuing the program estab-
22 lished under this Act, the use of marketing allotments and
23 quotas, limitations on transfer of quota, or any other as-
24 pect of the program.

- 1 (c) EFFECTIVE DATE.—This section shall be effective
- 2 1 year after the date of enactment of this Act.

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