

107TH CONGRESS
2^D SESSION

H. R. 5035

To replace the existing Federal price support and quota programs for tobacco with price support and quota programs designed to assist the actual producers of tobacco, to compensate quota holders for the loss of tobacco quota asset value, to provide assistance for active tobacco producers, including those producers who forgo obtaining a tobacco production license, during the transition of the new programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2002

Mr. FLETCHER (for himself, Mr. HAYES, Mr. BISHOP, Mr. ROGERS of Kentucky, Mr. WHITFIELD, Mr. LEWIS of Kentucky, Mr. LUCAS of Kentucky, and Mr. HILLEARY) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To replace the existing Federal price support and quota programs for tobacco with price support and quota programs designed to assist the actual producers of tobacco, to compensate quota holders for the loss of tobacco quota asset value, to provide assistance for active tobacco producers, including those producers who forgo obtaining a tobacco production license, during the transition of the new 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 “Tobacco Equity Elimination Act of 2002”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purpose.

TITLE I—TOBACCO EQUITY ELIMINATION

Sec. 101. Definitions of active tobacco producer and quota holder.

Sec. 102. Payments to tobacco quota holders.

Sec. 103. Transition payments for active tobacco producers.

Sec. 104. Tobacco product manufacturer and importer user fees.

Sec. 105. Reimbursement of Commodity Credit Corporation expenditures.

TITLE II—TOBACCO PRICE SUPPORT

Sec. 201. Availability of tobacco price support.

Sec. 202. Repeal of related provisions.

Sec. 203. Effective date.

TITLE III—TOBACCO PRODUCTION LICENSES

Sec. 301. Definitions of historic tobacco producer and licensed tobacco producer.

Sec. 302. Annual estimate of tobacco purchase intentions.

Sec. 303. National tobacco marketing factor.

Sec. 304. Issuance of tobacco production licenses.

Sec. 305. Annual authorized tobacco production under tobacco production licenses.

Sec. 306. Termination of marketing quota programs and repeal of related provisions.

Sec. 307. Effective date.

TITLE IV—TOBACCO ADVISORY BOARD

Sec. 401. Establishment and duties of Tobacco Advisory Board.

TITLE V—ASSISTANCE TO TOBACCO-DEPENDENT COMMUNITIES

Sec. 501. Center for Tobacco-Dependent Communities.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) **FINDINGS.**—Congress finds the following:

8 (1) Tobacco production is conducted extensively
9 in a number of States and generates significant in-

1 come in local communities in these States, which are
2 dependent on such production for economic vitality.

3 (2) Tobacco products manufactured from to-
4 bacco grown in the these States are transported in
5 interstate commerce.

6 (3) While manufacturers of tobacco products
7 enjoy profitable circumstances, many tobacco grow-
8 ers and their communities are in dire economic situ-
9 ations.

10 (4) Downturns in domestic manufacturing de-
11 mand for tobacco grown in the United States, losses
12 in the United States share of the world tobacco mar-
13 ket, reduced domestic demand for tobacco products,
14 and State and Federal tobacco policies that have in-
15 advertently encouraged economic dependence on to-
16 bacco have contributed to such dire economic situa-
17 tions.

18 (5) Many tobacco-producing communities are
19 experiencing the loss of tobacco farms, reductions in
20 quota level, and a lowered value for tobacco quotas.

21 (6) Such communities often have difficulty de-
22 veloping non-tobacco income, and are therefore quite
23 dependent on tobacco and vulnerable to changes in
24 the tobacco-growing industry.

1 (7) Domestic and world economic trends have
2 had a disproportionately harsh impact on small fam-
3 ily farms and on their communities, as the number
4 of tobacco farms in the United States declined by
5 more than 50 percent between 1978 and 1997.

6 (8) A failure to respond to the current crisis af-
7 fecting family farms will result in a continued reduc-
8 tion in the number of such farms and the jobs and
9 income that they provide to their communities.

10 (9) A continued program of assistance will pro-
11 vide many benefits to most tobacco-dependent com-
12 munities, particularly to small family farms.

13 (10) While tobacco-growing States have some
14 financial resources to support community revitaliza-
15 tion, few States have the resources necessary to sup-
16 port the transition from dependence on tobacco to a
17 varied economy.

18 (b) PURPOSE.—It is the purpose of this Act to pro-
19 vide assistance to tobacco-dependent communities, and
20 particularly to those comprised of small family farms, to
21 assist them in making the transition from tobacco-depend-
22 ent economies to a diversified economic base.

1 **TITLE I—TOBACCO EQUITY**
2 **ELIMINATION**

3 **SEC. 101. DEFINITIONS OF ACTIVE TOBACCO PRODUCER**
4 **AND QUOTA HOLDER.**

5 In this title:

6 (1) The term “active tobacco producer” means
7 a owner, operator, landlord, tenant, or sharecropper
8 who—

9 (A) shares in the risk of producing tobacco
10 on a farm where tobacco is produced pursuant
11 to a tobacco farm marketing quota or farm
12 acreage allotment established under the Agri-
13 cultural Adjustment Act of 1938 (7 U.S.C.
14 1281 et seq.) for the 2002 crop year; and

15 (B) planted the crop, or is considered to
16 have planted the crop under that Act, in 2002.

17 (2) The term “tobacco quota holder” means an
18 owner, as of July 1, 2002, of a tobacco farm mar-
19 keting quota or a farm acreage allotment established
20 under the Agricultural Adjustment Act of 1938 (7
21 U.S.C. 1281 et seq.) for the 2002 marketing year.

22 **SEC. 102. PAYMENTS TO TOBACCO QUOTA HOLDERS.**

23 (a) **PAYMENT AUTHORITY.**—The Secretary of Agri-
24 culture shall use funds of the Commodity Credit Corpora-
25 tion to make payments under this section to tobacco quota

1 holders as compensation for the loss of tobacco quota asset
2 value on account of the repeal of part I of subtitle B of
3 title III of the Agricultural Adjustment Act of 1938 (7
4 U.S.C. 1311 et seq.).

5 (b) APPLICATION.—To receive payments under this
6 section, a person shall prepare and submit to the Sec-
7 retary of Agriculture an application at such time, in such
8 manner, and containing such information as the Secretary
9 may require, including information sufficient to dem-
10 onstrate that the person satisfies the definition of tobacco
11 quota holder.

12 (c) TOTAL PAYMENT AMOUNT.—

13 (1) IN GENERAL.—The Secretary of Agriculture
14 shall determine the total amount to be paid to all to-
15 bacco quota holders under this section with respect
16 to each kind of tobacco.

17 (2) POUNDAGE QUOTA TOBACCO.—For each
18 kind of tobacco for which the marketing quota is ex-
19 pressed in pounds, the total amount available for
20 payments to tobacco quota holders under this section
21 shall be equal to the product obtained by
22 multiplying—

23 (A) \$8 per pound; by

24 (B) the total tobacco farm marketing
25 quotas established under the Agriculture Ad-

1 justment Act of 1938 for the 1998 marketing
2 year for that kind of tobacco.

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 Secretary shall convert the tobacco
7 farm marketing quotas or allotments established
8 under the Agriculture Adjustment Act of 1938 for
9 the 1998 marketing year for that kind of tobacco to
10 a poundage basis before executing the mathematical
11 equation specified in paragraph (2).

12 (d) **BASE QUOTA LEVEL.**—

13 (1) **IN GENERAL.**—The Secretary of Agriculture
14 shall determine the base quota level of each tobacco
15 quota holder with respect to each kind of tobacco.

16 (2) **POUNDAGE QUOTA TOBACCO.**—For each
17 kind of tobacco for which the marketing quota is ex-
18 pressed in pounds, the base quota level for a tobacco
19 quota holder shall be equal to the average of the to-
20 bacco farm marketing quota established under the
21 Agriculture Adjustment Act of 1938 for the 2002
22 marketing year for quota tobacco on the farm owned
23 by the tobacco quota holder.

24 (3) **MARKETING QUOTAS OTHER THAN POUND-**
25 **AGE QUOTAS.**—For each kind of tobacco for which

1 there is a marketing quota or allotment on an acre-
2 age basis, the base quota level for a tobacco quota
3 holder shall be equal to the product obtained (based
4 on a poundage conversion) by multiplying—

5 (A) the average tobacco farm marketing
6 quota or allotment established under the Agri-
7 culture Adjustment Act of 1938 for the 2002
8 marketing year for the tobacco quota holder's
9 farm; by

10 (B) the average yield per acre for the to-
11 bacco quota holder's farm for the kind of to-
12 bacco for that marketing year.

13 (e) PAYMENT AMOUNT.—The Secretary of Agri-
14 culture shall make payments to a tobacco quota holder
15 with respect to a kind of tobacco under this section in a
16 total amount that bears the same ratio to the amount de-
17 termined by the Secretary under subsection (e) with re-
18 spect to that kind of tobacco as the base quota level of
19 the tobacco quota holder with respect to that kind of to-
20 bacco bears to the base quota level of all tobacco quota
21 holders with respect to that kind of tobacco.

22 (f) TIME FOR PAYMENT.—The amount determined
23 under subsection (e) for a tobacco quota holder shall be
24 paid in five equal installments during each of the 2003
25 through 2007 crops of tobacco.

1 (g) DEATH OF TOBACCO QUOTA HOLDER.—If a to-
2 bacco quota holder who is entitled to payments under this
3 section dies and is survived by a spouse or one 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 tobacco quota holder.

7 **SEC. 103. TRANSITION PAYMENTS FOR ACTIVE TOBACCO**
8 **PRODUCERS.**

9 (a) PAYMENT AUTHORITY.—The Secretary of Agri-
10 culture shall use funds of the Commodity Credit Corpora-
11 tion to make transition payments under this section to ac-
12 tive tobacco producers.

13 (b) APPLICATION.—To receive payments under this
14 section, a person shall prepare and submit to the Sec-
15 retary of Agriculture an application at such time, in such
16 manner, and containing such information as the Secretary
17 may require, including information sufficient to dem-
18 onstrate that the person satisfies the definition of active
19 tobacco producer.

20 (c) TOTAL PAYMENT AMOUNT.—

21 (1) IN GENERAL.—The Secretary of Agriculture
22 shall determine the total amount to be paid to all ac-
23 tive tobacco producers under this section with re-
24 spect to each kind of tobacco.

1 (2) POUNDAGE QUOTA TOBACCO.—For each
2 kind of tobacco for which the marketing quota is ex-
3 pressed in pounds, the total amount available for
4 payments to active tobacco producers under this sec-
5 tion shall be equal to the product obtained by
6 multiplying—

7 (A) \$4 per pound; by

8 (B) the total tobacco farm marketing
9 quotas established under the Agriculture Ad-
10 justment Act of 1938 for the 1998 marketing
11 year for that kind of tobacco.

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 Secretary shall convert the tobacco
16 farm marketing quotas or allotments established
17 under the Agriculture Adjustment Act of 1938 for
18 the 1998 marketing year for that kind of tobacco to
19 a poundage basis before executing the mathematical
20 equation specified in paragraph (2).

21 (d) PAYMENT QUANTITY.—

22 (1) IN GENERAL.—The Secretary of Agriculture
23 shall determine the payment quantity of tobacco for
24 each active tobacco producer with respect to each
25 kind of tobacco.

1 (2) POUNDAGE QUOTA TOBACCO.—For each
2 kind of tobacco for which the marketing quota is ex-
3 pressed in pounds, the payment quantity for an ac-
4 tive tobacco producer shall be equal to the average
5 of the effective and marketing quotas for that quota
6 tobacco produced by the producer under the Agri-
7 culture Adjustment Act of 1938 for the 2001 and
8 2002 marketing years.

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

17 (e) PAYMENT AMOUNT.—

18 (1) ALL TOBACCO PRODUCERS.—The Secretary
19 of Agriculture shall make payments to each active
20 tobacco producer with respect to a kind of tobacco
21 under this section in a total amount that bears the
22 same ratio to the amount determined by the Sec-
23 retary under subsection (c) with respect to that kind
24 of tobacco as the payment quantity of the active to-
25 bacco producer with respect to that kind of tobacco

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

3 (2) PRODUCERS WHO FORGO OBTAINING TO-
4 BACCO PRODUCTION LICENSE.—If an active tobacco
5 producer who is entitled to transition payments
6 under this section with respect to a kind of tobacco
7 agrees to permanently forgo the opportunity to ob-
8 tain a tobacco production license under section 304
9 for the same type of tobacco, the Secretary shall pay
10 to the active tobacco producer, in addition to the
11 amount determined under paragraph (1), an amount
12 equal to the product obtained by multiplying—

13 (A) \$2 per pound; by

14 (B) the payment quantity of the active to-
15 bacco producer with respect to that kind of to-
16 bacco.

17 (f) TIME FOR PAYMENT.—The amount determined
18 under subsection (e) for an active tobacco producer shall
19 be paid in five equal installments during each of the 2003
20 through 2007 crops of tobacco, except that an active to-
21 bacco producer who is also a quota owner with a base
22 quota level of 1,000 pounds or less and who no longer in-
23 tends to engage in tobacco production may elect to receive
24 the total amount in the first year after the date on which
25 the agreement is signed.

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

7 **SEC. 104. TOBACCO PRODUCT MANUFACTURER AND IM-
8 PORTER USER FEES.**

9 (a) IN GENERAL.—The Secretary of Agriculture shall
10 assess an annual user fee, calculated in accordance with
11 this section, upon each tobacco product manufacturer and
12 tobacco product importer that sells tobacco products in do-
13 mestic commerce in the United States. The assessments
14 shall commence during calendar year 2003, based on do-
15 mestic sales of tobacco products during fiscal year 2003.

16 (b) BASE AMOUNT OF USER FEE FOR EACH CLASS
17 OF TOBACCO PRODUCT.—

18 (1) The base amount of the user fee for ciga-
19 rette manufacturers and importers shall be
20 \$2,116,252,000.

21 (2) The base amount of the user fee for small
22 cigar manufacturers and importers shall be
23 \$1,051,000.

1 (3) The base amount of the user fee for large
2 cigar manufacturers and importers shall be
3 \$164,274,000.

4 (4) The base amount of the user fee for snuff
5 manufacturers and importers shall be \$9,920,000.

6 (5) The base amount of the user fee for chew-
7 ing tobacco manufacturers and importers shall be
8 \$2,275,000.

9 (6) The base amount of the user fee for pipe to-
10 bacco manufacturers and importers shall be
11 \$1,505,000.

12 (7) The base amount of the user fee for roll-
13 your-own tobacco manufacturers and importers shall
14 be \$3,231,000.

15 (c) DETERMINATION OF ANNUAL USER FEE FOR
16 EACH CLASS OF TOBACCO PRODUCT.—The total user fee
17 to be assessed upon, and paid by, the manufacturers and
18 importers of each class of tobacco product in each calendar
19 year, as allocated pursuant to subsection (d), shall be the
20 base amount for that class of tobacco product provided
21 in subsection (b) multiplied by a fraction—

22 (1) the numerator of which is the total volume
23 of domestic sales of that class of tobacco product in
24 the fiscal year ending on September 30 of that cal-
25 endar year; and

1 (2) the denominator of which is the total vol-
2 ume of domestic sales of that class of tobacco prod-
3 uct in fiscal year 2003.

4 (d) ALLOCATION OF TOTAL USER FEE AMOUNTS BY
5 MARKET SHARE—

6 (1) FORMULA.—The user fee for each class of
7 tobacco product to be paid by each manufacturer or
8 importer of that class of tobacco product under sub-
9 section (a) shall be determined in each year by
10 multiplying—

11 (A) such manufacturer's or importer's
12 market share, as calculated with respect to the
13 current calendar year, of that class of tobacco
14 product; by

15 (B) the total user fee amount for the cur-
16 rent calendar year, as determined under sub-
17 section (c), for that class of tobacco product.

18 (2) MARKET SHARE DEFINED.—In this sub-
19 section, the term “market share” for each manufac-
20 turer or importer of a class of tobacco product for
21 the purpose of the assessment to be calculated in the
22 current calendar year shall be equal to that manu-
23 facturer's or importer's respective share (expressed
24 as a decimal to the fourth place) of the total volume
25 of domestic sales of that class of tobacco product

1 during the calendar year immediately preceding the
2 year of such assessment.

3 (e) DETERMINATION OF VOLUME OF DOMESTIC
4 SALES.—

5 (1) BASED ON CERTIFIED REPORTS.—The cal-
6 culation of the volume of domestic sales of a class
7 of tobacco product by a manufacturer or importer,
8 and by all manufacturers and importers as a group,
9 shall be made by the Secretary of Agriculture based
10 on certified reports submitted by such manufactur-
11 ers and importers pursuant to subsection (f).

12 (2) MEASUREMENT CRITERIA.—For purposes of
13 the Secretary's calculations under this subsection
14 and the certifications under subsection (f), the vol-
15 umes of domestic sales shall be measured as follows:

16 (A) With respect to cigarettes, in terms of
17 the numbers of cigarettes sold.

18 (B) With respect to small cigars, the num-
19 ber of cigars weighing not more than three
20 pounds per thousand sold.

21 (C) With respect to large cigars, the num-
22 ber of cigars weighing more than three pounds
23 per thousand sold.

24 (D) With respect to other classes of to-
25 bacco products, in terms of the number of

1 pounds, or fraction thereof, or these tobacco
2 products sold.

3 (f) CERTIFICATION OF VOLUME OF DOMESTIC
4 SALES.— Every manufacturer and importer of tobacco
5 products shall submit each year a certified report to the
6 Secretary of Agriculture setting forth for each class of to-
7 bacco products the total, for the prior year, of such manu-
8 facturer's or importer's domestic sales to wholesalers and
9 retailers and directly to consumers. These certified reports
10 must be submitted to the Secretary not later than March
11 1 of the year after the year for which the certified report
12 is being made.

13 (g) TERMINATION.—The user fees imposed under
14 this section shall terminate at the end of the fiscal year
15 in which the Secretary of Agriculture determines that the
16 Commodity Credit Corporation has been fully reimbursed
17 for all expenditures made using Commodity Credit Cor-
18 poration funds under this title.

19 **SEC. 105. REIMBURSEMENT OF COMMODITY CREDIT COR-**
20 **PORATION EXPENDITURES.**

21 Amounts collected by the Secretary of Agriculture
22 under section 104 shall be used to reimburse the Com-
23 modity Credit Corporation for all expenditures made
24 under this title.

1 **TITLE II—TOBACCO PRICE**
2 **SUPPORT**

3 **SEC. 201. AVAILABILITY OF TOBACCO PRICE SUPPORT.**

4 (a) NEW APPROACH TO PRICE SUPPORT.—Section
5 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is
6 amended to read as follows:

7 **“SEC. 106. TOBACCO PRICE SUPPORT.**

8 “(a) PRICE SUPPORT RATE TO REFLECT COST OF
9 PRODUCTION.—

10 “(1) ESTABLISHMENT AND ANNUAL ADJUST-
11 MENT.—The price of each type of tobacco produced
12 in the United States shall be supported at a rate es-
13 tablished by the Secretary, and adjusted annually, to
14 reflect the costs of production for producers of that
15 type of tobacco.

16 “(2) DETERMINATION OF COST OF PRODUC-
17 TION.—The Secretary shall use the information col-
18 lection and survey resources of the Economic Re-
19 search Service and National Agricultural Statistics
20 Service of the Department of Agriculture to deter-
21 mine the cost of domestic tobacco production. The
22 Economic Research Service shall reevaluate the cost-
23 of-production annually, based on the survey of fac-
24 tors used by the Economic Research Service, which
25 shall be conducted once every five years.

1 “(b) CONSIDERATION OF INTERNATIONAL PRICE
2 LEVELS.—In establishing the price support rate for a type
3 of tobacco, the Secretary shall also consider the inter-
4 national tobacco price levels.

5 “(c) CONSULTATION.—The Secretary shall consult
6 with the Tobacco Advisory Board, farm organizations,
7 producer cooperatives and associations, colleges and uni-
8 versities in tobacco-producing States, and other interested
9 persons when determining the costs of tobacco production
10 and establishing or adjusting the price support rate.

11 “(d) DIFFERENCES IN GRADE.—The Secretary may
12 take into consideration differences in tobacco grades when
13 establishing or adjusting the price support rate for a type
14 of tobacco.”.

15 (b) ELIMINATION OF REFERENCES TO QUOTA TO-
16 BACCO IN NO NET COST PROVISIONS.—(1) Section 106A
17 of the Agricultural Act of 1949 (7 U.S.C. 1445–1) is
18 amended as follows:

19 (A) In subsection (a), by striking “quota” each
20 place it appears in paragraphs (4), (5), and (6).

21 (B) By striking subsection (a)(7).

22 (C) In subsection (d), by striking “quota” each
23 place it appears in paragraphs (1), (3), and (7).

24 (D) In subsection (e), by striking “quota”.

1 (2) Section 106B of the Agricultural Act of 1949 (7
2 U.S.C. 1445–2) is amended as follows:

3 (A) In subsection (a)(5), by striking “, for
4 which marketing quotas are in effect or for which
5 marketing quotas are not disapproved by pro-
6 ducers”.

7 (B) In subsection (a)(8), by striking “quota”.

8 (C) In subsection (d), by striking “quota” each
9 place it appears in paragraphs (1)(B) and (2)(A).

10 **SEC. 202. REPEAL OF RELATED PROVISIONS.**

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

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

16 (2) by striking subsection (c);

17 (3) in subsection (d)(3)—

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

19 (B) by striking “and no price support shall
20 be made available for any crop of tobacco for
21 which marketing quotas have been disapproved
22 by producers;”; and

23 (4) by redesignating subsections (d) and (e) as
24 subsection (c) and (d), respectively.

1 (b) DEFINITION OF BASIC AGRICULTURAL COM-
2 MODITY.—Section 408(c) of the Agricultural Act of 1949
3 (7 U.S.C. 1428(c)) is amended by striking “tobacco,”.

4 **SEC. 203. EFFECTIVE DATE.**

5 This title and the amendments made by this title
6 shall apply with respect to the 2003 and subsequent to-
7 bacco crops.

8 **TITLE III—TOBACCO**
9 **PRODUCTION LICENSES**

10 **SEC. 301. DEFINITIONS OF HISTORIC TOBACCO PRODUCER**
11 **AND LICENSED TOBACCO PRODUCER.**

12 In this title:

13 (1) The term “historic tobacco producer”
14 means an owner, operator, landlord, tenant, or
15 sharecropper who bore, individually or collectively,
16 the risk of producing a crop of tobacco on a farm
17 for the 2002 crop year.

18 (2) The term “licensed tobacco producer”
19 means an owner, operator, landlord, tenant, or
20 sharecropper who holds a license issued under this
21 title—

22 (A) to plant a crop of tobacco on a farm
23 in a specified county for the 2003 or a subse-
24 quent crop year; and

1 (B) to harvest and market an authorized
2 quantity of tobacco.

3 **SEC. 302. ANNUAL ESTIMATE OF TOBACCO PURCHASE IN-**
4 **TENTIONS.**

5 (a) ANNUAL ESTIMATE.—Not later than February 1
6 of each calendar year, the Secretary of Agriculture shall
7 publish in the Federal Register an estimate of the quantity
8 in pounds of each type of tobacco necessary—

9 (1) to satisfy domestic use and export needs
10 during the next marketing year; and

11 (2) to maintain a reasonable reserve.

12 (b) RULES FOR ESTIMATE.—When making an esti-
13 mate under subsection (a), the Secretary of Agriculture
14 shall consider—

15 (1) the industry purchase estimates submitted
16 under subsection (c);

17 (2) export estimates; and

18 (3) an appropriate reserve stock adjustment.

19 (c) INDUSTRY PURCHASE ESTIMATES.—Not later
20 than December 1 of each calendar year with respect to
21 Flue-cured tobacco, and January 15 of each calendar year
22 with respect to Burley tobacco or other types of tobacco,
23 each domestic manufacturer of cigarettes or other type of
24 domestic tobacco-product manufacturer shall submit to
25 the Secretary of Agriculture a statement, by kind, of the

1 quantity of Flue-cured tobacco, Burley tobacco, and other
2 types of tobacco that the manufacturer intends to pur-
3 chase, directly or indirectly, on the United States auction
4 markets or from licensed tobacco producers during the
5 next marketing year.

6 (d) FAILURE TO SUBMIT, OR OVER-DECLARATION
7 OF, PURCHASE INTENTIONS.—If a domestic manufacturer
8 of cigarettes or other type of domestic tobacco-product
9 manufacturer fails to submit to the Secretary of Agri-
10 culture purchase intentions as required under subsection
11 (c) for a marketing year, but subsequently purchases to-
12 bacco on the United States auction markets or from li-
13 censed tobacco producers during that marketing year, or
14 if a domestic manufacturer of cigarettes or other type of
15 domestic tobacco-product manufacturer over-estimates
16 such purchase intentions by more than 5 percent, the do-
17 mestic manufacturer of cigarettes or other type of domes-
18 tic tobacco-product manufacturer shall be liable for a civil
19 penalty up to an amount determined by multiplying—

20 (1) the quantity of tobacco involved in the viola-
21 tion; by

22 (2) price support rate for the type of tobacco
23 involved in effect under section 106 of the Agri-
24 culture Act of 1949 at the time of the violation.

1 (e) ENFORCEMENT.—The Secretary of Agriculture
2 may enforce subsection (d) in the courts of the United
3 States.

4 (f) CONSULTATION WITH TOBACCO ADVISORY
5 BOARD.—The Secretary of Agriculture shall prepare the
6 estimate under subsection (a) and otherwise carry out this
7 title in consultation with the Tobacco Advisory Board ap-
8 pointed under title IV.

9 **SEC. 303. NATIONAL TOBACCO MARKETING FACTOR.**

10 The national marketing factor for a type of tobacco
11 for a crop year shall be the ratio of—

12 (1) the aggregate quantity of that type of to-
13 bacco estimated by the Secretary of Agriculture
14 under section 302 to be necessary to satisfy domes-
15 tic consumption and exports of tobacco for the cor-
16 responding marketing year; to

17 (2) the estimated aggregate quantity of that
18 type of tobacco to be produced in the United States
19 for that year.

20 **SEC. 304. ISSUANCE OF TOBACCO PRODUCTION LICENSES.**

21 (a) INITIAL ISSUANCE TO HISTORIC TOBACCO PRO-
22 DUCERS.—

23 (1) ISSUANCE.—

24 (A) ISSUANCE REQUIRED.—As soon as
25 practicable after the date of the enactment of

1 this Act, the Secretary of Agriculture shall
2 issue to each historic tobacco producer a to-
3 bacco production license for the purpose of en-
4 suring sufficient production of each type of to-
5 bacco to satisfy annual purchase intentions for
6 that type of tobacco estimated under section
7 302, but also preventing over-production of that
8 type of tobacco.

9 (B) EXCEPTION.—The Secretary shall not
10 issue a tobacco production license to an historic
11 tobacco producer with respect to a kind of to-
12 bacco if the historic tobacco producer agreed
13 under subsection (e) of section 103 to perma-
14 nently forgo the tobacco production license for
15 that type of tobacco in exchange for additional
16 transition payments under such section.

17 (2) TOBACCO PRODUCTION HISTORY.—The to-
18 bacco production license issued to an historic to-
19 bacco producer under paragraph (1) shall specify the
20 tobacco production history of the producer for each
21 type of tobacco for each county in which the pro-
22 ducer bore, individually or collectively, the risk of
23 producing a crop of tobacco on a farm in the county
24 for the 2002 crop year. In the case of an historic to-
25 bacco producer who bore 100 percent of the risk of

1 producing a type of tobacco on a farm for the 2002
2 crop year, the tobacco production history of the his-
3 toric tobacco producer for that type of tobacco in a
4 county shall be equal to the 2002 marketing and ef-
5 fective quota of that type tobacco produced by the
6 producer in the county for commercial use during
7 the 2002 crop year. In the case of an historic to-
8 bacco producer who bore less than 100 percent of
9 the risk of production, the Secretary of Agriculture
10 shall adjust the tobacco production history to reflect
11 the percentage of risk that was borne by the pro-
12 ducer.

13 (3) ADJUSTMENT AUTHORITY.—An historic to-
14 bacco producer may petition the Secretary of Agri-
15 culture to increase the tobacco production history
16 determined under paragraph (2) for the producer for
17 a type of tobacco on the grounds that the producer's
18 2002 production under-represents the producer's
19 historic production of that type of tobacco.

20 (4) CONSOLIDATION OF COUNTIES.—If the ini-
21 tial issuance of a tobacco production license to an
22 historic tobacco producer for a type of tobacco would
23 result in the producer receiving a license for that
24 type of tobacco for more than one county, the pro-
25 ducer may elect to consolidate the licenses in a sin-

1 gle county in which the producer bore or shared in
2 the risk of producing a crop of that type of tobacco
3 for the 2002 crop year. The option to make this
4 election shall be provided only once.

5 (b) SUBSEQUENT ISSUANCE.—

6 (1) IN GENERAL.—If a tobacco production li-
7 cense is surrendered or revoked, the Secretary of
8 Agriculture shall transfer the license and the cor-
9 responding tobacco production history to beginning
10 tobacco producers or licensed tobacco producers in
11 the following order of preference:

12 (A) Producers in the same county as the
13 county in which the tobacco production history
14 was derived.

15 (B) Producers in the same State.

16 (C) Producers in counties in other States
17 in which licensed tobacco producers are oper-
18 ating.

19 (2) RESERVATION FOR BEGINNING PRO-
20 DUCERS.—In all instances specified in subpara-
21 graphs (A), (B), and (C) of paragraph (1), the Sec-
22 retary shall reserve for beginning tobacco producers
23 at least five percent of the tobacco production his-
24 tory surrendered or revoked under this section.

1 (3) PRODUCERS WHO FORGO OBTAINING TO-
2 BACCO PRODUCTION LICENSE.—The tobacco produc-
3 tion history of those historic tobacco producers who
4 agree under section 103(e) to permanently forgo the
5 opportunity to obtain a tobacco production license
6 under subsection (a) shall also be available to the
7 Secretary for distribution as provided in paragraph
8 (1).

9 (c) LIMITATIONS ON USE OF LICENSE.—

10 (1) IN GENERAL.—A tobacco production license
11 specifying a particular type of tobacco and the coun-
12 ty in which that type of tobacco may be grown may
13 not be used as the basis to grow a different type of
14 tobacco or to grow that type of tobacco in a different
15 county.

16 (2) REVOCATION.—Any use of a tobacco pro-
17 duction license contrary to this subsection shall re-
18 sult in the revocation of the license.

19 (d) LIMITATIONS ON SALE, LEASE, OR TRANSFER OF
20 LICENSE.—

21 (1) SALE PROHIBITED.—A tobacco production
22 license and the corresponding tobacco production
23 history may not be sold or leased.

24 (2) TRANSFER UNDER LIMITED CIR-
25 CUMSTANCES.—A licensed tobacco producer may not

1 transfer a tobacco production license and the cor-
2 responding tobacco production history unless—

3 (A) in the case of a licensed tobacco pro-
4 ducer who is in a partnership, the transfer is
5 among the partners; or

6 (B) in the case of a licensed tobacco pro-
7 ducer who is an individual, the transfer is made
8 to the spouse, parent, brother, sister, or natural
9 or adopted child of the licensed tobacco pro-
10 ducer.

11 (3) REVOCATION.—Any sale, lease, or transfer
12 of a tobacco production license or the corresponding
13 tobacco production history contrary to this sub-
14 section shall result in the revocation of the license.

15 (e) SURRENDER OR REVOCATION OF LICENSE FOR
16 NON-USE.—

17 (1) SURRENDER.—A licensed tobacco producer
18 may surrender a tobacco production license and the
19 corresponding tobacco production history to the Sec-
20 retary of Agriculture at any time.

21 (2) REVOCATION.—The Secretary of Agri-
22 culture shall revoke the tobacco production license
23 and the corresponding tobacco production history of
24 a licensed tobacco producer if the licensed tobacco
25 producer—

1 (A) fails to share, individually or collec-
2 tively, in 100 percent of the risk of producing
3 a crop of tobacco of the type specified in the
4 tobacco production license for any year; or

5 (B) fails to produce at least 75 percent of
6 the quantity of that type of tobacco specified in
7 the tobacco production license for two out of
8 three years, unless that Secretary determines
9 the failure was due to damaging weather or re-
10 lated condition.

11 (3) ANNUAL MONITORING OF RISK.—The Sec-
12 retary of Agriculture, acting through the Farm Serv-
13 ice Agency, shall monitor at least five percent of all
14 licensed tobacco producers annually to ensure that
15 the producers comply with the risk-sharing require-
16 ments of paragraph (2). The licensed tobacco pro-
17 ducers to be monitored in a given crop year under
18 the authority of this paragraph shall be selected at
19 random. Nothing in this paragraph prevents the
20 Secretary from instituting an investigation of a spe-
21 cific licensed tobacco producer if the Secretary has
22 reasonable cause to believe the producer is not com-
23 plying with such risk-sharing requirements.

1 **SEC. 305. ANNUAL AUTHORIZED TOBACCO PRODUCTION**
2 **UNDER TOBACCO PRODUCTION LICENSES.**

3 (a) NOTIFICATION OF LICENSED TOBACCO PRO-
4 DUCERS.—As soon as practicable after preparing the esti-
5 mate required by section 302 for a type of tobacco for
6 a marketing year, the Secretary of Agriculture shall notify
7 each licensed tobacco producer of that type of tobacco of
8 the authorized quantity of tobacco that the producer may
9 produce in a county in the corresponding crop year under
10 the tobacco production license.

11 (b) DETERMINATION OF AUTHORIZED PRODUCTION
12 LEVELS.—The authorized tobacco production level for a
13 licensed tobacco producer for a type of tobacco in a county
14 for a crop year is equal to the product of—

- 15 (1) the tobacco production history of the pro-
16 ducer for that type of tobacco in that county; and
17 (2) the national tobacco marketing factor for
18 that year determined by the Secretary of Agriculture
19 under section 303.

20 (c) EXCESS PRODUCTION.—Except as provided in
21 subsection (e), if a licensed tobacco producer harvests and
22 markets tobacco in excess of the quantity specified in the
23 producer's tobacco production license or any other person
24 produces tobacco without a tobacco production license, the
25 licensed tobacco producer or other person shall be liable

1 for a civil penalty up to an amount determined by
2 multiplying—

3 (1) the quantity of tobacco involved in the viola-
4 tion; by

5 (2) price support rate for the type of tobacco
6 involved in effect under section 106 of the Agri-
7 culture Act of 1949 at the time of the violation.

8 (d) ENFORCEMENT.—The Secretary of Agriculture
9 may enforce subsection (c) in the courts of the United
10 States.

11 (e) LIMITED AUTHORITY TO EXCEED LICENSE.—If
12 the Tobacco Advisory Board notifies the Secretary of Agri-
13 culture that the actual production of a type of tobacco for
14 a crop year will be less than 80 percent of the production
15 authorized under all licenses issued for that type of to-
16 bacco, the Secretary may authorize a licensed tobacco pro-
17 ducer of that type of tobacco to harvest and market to-
18 bacco in excess of the quantity specified in the producer's
19 tobacco production license. The Secretary shall establish
20 a mechanism under which a licensed tobacco producer may
21 apply for the authority to exceed the quantity specified
22 in the producer's license.

1 **SEC. 306. TERMINATION OF MARKETING QUOTA PROGRAMS**
2 **AND REPEAL OF RELATED PROVISIONS.**

3 (a) TOBACCO CONTROL ACT.—The Act of April 25,
4 1936 (commonly known as the Tobacco Control Act; 7
5 U.S.C. 515–515k), is repealed.

6 (b) COMMODITY HANDLING ORDERS.—Section 8c(2)
7 of the Agricultural Adjustment Act (7 U.S.C. 608c(2)),
8 reenacted with amendments by the Agricultural Marketing
9 Agreement Act of 1937, is amended by striking “to-
10 bacco,”.

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

15 (1) in paragraph (2), by striking “tobacco,”

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

19 (d) BURLEY TOBACCO IMPORT REVIEW.—Section 3
20 of Public Law 98–59 (7 U.S.C. 625) is repealed.

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

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

26 (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 (7), by striking the following:
- 6 “Tobacco (flue-cured), July 1-June 30;
- 7 Tobacco (other than flue-cured), October 1-Sep-
- 8 tember 30);”
- 9 (4) in paragraph (10)—
- 10 (A) by striking subparagraph (B); and
- 11 (B) by redesignating subparagraph (C) as
- 12 subparagraph (B);
- 13 (5) in paragraph (11)(B), by striking “and to-
- 14 bacco”;
- 15 (6) in paragraph (12), by striking “tobacco,”;
- 16 (7) in paragraph (14)—
- 17 (A) by striking “(A)” in subparagraph (A);
- 18 and
- 19 (B) by striking subparagraphs (B), (C),
- 20 and (D);
- 21 (8) by striking paragraph (15);
- 22 (9) in paragraph (16)—
- 23 (A) by striking subparagraph (B); and
- 24 (B) by redesignating subparagraph (C) as
- 25 subparagraph (B);

1 (10) by striking paragraph (17); and

2 (11) by redesignating paragraph (16) as para-
3 graph (15).

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

8 (h) MARKETING QUOTAS.—Part I of subtitle B of
9 title III of the Agricultural Adjustment Act of 1938 (7
10 U.S.C. 1311 et seq.) is repealed.

11 (i) ADMINISTRATIVE PROVISIONS.—Section 361 of
12 the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361)
13 is amended by striking “tobacco,”.

14 (j) ADJUSTMENT OF QUOTAS.—Section 371 of the
15 Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is
16 amended—

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

20 (2) in the first sentence of subsection (b), by
21 striking “peanuts or tobacco” and inserting “or pea-
22 nuts”.

23 (k) REPORTS AND RECORDS.—Section 373 of the Ag-
24 ricultural Adjustment Act of 1938 (7 U.S.C. 1373) is
25 amended—

1 (1) by striking “peanuts, or tobacco” each place
2 it appears in subsections (a) and (b) and inserting
3 “or peanuts”; and

4 (2) in subsection (a)—

5 (A) in the first sentence by striking “all
6 persons engaged in the business of redrying,
7 prizing, or stemming tobacco for producers,”;
8 and

9 (B) in the last sentence by striking “\$500”
10 and all that follows through the period at the
11 end of the sentence and inserting “\$500.”.

12 (l) REGULATIONS.—Section 375(a) of the Agricul-
13 tural Adjustment Act of 1938 (7 U.S.C. 1375(a)) is
14 amended by striking “peanuts, or tobacco” and inserting
15 “or peanuts”.

16 (m) EMINENT DOMAIN.—Section 378 of the Agricul-
17 tural Adjustment Act of 1938 (7 U.S.C. 1378) is
18 amended—

19 (1) in the first sentence of subsection (c) by
20 striking “cotton, tobacco, and peanuts” and insert-
21 ing “cotton and peanuts”; and

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

23 (n) BURLEY TOBACCO FARM RECONSTITUTION.—
24 Section 379 of the Agricultural Adjustment Act of 1938
25 (7 U.S.C. 1379) is amended—

1 (1) in subsection (a)—

2 (A) by striking “(a)”; and

3 (B) in paragraph (6) by striking “, but
4 this clause (6) shall not be applicable in the
5 case of burley tobacco”; and

6 (2) by striking subsections (b) and (c).

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

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

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

15 (r) ADVANCE RECOURSE LOANS.—Section
16 13(a)(2)(B) of the Food Security Improvements Act of
17 1986 (7 U.S.C. 1433c–1(a)(2)(B)) is amended by striking
18 “tobacco and”.

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

22 (t) LIABILITY.—The amendments made by this sec-
23 tion shall not affect the liability of any person under any
24 provision of law in effect before the amendments take ef-
25 fect as provided under subsection (u).

1 **SEC. 307. EFFECTIVE DATE.**

2 This title and the amendments made by this title
3 shall apply with respect to the 2003 and subsequent to-
4 bacco crops.

5 **TITLE IV—TOBACCO ADVISORY**
6 **BOARD**

7 **SEC. 401. ESTABLISHMENT AND DUTIES OF TOBACCO ADVI-**
8 **SORY BOARD.**

9 (a) ESTABLISHMENT.—The Secretary of Agriculture
10 shall establish a permanent advisory board in the Depart-
11 ment of Agriculture to be known as the Tobacco Advisory
12 Board.

13 (b) MEMBERS.—The Tobacco Advisory Board shall
14 consist of 12 appointed by the Secretary of Agriculture
15 as follows:

16 (1) Three licensed tobacco producers of Flue-
17 cured tobacco.

18 (2) Three licensed tobacco producers of Burley
19 tobacco.

20 (3) One licensed tobacco producer of dark-type
21 tobacco.

22 (4) One representative of United States ciga-
23 rette manufacturers.

24 (5) One representative of United States moist
25 snuff manufacturers.

26 (6) One dealer.

1 (7) One representative of Flue-cured tobacco
2 marketing facilities.

3 (8) One representative of Burley tobacco mar-
4 keting facilities.

5 (c) NON-VOTING MEMBERS.—The Tobacco Advisory
6 Board shall also have the following non-voting members:

7 (1) The Secretary of Agriculture, or an officer
8 or employee of the Department of Agriculture.

9 (2) A tobacco analyst of the Department of Ag-
10 riculture, appointed by the Secretary of Agriculture.

11 (3) The United States Trade Representative, or
12 the designee of the United States Trade Representa-
13 tive.

14 (4) One representative from a college or univer-
15 sity in a predominately Flue-cured tobacco pro-
16 ducing State.

17 (5) One representative from a college or univer-
18 sity in a predominately Burley tobacco producing
19 State.

20 (d) DUTIES.—The Tobacco Advisory Board shall be
21 responsible for—

22 (1) making recommendations for modifications
23 of the tobacco price support program under section
24 106 of the Agriculture Act of 1949;

1 (2) making recommendations for modifications
2 of the tobacco production license program under title
3 III;

4 (3) determining adequate reserve stock levels
5 for each type of tobacco;

6 (4) conducting oversight regarding tobacco mar-
7 keting issues, such as opening sales dates, marketing
8 regulations, and grading fees; and

9 (5) making recommendations regarding a sim-
10 plification and reform of the grading system for to-
11 bacco, which the Secretary of Agriculture is author-
12 ized to implement.

13 **TITLE V—ASSISTANCE TO TO-**
14 **BACCO-DEPENDENT COMMU-**
15 **NITIES**

16 **SEC. 501. CENTER FOR TOBACCO-DEPENDENT COMMU-**
17 **NITIES.**

18 (a) FINDINGS.—The Congress finds the following:

19 (1) The economies of many local communities
20 are dependent on tobacco production.

21 (2) Many tobacco-producing communities are
22 facing significant challenges in developing non-to-
23 bacco income, and remain therefore quite dependent
24 on tobacco and vulnerable to changes in the tobacco-
25 growing industry.

1 (3) Greater analysis and study is needed of eco-
2 nomic conditions in these communities in order to
3 gain critical information, including identification of
4 the interconnections among various tobacco-related
5 activities, the degree to which the economic base of
6 these communities is diversified, and the extent to
7 which these communities are dependent on other de-
8 clining economic sectors.

9 (b) CORPORATION ESTABLISHED.—There is author-
10 ized to be established a nonprofit corporation, to be known
11 as the “Center for Tobacco-Dependent Communities”,
12 which will not be an agency or establishment of the United
13 States Government. The Center shall be subject to the
14 provisions of this section, and (to the extent consistent
15 with this section) to the laws and regulations applicable
16 to nonprofit corporations in the State in which the cor-
17 poration is established.

18 (c) BOARD OF DIRECTORS.—

19 (1) The Center shall have a Board of Directors
20 consisting of 7 members. Six of the members of the
21 Board shall be appointed by the President, by and
22 with the advice and consent of the Senate, and such
23 members shall appoint the Center’s Executive Direc-
24 tor, who shall also be a member of the Board. No
25 more than 3 of the 6 members appointed by the

1 President may be members of the same political
2 party.

3 (2) The 6 members of the Board appointed by
4 the President shall be citizens of the United States
5 who have knowledge and experience regarding the
6 matters for which the Center is responsible, and who
7 are eminent in issues related to rural development
8 (including small-crop agriculture; entrepreneurial ac-
9 tivity; and industrial, small business and community
10 development).

11 (3) The members of the initial Board of Direc-
12 tors shall serve as incorporators and shall take what-
13 ever actions are necessary to establish the Center.

14 (4) The term of office of each member of the
15 Board appointed by the President shall be 4 years,
16 except that of the members initially so appointed, 3
17 members shall serve for a 2-year term. Any member
18 whose term has expired may serve until such mem-
19 ber's successor has taken office, or until the end of
20 the calendar year in which such member's term has
21 expired, whichever is earlier. Any member appointed
22 to fill a vacancy occurring prior to the expiration of
23 the term for which such member's predecessor was
24 appointed shall be appointed for the remainder of

1 such term. No member of the Board shall be eligible
2 to serve in excess of 2 consecutive full terms.

3 (5) Any vacancy in the Board shall not affect
4 its power, but shall be filled in the manner con-
5 sistent with this section.

6 (6) Members of the Board shall attend not less
7 than 50 percent of all duly convened meetings of the
8 Board in any calendar year. A member who fails to
9 meet the requirement of the preceding sentence shall
10 forfeit membership, and the President shall appoint
11 a new member to fill such vacancy not later than 30
12 days after such vacancy is determined by the Chair-
13 man of the Board.

14 (7) Members of the Board shall annually elect
15 1 of their members to be Chair and elect 1 or more
16 of their members as a Vice Chair or Chairs. The
17 members of the Board shall not, by reason of such
18 membership, be officers or employees of the United
19 States. Members of the Board shall, while attending
20 meetings of the Board or while engaged in duties re-
21 lated to such meetings or other activities of the
22 Board pursuant to this section, be entitled to receive
23 compensation at the rate of \$150 per day, including
24 traveltime. No Board member shall receive com-
25 pensation of more than \$10,000 in any fiscal year.

1 While away from their homes or regular places of
2 business, Board members shall be allowed travel and
3 actual, reasonable, and necessary expenses.

4 (8) All meetings of the Board, including any
5 committee of the Board, shall be open to the public.

6 (d) OFFICERS AND EMPLOYEES.—

7 (1) The Center shall have a President, and such
8 other officers as may be named and appointed by
9 the Board for terms and at rates of compensation
10 fixed by the Board. No officer or employee of the
11 Corporation may be compensated by the Corporation
12 at an annual rate of pay which exceeds the rate of
13 basic pay in effect from time to time for level I of
14 the Executive Schedule under section 5312 of title
15 5, United States Code. No individual other than a
16 citizen of the United States may be an officer of the
17 Center. No officer of the Center, other than the
18 Chair or a Vice Chair, may receive any salary or
19 other compensation (except for compensation for
20 services on boards of directors of other organizations
21 that do not receive funds from the Center, on com-
22 mittees of such boards, and in similar activities for
23 such organizations) from any sources other than the
24 Center for services rendered during the period of his
25 or her employment by the Center. Service by any of-

1 ficer on boards of directors of other organizations,
2 on committees of such boards, and in similar activi-
3 ties for such organizations shall be subject to annual
4 advance approval by the Board and subject to the
5 provisions of the Center’s Statement of Ethical Con-
6 duct. All officers shall serve at the pleasure of the
7 Board.

8 (2) Except as provided in subsection (c)(1), no
9 political test or qualification shall be used in select-
10 ing, appointing, promoting, or taking other per-
11 sonnel actions with respect to officers, agents, and
12 employees of the Center.

13 (e) NONPROFIT AND NONPOLITICAL NATURE OF THE
14 CENTER.—

15 (1) The Center shall have no power to issue any
16 shares of stock, or to declare or pay any dividends.

17 (2) No part of the income or assets of the Cen-
18 ter shall inure to the benefit of any director, officer,
19 employee, or any other individual except as salary or
20 reasonable compensation for services.

21 (3) The Center may not contribute to or other-
22 wise support any political party or candidate for
23 elective public office.

24 (f) PURPOSES AND ACTIVITIES OF THE CENTER.—

1 (1) In order to achieve the objectives and to
2 carry out the purposes of this section, the Center
3 shall provide economic and community development
4 assistance for tobacco communities to assist them in
5 making the transition from tobacco-based economies.
6 The primary activities of the Center shall be agricul-
7 tural and entrepreneurial, and shall include outreach
8 and education to tobacco quota owners, growers and
9 others (including small communities) with limited
10 ability to obtain access to current economic develop-
11 ment resources. In particular, the Center shall pro-
12 vide assistance to tobacco-producing communities
13 identified by the Economic Research Service within
14 the Department, with emphasis on those commu-
15 nities that are especially dependent on tobacco pro-
16 duction for the generation of revenue.

17 (2) The Center is authorized to—

18 (A) provide communities and producers
19 with targeted technical assistance;

20 (B) convene meetings and conduct work-
21 shops and conferences;

22 (C) serve as a clearinghouse for exchange
23 of information regarding best industry prac-
24 tices;

1 (D) provide research and policy develop-
2 ment activities;

3 (E) serve as an advocate for communities
4 making the transition from tobacco-based
5 economies;

6 (F) make grants to individuals or entities,
7 including challenge grants, community mini-
8 grants, technical assistance grants and grants
9 for pilot projects and demonstrations;

10 (G) hire or accept the voluntary services of
11 consultants, experts, advisory boards, and pan-
12 els to aid the Center in carrying out the pur-
13 poses of this section;

14 (H) accept bequests, donations, and other
15 forms of assistance; and

16 (I) take such other actions as may be nec-
17 essary to accomplish the purposes set forth in
18 this section.

19 (3) Nothing contained in paragraph (2) shall be
20 construed to commit the Federal Government to pro-
21 vide any sums for the payment of any obligation of
22 the Center.

23 (4) To carry out the foregoing purposes and en-
24 gage in the foregoing activities, the Center shall
25 have the usual powers conferred upon a nonprofit

1 corporation by applicable laws and regulations of the
2 State in which the corporation is established, except
3 that the Center is prohibited from owning or oper-
4 ating any tobacco-related interest.

5 (g) ANNUAL REPORT.—

6 (1) The Center shall submit an annual report
7 for the preceding fiscal year ending September 30 to
8 the President for transmittal to the Congress on or
9 before the 15th day of May of each year. The report
10 shall include—

11 (A) a comprehensive and detailed report of
12 the Center's operations, activities, financial con-
13 dition, and accomplishments under this section
14 and such recommendations as the Center con-
15 siders appropriate; and

16 (B) a listing of each organization that re-
17 ceives a grant from the Center, the purpose of
18 such grant, and the amount of each such grant.

19 (2) The officers and directors of the Center
20 shall be available to testify before appropriate com-
21 mittees of the Congress with respect to such report,
22 the report of any audit made by the Comptroller
23 General of the United States pursuant to this sec-
24 tion, or any other matter which such committees
25 may determine.

1 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to the Secretary of Agri-
3 culture, from funds derived from the user fees imposed
4 under section 104, \$5,000,000 for each of the fiscal years
5 2003 through 2013 to provide funds for the operations
6 and activities of the Center. Funds so appropriated shall
7 remain available until expended. The Corporation shall es-
8 tablish an annual budget for use in allocating amounts
9 made available to the Center under this section.

10 (i) FINANCIAL MANAGEMENT AND RECORDS.—

11 (1)(A) The accounts of the Center shall be au-
12 dited annually in accordance with generally accepted
13 auditing standards by independent certified public
14 accountants or independent licensed public account-
15 ants certified or licensed by a regulatory authority of
16 a State or other political subdivision of the United
17 States. The audits shall be conducted at the place or
18 places where the accounts of the Center are normally
19 kept. All books, accounts, financial records, reports,
20 files, and all other papers, things, or property be-
21 longing to or in use by the Center and necessary to
22 facilitate the audits shall be made available to the
23 person or persons conducting the audits; and full fa-
24 cilities for verifying transactions with the balances
25 or securities held by depositories, fiscal agents and

1 custodians shall be afforded to such person or per-
2 sons.

3 (B) The report of each such independent audit
4 shall be included in the annual report required by
5 this subsection. The audit report shall set forth the
6 scope of the audit and include such statements as
7 are necessary to present fairly the Center's assets
8 and liabilities, surplus or deficit, with an analysis of
9 the changes therein during the year, supplemented
10 in reasonable detail by a statement of the Center's
11 expenses during the year, and a statement of the
12 sources and application of funds, together with the
13 independent auditor's opinion of such statements.

14 (2)(A) The financial transactions of the Center
15 for any fiscal year during which Federal funds are
16 available to finance any portion of its operations
17 may be audited by the General Accounting Office in
18 accordance with the principles and procedures appli-
19 cable to commercial corporate transactions and
20 under such rules and regulations as may be pre-
21 scribed by the Comptroller General of the United
22 States. Any such audit shall be conducted at the
23 place or places where accounts of the Center are
24 normally kept. The representative of the General Ac-
25 counting Office shall have access to all books, ac-

1 counts, records, reports, files, and all other papers,
2 things, or property belonging to or in use by the
3 Center pertaining to its financial transactions and
4 necessary to facilitate the audit, and they shall be
5 afforded full facilities for verifying transactions with
6 the balances or securities held by depositories, fiscal
7 agents, and custodians. All such books, accounts,
8 records, reports, files, papers and property of the
9 Center shall remain in possession and custody of the
10 Center.

11 (B) A report of each such audit shall be made
12 by the Comptroller General to the Congress. The re-
13 port to the Congress shall contain such comments
14 and information as the Comptroller General may
15 deem necessary to inform Congress of the financial
16 operations and condition of the Center, together
17 with such recommendations with respect thereto as
18 the Comptroller General may consider advisable. The
19 report shall also show specifically any program, ex-
20 penditure, or other financial transaction or under-
21 taking observed in the course of the audit, which, in
22 the opinion of the Comptroller General, has been
23 carried on or made without authority of law. A copy
24 of each report shall be furnished to the President, to

1 the Secretary, and to the Center at the time sub-
2 mitted to the Congress.

3 (3)(A) Not later than 1 year after the date of
4 enactment of this Act, the Center, in consultation
5 with the Comptroller General, and as appropriate
6 with others, shall develop accounting principles
7 which shall be used uniformly by all individuals and
8 entities receiving funds under this section, taking
9 into account organizational differences among var-
10 ious categories of such entities. Such principles shall
11 be designed to account fully for all funds received
12 and expended by such entities under this section.

13 (B) Each individual and entity receiving funds
14 under this section shall be required—

15 (i) to keep its books, records, and accounts
16 in such form as may be required by the Center;

17 (ii)(I) to undergo a biennial audit by inde-
18 pendent certified public accountants or inde-
19 pendent licensed public accountants certified or
20 licensed by a regulatory authority of a State,
21 which audit shall be in accordance with auditing
22 standards developed by the Center, in consulta-
23 tion with the Comptroller General; or

24 (II) to submit a financial statement in lieu
25 of the audit required by subclause (I) if the

1 Center determines that the cost burden of such
2 audit on such entity is excessive in light of the
3 financial condition of such entity; and

4 (iii) to furnish biennially to the Center a
5 copy of the audit report required pursuant to
6 clause (ii), as well as such other information re-
7 garding finances (including an annual financial
8 report) as the Center may require.

9 (C) Any recipient of assistance by grant
10 under this section shall keep such records as
11 may be reasonably necessary to disclose fully
12 the amount and the disposition by such recipi-
13 ent of such assistance, the total cost of the
14 project or undertaking in connection with which
15 such assistance is given or used, and the
16 amount and nature of that portion of the cost
17 of the project or undertaking supplied by other
18 sources, and such other records as will facilitate
19 an effective audit.

20 (D) The Center or any of its duly author-
21 ized representatives shall have access to any
22 books, documents, papers, and records of any
23 recipient of assistance for the purpose of audit-
24 ing and examining all funds received or ex-
25 pended by the recipient under this section. The

1 Comptroller General of the United States or
2 any duly authorized representatives of the
3 Comptroller General also shall have access to
4 such books, documents, papers, and records for
5 the purpose of auditing and examining all funds
6 received or expended under this section during
7 any fiscal year for which Federal funds are
8 available to the Center.

9 (4) The Center shall maintain the information
10 described in paragraph (3) at its offices for public
11 inspection and copying for at least 3 years, accord-
12 ing to such reasonable guidelines as the Center may
13 issue. This public file shall be updated regularly.

○