

108TH CONGRESS  
1ST SESSION

# H. R. 986

To replace the existing Federal tobacco program with a federally chartered corporation to ensure the stability of the price and supply of domestically produced tobacco, to compensate quota holders for the loss of tobacco quota asset value, to provide transition assistance for active tobacco producers, to increase the competitiveness of domestically produced tobacco, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2003

Mr. GOODE (for himself, Mr. LEWIS of Kentucky, and Mr. JONES of North Carolina) introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To replace the existing Federal tobacco program with a federally chartered corporation to ensure the stability of the price and supply of domestically produced tobacco, to compensate quota holders for the loss of tobacco quota asset value, to provide transition assistance for active tobacco producers, to increase the competitiveness of domestically produced tobacco, 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 Market Transition Act”.

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. 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. Transition payments for other persons involved in tobacco production  
and marketing.

Sec. 205. Tax treatment of compensation and transition payments.

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

Sec. 301. Establishment and duties of Tobacco Production Control Corporation.

Sec. 302. Board of directors of Corporation.

Sec. 303. Board meetings.

Sec. 304. Staff.

Sec. 305. General powers of Corporation.

Sec. 306. Corporation relationship with tobacco loan associations.

Sec. 307. Tobacco base price levels.

Sec. 308. Penalties.

Sec. 309. Program referenda.

**TITLE IV—TERMINATION OF CURRENT TOBACCO PROGRAMS**

Sec. 401. Termination of marketing quota programs and repeal of related pro-  
visions.

Sec. 402. Termination of tobacco price support loan and no net cost provisions  
and repeal of related provisions.

Sec. 403. Continued availability of Federal crop insurance.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **ACTIVE TOBACCO PRODUCER.**—The term  
9 “active tobacco producer” means a person that—

1 (A) is the actual producer, as determined  
2 by the Secretary, of tobacco on a farm where  
3 tobacco is produced pursuant to a tobacco farm  
4 marketing quota or farm acreage allotment es-  
5 tablished under the Agricultural Adjustment  
6 Act of 1938 (7 U.S.C. 1281 et seq.) for the  
7 2002 or 2003 crop year; and

8 (B) planted the crop, or is considered to  
9 have planted the crop under that Act, in 2001,  
10 2002, or 2003.

11 (2) ASSOCIATION.—The term “Association”  
12 means a producer-owned cooperative marketing asso-  
13 ciation.

14 (3) CORPORATION.—The term “Corporation”  
15 means the Tobacco Production Control Corporation  
16 established by section 301.

17 (4) QUOTA HOLDER.—The term “quota holder”  
18 means an owner, as of January 1, 2003, of a to-  
19 bacco farm marketing quota or a farm acreage allot-  
20 ment established under the Agricultural Adjustment  
21 Act of 1938 (7 U.S.C. 1281 et seq.) for the 2002  
22 marketing year.

23 (5) SECRETARY.—The term “Secretary” means  
24 the Secretary of Agriculture.

1           (6) TRUST FUND.—The term “Trust Fund”  
2           means the Tobacco Community Revitalization Trust  
3           Fund established by section 101.

4 **SEC. 3. PURPOSES.**

5           It is the purpose of this Act—

6           (1) to terminate the existing Federal tobacco  
7           program and establish federally chartered corpora-  
8           tion to ensure the stability of the price and supply  
9           of domestically produced tobacco;

10          (2) to compensate quota holders for the loss of  
11          tobacco quota asset value as a result of the termi-  
12          nation of the existing Federal tobacco program;

13          (3) to provide transition assistance to active to-  
14          bacco producers; and

15          (4) to make domestically produced tobacco  
16          more competitive with tobacco produced in other  
17          countries by reducing the operating costs of tobacco  
18          producers through the elimination of expenses asso-  
19          ciated with buying or leasing tobacco quota.

20 **TITLE I—TOBACCO COMMUNITY**  
21 **REVITALIZATION TRUST FUND**

22 **SEC. 101. TOBACCO COMMUNITY REVITALIZATION TRUST**  
23 **FUND.**

24          (a) IN GENERAL.—

1           (1) ESTABLISHMENT.—There is established in  
2           the Treasury of the United States a trust fund to  
3           be known as the “Tobacco Community Revitalization  
4           Trust Fund”.

5           (2) CONTENTS.—The Trust Fund shall consist  
6           of such amounts as may be appropriated or credited  
7           to the Trust Fund, including funds held in a No Net  
8           Cost Tobacco Fund or No Net Cost Tobacco Ac-  
9           count that are transferred to the Trust Fund under  
10          section 203(c).

11          (b) ADMINISTRATION.—The Trust Fund shall be ad-  
12          ministered by the Tobacco Production Control Corpora-  
13          tion.

14          (c) EXPENDITURES FROM TRUST FUND.—Amounts  
15          in the Trust Fund shall be available for making expendi-  
16          tures to defray—

17                (1) the costs of providing compensation to  
18                quota holders for the loss of tobacco quota asset  
19                value under section 201;

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

22                (3) the costs of forgiving loans and transferring  
23                title to inventories of tobacco and funds to the Com-  
24                modity Credit Corporation under section 203;

1           (4) the costs of making transition payments to  
2 other persons directly involved in tobacco production  
3 and marketing under section 204;

4           (5) the costs of carrying out the duties of the  
5 Corporation and the Associations, including assuring  
6 the quality and controlling the production and mar-  
7 keting of domestic tobacco and otherwise carrying  
8 out title III; and

9           (6) the costs to the Secretary and the Corpora-  
10 tion of enforcing title III.

11           **TITLE II—TOBACCO MARKET**  
12           **TRANSITION ASSISTANCE**

13           **SEC. 201. COMPENSATION TO QUOTA HOLDERS FOR LOSS**  
14           **OF TOBACCO QUOTA ASSET VALUE.**

15           (a) **PAYMENT AUTHORITY.**—Using amounts in the  
16 Trust Fund, the Corporation shall make payments for to-  
17 bacco quota to eligible quota holders.

18           (b) **ELIGIBILITY.**—To be eligible to receive payments  
19 under this section, a quota holder shall prepare and sub-  
20 mit to the Corporation an application at such time, in such  
21 manner, and containing such information as the Corpora-  
22 tion may require, including information sufficient to dem-  
23 onstrate to the satisfaction of the Corporation that the  
24 person was a quota holder on January 1, 2003.

25           (c) **BASE QUOTA LEVEL.**—

1           (1) IN GENERAL.—For each eligible quota hold-  
2 er that submits an application under subsection (b),  
3 the Secretary shall determine and provide to the  
4 Corporation the base quota level of the quota holder.

5           (2) LEVEL.—For each kind of tobacco for  
6 which the marketing quota is expressed in pounds,  
7 the base quota level for a quota holder shall be equal  
8 to, at the election of the quota holder—

9                   (A) the tobacco farm marketing quota es-  
10 tablished under the Agriculture Adjustment Act  
11 of 1938 for the 2002 marketing year for quota  
12 tobacco on the farm owned by the quota holder;  
13 or

14                   (B) the average of the tobacco farm mar-  
15 keting quota established under the Agriculture  
16 Adjustment Act of 1938 for the 1997, 1998,  
17 and 1999 marketing years for quota tobacco on  
18 the farm owned by the quota holder.

19           (3) MARKETING QUOTAS OTHER THAN POUND-  
20 AGE QUOTAS.—For each kind of tobacco for which  
21 there is a marketing quota or allotment (on an acre-  
22 age basis), the base quota level for each eligible  
23 quota holder shall be determined in accordance with  
24 this subsection (based on a poundage conversion) in

1 an amount equal to the product obtained by multi-  
2 plying—

3 (A) the tobacco farm marketing quota or  
4 allotment established under the Agriculture Ad-  
5 justment Act of 1938 for the 2002 marketing  
6 year (or, at the election of the quota holder, the  
7 average of the tobacco farm marketing quota or  
8 allotment established under such for the 1997,  
9 1998, and 1999 marketing years, for the quota  
10 holder's farm; by

11 (B) the average yield per acre for the  
12 quota holder's farm for the kind of tobacco for  
13 that marketing year or those marketing years,  
14 whichever applies.

15 (d) PAYMENT AMOUNT.—The Corporation shall  
16 make payments to each eligible quota holder in a total  
17 amount equal to the product obtained by multiplying—

18 (1) \$8 per pound; by

19 (2) the base quota level established for the  
20 quota holder under subsection (c).

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

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

3 (a) **PAYMENT AUTHORITY.**—Using amounts in the  
4 Trust Fund, the Corporation shall make transition pay-  
5 ments to eligible active tobacco producers.

6 (b) **ELIGIBILITY.**—To be eligible to receive payments  
7 under this section, an active tobacco producer shall pre-  
8 pare and submit to the Corporation an application at such  
9 time, in such manner, and containing such information as  
10 the Corporation may require, including information suffi-  
11 cient to demonstrate to the satisfaction of the Corporation  
12 that, the person planted, or is considered to have planted,  
13 a 2001, 2002, or 2003 crop of tobacco.

14 (c) **PAYMENT QUANTITY.**—

15 (1) **IN GENERAL.**—For each eligible active to-  
16 bacco producer that submits an application under  
17 subsection (b), the Secretary shall determine and  
18 provide to the Corporation, the production quantity  
19 of the producer eligible for payments under this sec-  
20 tion.

21 (2) **ELIGIBLE PRODUCTION QUANTITY.**—The  
22 production quantity eligible for payment for an ac-  
23 tive tobacco producer shall be equal to, at the elec-  
24 tion of the active tobacco producer—

25 (A) the quantity, in pounds, of quota to-  
26 bacco subject to the quota produced by the pro-

1           ducer under the Agriculture Adjustment Act of  
2           1938 for the 2002 marketing year; or

3           (B) the average quantity, in pounds, of  
4           quota tobacco subject to the quota produced by  
5           the producer under the Agriculture Adjustment  
6           Act of 1938 for the 1997, 1998, and 1999 mar-  
7           keting years.

8           (3) **MARKETING QUOTAS OTHER THAN POUND-**  
9           **AGE QUOTAS.**—For each kind of tobacco for which  
10          there is a marketing quota or allotment on an acre-  
11          age basis, the production quantity eligible for pay-  
12          ment for each active tobacco producer shall be equal  
13          to, at the election of the active tobacco producer—

14                (A) the actual pounds marketed for the  
15                2002 crop year; or

16                (B) the average of the actual pounds mar-  
17                keted for the 1997, 1998, and 1999 crop years.

18          (d) **PAYMENT AMOUNT.**—The Corporation shall  
19          make payments to each active tobacco producer in a total  
20          amount equal to the product obtained by multiplying—

21                (1) \$4 per pound; by

22                (2) the production base established for the ac-  
23          tive producer under subsection (c).

24          (e) **TIME FOR PAYMENT.**—The amount determined  
25          under subsection (d) for an active tobacco producer shall

1 be paid in five equal installments during each of the 2003  
2 through 2007 crops of tobacco.

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

9 **SEC. 203. TOBACCO LOAN ASSOCIATIONS.**

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

15 (b) TRANSFER OF TITLE FOR LOAN INVENTORIES.—  
16 The Secretary shall transfer to the Commodity Credit Cor-  
17 poration the title to all inventories of tobacco held by the  
18 Secretary to secure loans made to the Association under  
19 section 106A or 106B of the Agricultural Act of 1949 (7  
20 U.S.C. 1445 1, 1445 2).

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



1 ceived under section 201 of the Tobacco Market Transi-  
 2 tion Act shall be treated as gain from the sale of a capital  
 3 asset held for more than 1 year.

4 “(b) TRANSITION PAYMENTS FOR ACTIVE TOBACCO  
 5 PRODUCERS.—Any amount received under section 202 of  
 6 such Act shall be included in gross income as ordinary  
 7 income.”

8 (b) CLERICAL AMENDMENT.—The table of sections  
 9 for part II of subchapter B of chapter 1 of such Code  
 10 is amended by adding at the end the following new item:

“Sec. 91. Tobacco quota holder compensation and transition pay-  
 ments.”

11 (c) EFFECTIVE DATE.—The amendments made by  
 12 this section shall apply to taxable years beginning after  
 13 December 31, 2002.

14 **TITLE III—ESTABLISHMENT OF**  
 15 **PRIVATE TOBACCO PRODUC-**  
 16 **TION ADJUSTMENT AND**  
 17 **QUALITY ASSURANCE PRO-**  
 18 **GRAM**

19 **SEC. 301. ESTABLISHMENT AND DUTIES OF TOBACCO PRO-**  
 20 **DUCTION CONTROL CORPORATION.**

21 (a) ESTABLISHMENT.—There is established a cor-  
 22 poration to be known as the “Tobacco Production Control  
 23 Corporation”, which shall be a federally chartered instru-  
 24 mentality of the United States.

1 (b) DUTIES.—

2 (1) IN GENERAL.—Effective for the 2003 and  
3 each subsequent crop of each kind of tobacco, the  
4 Corporation shall be responsible for the promulga-  
5 tion of rules governing the production, marketing,  
6 importation, exportation, and consumer quality as-  
7 surances for each kind of tobacco.

8 (2) MAJORITY VOTE REQUIRED.—The promul-  
9 gation of rules under this section and other decisions  
10 of the Corporation under this section shall require at  
11 least a majority vote of the Board of Directors of  
12 the Corporation.

13 (c) PRODUCTION AND MARKETING LICENSES.—

14 (1) IN GENERAL.—The Corporation shall estab-  
15 lish a licensing system that provides for the orderly  
16 production and marketing of tobacco in the United  
17 States. The Corporation shall issue marketing li-  
18 censes to tobacco marketing facilities and tobacco  
19 purchasing entities.

20 (2) INITIAL LICENSE.—The Corporation shall  
21 issue a license to each active tobacco producer, or  
22 other person that meets requirements established by  
23 the Corporation, initially based upon the eligible pro-  
24 duction quantity determined for each active tobacco  
25 producer under section 202(c).

1           (3) SUBSEQUENT CROP YEARS.—The Corpora-  
2           tion shall establish the amount that each licensee  
3           may market for each subsequent year based on the  
4           production level recommended by the Secretary for  
5           that year, which shall be based on the information  
6           collected under section 320A of the Agricultural Ad-  
7           justment Act of 1938 (7 U.S.C. 1314g), and the li-  
8           censee’s production quantity for the preceding year.

9           (4) SURRENDER.—The licensee shall surrender  
10          the license to the Corporation if the licensee fails to  
11          actively engage in the production of tobacco.

12          (5) PROHIBITIONS.—

13                (A) MARKETING WITHOUT LICENSE.—The  
14                sale or marketing of a type of tobacco which  
15                prior to the date of enactment of this Act was  
16                produced pursuant to a tobacco farm marketing  
17                quota or farm acreage allotment issued under  
18                the Agricultural Act of 1938 is prohibited with-  
19                out a license.

20                (B) TRANSFER OF LICENSE.—The sale,  
21                lease, or other transfer of a license shall be pro-  
22                hibited except pursuant to subsection (h).

23          (d) COMPLIANCE.—The Corporation shall ensure  
24          compliance, through whatever means is available, of all

1 persons with any license, regulation, rule, limitation, or  
2 guideline issued under, or in order to carry out, this Act.

3 (e) QUALITY ASSURANCE.—The Corporation shall es-  
4 tablish a system that will provide assurance to consumers  
5 of the quality of all tobacco marketed in the United States  
6 and that, at a minimum—

7 (1) provides for the inspection and grading of  
8 domestically produced tobacco and imported tobacco;

9 (2) determines and describes the physical char-  
10 acteristics of domestically produced tobacco and im-  
11 ported tobacco; and

12 (3) ensures the physical and chemical integrity  
13 of domestically produced tobacco and imported to-  
14 bacco;

15 (f) METHODS TO CARRY OUT DUTIES.—To carry out  
16 its duties, functions, and determinations, the Corporation  
17 shall utilize Associations and local committees to the ex-  
18 tent practicable and appropriate.

19 (g) TRANSITION.—The Corporation shall continue to  
20 maintain and carry out a tobacco program in accordance  
21 with the rules and regulations contained in chapter 7 of  
22 the Code of Federal Regulations unless and until the Cor-  
23 poration promulgates rules under subsection (b).

24 (h) TRANSFER OF LICENSE.—

1           (1) RIGHT OF SURVIVORSHIP.—In the case of  
2 the death of a person to whom a license has been  
3 issued under this section, the license shall transfer  
4 to the surviving spouse of the person or, if there is  
5 no surviving spouse, to surviving direct descendants  
6 of the person.

7           (2) HARDSHIP.—In the case of the death of a  
8 person to whom a license has been issued under this  
9 section and whose descendants are temporarily un-  
10 able to produce a crop of tobacco, the Corporation  
11 may hold the license in the name of the descendants  
12 for a period of not more than 18 months, at the dis-  
13 cretion of the Corporation.

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

19 **SEC. 302. BOARD OF DIRECTORS OF CORPORATION.**

20           (a) IN GENERAL.—The powers of the Corporation  
21 shall be vested in a Board of Directors.

22           (b) MEMBERS.—The Board of Directors shall consist  
23 of 25 members as follows:

24           (1) The Secretary of Agriculture.

1           (2) The Secretary of Agriculture shall ap-  
2 point—

3           (A) two members from each State that  
4 produces more than 250,000,000 pounds of to-  
5 bacco;

6           (B) one member from each State that pro-  
7 duces more than 50,000,000 pounds, but less  
8 than 250,000,000 pounds, of tobacco; and

9           (C) one member, to be appointed on a ro-  
10 tating basis, from a State that produces less  
11 than 50,000,000 pounds of tobacco.

12           (3) Three members appointed by Flue-cured to-  
13 bacco associations and two members appointed by  
14 Burley tobacco associations.

15           (4) One member appointed by tobacco associa-  
16 tions other than those specified in paragraph (3), on  
17 a rotating basis.

18           (5) The Secretary of Health and Human Serv-  
19 ices shall appoint three members representing public  
20 health interests.

21           (6) The Secretary of Agriculture shall appoint  
22 four members representing domestic tobacco product  
23 manufacturers, except that—

24           (A) no manufacturer may have more than  
25 one member on the Board;

1 (B) at least one of the members must be  
2 from a domestic smokeless tobacco manufac-  
3 turer; and

4 (C) one of the members must be from a  
5 domestic cigarette manufacturer that comprises  
6 less than 5 percent of domestic cigarette sales,  
7 or a cigar manufacturer, or a pipe tobacco man-  
8 ufacturer, on a rotating basis.

9 (7) The Secretary of Agriculture shall appoint  
10 one member representing domestic export leaf deal-  
11 ers.

12 (8) The Secretary of Agriculture shall appoint  
13 one member that is the person responsible for oper-  
14 ating the quality assurance system of the Corpora-  
15 tion described in section 301(e).

16 (c) MEMBERSHIP QUALIFICATIONS.—A member of  
17 the Board shall not hold any Federal, State, or local elect-  
18 ed office. The members appointed under paragraphs (2),  
19 (3), and (4) of subsection (b) must be licensees under sec-  
20 tion 301.

21 (d) CHAIRPERSONS.—The Secretary of Agriculture  
22 shall serve as chairperson of the Board.

23 (e) TERM; VACANCIES.—

1           (1) TERM.—The term of office of a member of  
2 the Board appointed under any of paragraphs (2)  
3 through (8) of subsection (b) shall be four years.

4           (2) VACANCIES.—A vacancy on the Board shall  
5 be filled in the same manner as the original appoint-  
6 ment was made.

7 (f) COMPENSATION.—

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

12           (2) NON-FEDERAL MEMBERS.—Any other mem-  
13 ber shall receive compensation, for each day (includ-  
14 ing travel time) that the member is engaged in the  
15 performance of the functions of the Board, at a rate  
16 determined appropriate by the Board.

17           (3) EXPENSES.—A member of the Board shall  
18 be reimbursed for travel, subsistence, and other nec-  
19 essary expenses incurred by the member in the per-  
20 formance of the duties of the member.

21           (4) REPRESENTATION.—No member of the  
22 Board shall receive compensation from more than  
23 one interest represented on the Board.

24 (g) CONFLICT OF INTEREST.—

1           (1) CONFLICT OF INTEREST.—Except as pro-  
2           vided in paragraph (3), a member of the Board shall  
3           not vote on any matter concerning any application,  
4           contract, or claim, or other particular matter pend-  
5           ing before the Corporation, in which, to the knowl-  
6           edge of the member, the member, spouse, or child of  
7           the member, partner of the member, or organization  
8           in which the member is serving as officer, director,  
9           trustee, partner, or employee, or any person or orga-  
10          nization with which the member is negotiating or  
11          has any arrangement concerning prospective employ-  
12          ment, has a financial interest.

13          (2) VIOLATIONS.—Violation of paragraph (1)  
14          by a member of the Board shall be cause for removal  
15          of the member, but shall not impair or otherwise af-  
16          fect the validity of any otherwise lawful action by  
17          the Corporation in which the member participated.

18          (3) EXCEPTIONS.—The prohibitions contained  
19          in paragraph (1) shall not apply to a member of the  
20          Board that is a tobacco producer if the member ad-  
21          vises the Board of the nature of the particular mat-  
22          ter in which the member proposes to participate, and  
23          if the member makes a full disclosure of the finan-  
24          cial interest, prior to any participation.

1 (h) FINANCIAL DISCLOSURE.—A Board member  
2 shall be subject to the financial disclosure requirements  
3 of subchapter B of chapter XVI of title 5, Code of Federal  
4 Regulations (or any corresponding or similar regulation  
5 or ruling), applicable to a special Government employee  
6 (as defined in section 202(a) of title 18, United States  
7 Code).

8 **SEC. 303. BOARD MEETINGS.**

9 (a) IN GENERAL.—The Board shall meet at least  
10 three times each fiscal year at the call of a Chairperson  
11 or at the request of the Executive Director.

12 (b) LOCATION.—The location of a meeting shall be  
13 subject to approval of the Executive Director.

14 (c) QUORUM.—A quorum of the Board shall consist  
15 of a majority of the members.

16 **SEC. 304. STAFF.**

17 (a) EXECUTIVE DIRECTOR.—

18 (1) APPOINTMENT.—The Board shall appoint  
19 an Executive Director.

20 (2) DUTIES.—The Executive Director shall be  
21 the chief executive officer of the Corporation, with  
22 such power and authority as may be conferred by  
23 the Board.

24 (3) COMPENSATION.—The Executive Director  
25 shall receive basic pay at the rate provided for level

1 IV of the Executive Schedule under section 5315 of  
2 title 5, United States Code.

3 (b) OFFICERS.—The Board shall establish the offices  
4 and appoint the officers of the Corporation, including a  
5 Secretary, and define the duties of the officers in a man-  
6 ner consistent with this section.

7 (c) OTHER PERSONNEL.—The Corporation may se-  
8 lect and appoint officers, attorneys, employees, and  
9 agents, who shall be vested with such powers and duties  
10 as the Corporation may determine. The Corporation shall  
11 indemnify such personnel, as the Board considers nec-  
12 essary and desirable, except that an officer, attorney, or  
13 employee of the Corporation shall not be indemnified for  
14 an act outside the scope of employment.

15 (d) CONSULTANT AND INTERMITTENT SERVICES.—  
16 The Corporation may obtain the services and fix the com-  
17 pensation of any consultant and otherwise procure tem-  
18 porary and intermittent services under section 3109(b) of  
19 title 5, United States Code.

20 (e) COMMITTEES.—The Corporation may provide for  
21 and designate such committees, and the functions of the  
22 committees, as the Board considers necessary or desirable.

23 **SEC. 305. GENERAL POWERS OF CORPORATION.**

24 (a) BYLAWS.—The Board shall adopt, and may from  
25 time to time amend, any bylaw that is necessary for the

1 proper management and functioning of the Corporation  
2 and adopt and alter a corporate seal, which shall be judi-  
3 cially noticed.

4 (b) CORPORATION NAME.—The Corporation shall  
5 have succession in its corporate name.

6 (c) AGREEMENT AND CONTRACT AUTHORITY.—The  
7 Corporation may enter into any agreement or contract  
8 with a person or private or governmental agency.

9 (d) ACQUISITION AND DISPOSAL AUTHORITY.—The  
10 Corporation may lease, purchase, accept a gift or donation  
11 of, or otherwise acquire, use, own, hold, improve, or other-  
12 wise deal in or with, and sell, convey, mortgage, pledge,  
13 lease, exchange, or otherwise dispose of, any property or  
14 interest in property, as the Corporation considers nec-  
15 essary in the transaction of the business of the Corpora-  
16 tion. The Corporation may sell assets, loans, and equity  
17 interests acquired in connection with the financing of  
18 projects funded by the Corporation.

19 (e) LEGAL ACTIONS.—The Corporation may sue and  
20 be sued in the corporate name of the Corporation and may  
21 independently retain legal representation, except that—

22 (1) no attachment, injunction, garnishment, or  
23 similar process shall be issued against the Corpora-  
24 tion or property of the Corporation; and

1           (2) exclusive original jurisdiction shall reside in  
2           the district courts of the United States, and the Cor-  
3           poration may intervene in any court in any suit, ac-  
4           tion, or proceeding in which the Corporation has an  
5           interest.

6           (f) ASSISTANCE OF FEDERAL AGENCIES.—The Cor-  
7           poration may, with the consent of any board, commission,  
8           independent establishment, or executive department of the  
9           Federal Government, including any field service, use infor-  
10          mation, services, facilities, officials, and employees in car-  
11          rying out the duties of the Corporation, and pay for the  
12          use, which payments shall be transferred to the applicable  
13          appropriation account that incurred the expense.

14          (g) RIGHTS, PRIVILEGES, AND IMMUNITIES.—The  
15          Corporation shall have the rights, privileges, and immuni-  
16          ties of the United States with respect to the right to pri-  
17          ority of payment with respect to debts due from bankrupt,  
18          insolvent, or deceased creditors.

19          (h) FINANCIAL AUTHORITIES.—The Corporation  
20          may collect or compromise any obligations assigned to or  
21          held by the Corporation, including any legal or equitable  
22          rights accruing to the Corporation, and shall determine  
23          the character of, and necessity for, obligations and ex-  
24          penditures of the Corporation and the manner in which  
25          the obligations and expenditures shall be incurred, al-

1 lowed, and paid, subject to provisions of law specifically  
2 applicable to Government corporations. The Corporation  
3 may make final and conclusive settlement and adjustment  
4 of any claim by or against the Corporation or a fiscal offi-  
5 cer of the Corporation.

6 (i) OTHER POWERS.—The Corporation may exercise  
7 all other lawful powers necessarily or reasonably related  
8 to the establishment of the Corporation to carry out this  
9 title and the powers, purposes, functions, duties, and au-  
10 thorized activities of the Corporation.

11 **SEC. 306. CORPORATION RELATIONSHIP WITH TOBACCO**  
12 **LOAN ASSOCIATIONS.**

13 The Corporation shall enter into an agreement with  
14 producer-owned cooperative marketing loan associations  
15 for each kind of tobacco—

16 (1) to make a base price available to producers  
17 of the kind of tobacco;

18 (2) arrange for financing and the administra-  
19 tion of a base price for the kind of tobacco; and

20 (3) receive, process, store, and sell any domesti-  
21 cally produced tobacco received as collateral for a  
22 base price loan.

23 **SEC. 307. TOBACCO BASE PRICE LEVELS.**

24 (a) DETERMINATION.—The Corporation, in consulta-  
25 tion with the Secretary and the Associations, shall deter-

1 mine, and revise as necessary, a base price for each kind  
2 of tobacco, which shall be based on the cost of producing  
3 that kind of tobacco.

4 (b) EFFECTIVE DATE.—The base prices determined  
5 under subsection (a) shall take effect beginning with the  
6 2004 tobacco crops.

7 **SEC. 308. PENALTIES.**

8 (a) IN GENERAL.—The violation of any provision of  
9 this Act, or any rule or regulation issued to carry out this  
10 Act, or the terms of any license issued under this Act,  
11 by a person (including the marketing of any kind of to-  
12 bacco without a license issued under this title or in excess  
13 of the quantity permitted under such a license) shall sub-  
14 ject the person to revocation or suspension of the person's  
15 license, a penalty of 100 percent of the average market  
16 price (calculated to the nearest whole cent) for the kind  
17 of tobacco for the immediately preceding marketing year,  
18 or both, in the discretion of the Secretary.

19 (b) PAYER.—

20 (1) IN GENERAL.—Except as otherwise pro-  
21 vided in this subsection, the penalty shall be paid by  
22 the person who acquired the tobacco from the pro-  
23 ducer.

24 (2) DEDUCTION FROM PRICE.—An amount  
25 equivalent to the penalty may be deducted by the

1 buyer from the price paid to the producer in any  
2 case in which the tobacco is marketed by sale.

3 (3) HANDLER.—If the tobacco is marketed by  
4 the producer through a handler, the penalty shall be  
5 paid by the handler, which may deduct an amount  
6 equivalent to the penalty from the price paid to the  
7 producer.

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

12 (c) FALSE STATEMENT OR OMISSION.—If any pro-  
13 ducer falsely identifies or fails to account for the dispo-  
14 sition of any tobacco—

15 (1) an amount of tobacco equal to the normal  
16 yield of the number of acres harvested in excess of  
17 the quantity permitted under a license issued under  
18 this title shall be considered to have been marketed  
19 in excess of the license for the farm; and

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

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

1           (1) the total quantity of tobacco available for  
2           marketing from the farm in the marketing year from  
3           which the tobacco is carried over does not exceed the  
4           quantity that may be marketed under a license  
5           issued for the farm for the marketing year; or

6           (2) the quantity of tobacco carried over does  
7           not exceed the normal production of that number of  
8           acres by which the harvested acreage of tobacco in  
9           the calendar year in which the marketing year be-  
10          gins is less than the quantity that may be marketed  
11          under the license.

12          (e) TOBACCO MARKETED PRIOR TO MARKETING  
13          YEAR.—Tobacco produced in a calendar year for the mar-  
14          keting year beginning during the calendar year shall be  
15          subject to licenses issued for the marketing year even  
16          though the tobacco is marketed prior to the date on which  
17          the marketing year begins.

18          (f) PROPORTIONAL PAYMENTS.—The Secretary shall  
19          require collection of the penalty on a proportion of each  
20          lot of tobacco marketed from the farm equal to the propor-  
21          tion that the tobacco available for marketing from the  
22          farm in excess of the quantity that may be marketed under  
23          a license is of the total quantity of tobacco available for  
24          marketing from the farm if satisfactory proof is not fur-

1 nished as to the disposition to be made of the excess to-  
2 bacco prior to the marketing of any tobacco from the farm.

3 (g) LIEN.—Until the amount of the penalty provided  
4 by this section is paid, a lien on the tobacco with respect  
5 to which the penalty is incurred, and on any subsequent  
6 tobacco subject to licenses issued under this title in which  
7 the person liable for payment of the penalty has an inter-  
8 est, shall be in effect in favor of the Corporation for the  
9 amount of the penalty.

10 **SEC. 309. PROGRAM REFERENDA.**

11 (a) INITIAL REFERENDUM.—

12 (1) REFERENDUM REQUIRED.—After the end of  
13 the three-year period beginning on the date of enact-  
14 ment of this Act, if at least one-third of the licensees  
15 engaged in the production of a kind of tobacco re-  
16 quest a referendum under this subsection, the Cor-  
17 poration shall conduct a referendum among the li-  
18 censees engaged in the production of that kind of to-  
19 bacco to determine whether the licensees are in favor  
20 of continuing the operation of the program estab-  
21 lished under this Act with respect to that kind of to-  
22 bacco.

23 (2) PROCESS AND RESULTS.—If more than one-  
24 half of the licensees voting in a referendum con-  
25 ducted under paragraph (1) with respect to a kind

1 of tobacco oppose the continuation of the program,  
 2 the Corporation shall announce the result and shall  
 3 conduct a second referendum with respect to that  
 4 kind of tobacco one year later. If more than one-  
 5 half of the licensees voting in the second referendum  
 6 also oppose the continuation of the program, the  
 7 Corporation shall announce the result and the pro-  
 8 gram shall cease to be in effect for that kind of to-  
 9 bacco.

10 (b) SUBSEQUENT REFERENDA.—The Corporation  
 11 may conduct subsequent referenda from time to time as  
 12 the Corporation considers appropriate to determine wheth-  
 13 er producers are in favor of continuing the program estab-  
 14 lished under this Act, the use of licenses, limitations on  
 15 license transfer, or any other aspect of the program.

16 **TITLE IV—TERMINATION OF**  
 17 **CURRENT TOBACCO PROGRAMS**

18 **SEC. 401. TERMINATION OF MARKETING QUOTA PROGRAMS**

19 **AND REPEAL OF RELATED PROVISIONS.**

20 (a) TOBACCO CONTROL ACT.—The Act of April 25,  
 21 1936 (commonly known as the Tobacco Control Act; 7  
 22 U.S.C. 515–515k), is repealed.

23 (b) COMMODITY HANDLING ORDERS.—Section 8c(2)  
 24 of the Agricultural Adjustment Act (7 U.S.C. 608c(2)),  
 25 reenacted with amendments by the Agricultural Marketing

1 Agreement Act of 1937, is amended by striking “to-  
2 bacco,”.

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

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

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

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

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

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

18 (1) in paragraph (3)—

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

20 (B) by redesignating subparagraph (D) as  
21 subparagraph (C);

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

23 (3) in paragraph (7), by striking the following:

24 “Tobacco (flue-cured), July 1–June 30;

1 Tobacco (other than flue-cured), October 1–Sep-  
2 tember 30);”

3 (4) in paragraph (10)—

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

5 (B) by redesignating subparagraph (C) as  
6 subparagraph (B);

7 (5) in paragraph (11)(B), by striking “and to-  
8 bacco”;

9 (6) in paragraph (12), by striking “tobacco,”;

10 (7) in paragraph (14)—

11 (A) by striking “(A)” in subparagraph (A);

12 and

13 (B) by striking subparagraphs (B), (C),  
14 and (D);

15 (8) by striking paragraph (15);

16 (9) in paragraph (16)—

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

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

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

21 (11) by redesignating paragraph (16) as para-  
22 graph (15).

23 (g) PARITY PAYMENTS.—Section 303 of the Agricul-  
24 tural Adjustment Act of 1938 (7 U.S.C. 1303) is amended

1 in the first sentence by striking “rice, or tobacco” and  
2 inserting “or rice”.

3 (h) MARKETING QUOTAS.—

4 (1) REPEAL.—Except for the section referred  
5 to in paragraph (2), part I of subtitle B of title III  
6 of the Agricultural Adjustment Act of 1938 (7  
7 U.S.C. 1311 et seq.) is repealed.

8 (2) SUBMISSION OF MANUFACTURER PURCHASE  
9 INTENTIONS.—Section 320A of the Agricultural Ad-  
10 justment Act of 1938 (7 U.S.C. 1314g) is not re-  
11 pealed, but subsection (a)(1) of such section is  
12 amended to read as follows:

13 “(1) Not later than December 1 of each marketing  
14 year with respect to Flue-cured tobacco, and January 15  
15 of each marketing year with respect to Burley tobacco or  
16 other types of tobacco, each domestic manufacturer of  
17 cigarettes shall submit to the Secretary a statement, by  
18 kind, of the quantity of Flue-cured tobacco, Burley to-  
19 bacco, and other types of tobacco that the manufacturer  
20 intends to purchase, directly or indirectly, on the United  
21 States auction markets or from producers during the next  
22 succeeding marketing year (in this section referred to as  
23 the ‘quantity of intended purchases’).”

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

4 (j) ADJUSTMENT OF QUOTAS.—Section 371 of the  
5 Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is  
6 amended—

7 (1) in the first sentence of subsection (a) by  
8 striking “, rice, or tobacco” and inserting “or rice”;  
9 and

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

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

15 (1) by striking “rice, or tobacco” each place it  
16 appears in subsections (a) and (b) and inserting “or  
17 rice”; and

18 (2) in subsection (a)—

19 (A) in the first sentence by striking “all  
20 persons engaged in the business of redrying,  
21 prizing, or stemming tobacco for producers,”;  
22 and

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

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

5 (m) EMINENT DOMAIN.—Section 378 of the Agricul-  
6 tural Adjustment Act of 1938 (7 U.S.C. 1378) is amend-  
7 ed—

8 (1) in the first sentence of subsection (c) by  
9 striking “and tobacco”; and

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

11 (n) BURLEY TOBACCO FARM RECONSTITUTION.—  
12 Section 379 of the Agricultural Adjustment Act of 1938  
13 (7 U.S.C. 1379) is amended—

14 (1) in subsection (a)—

15 (A) by striking “(a)”; and

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

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

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

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

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

4 (r) ADVANCE RECOURSE LOANS.—Section  
5 13(a)(2)(B) of the Food Security Improvements Act of  
6 1986 (7 U.S.C. 1433c–1(a)(2)(B)) is amended by striking  
7 “tobacco and”.

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

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

15 (u) APPLICATION OF AMENDMENTS.—The amend-  
16 ments made by this section shall apply with respect to the  
17 2004 and subsequent tobacco crops.

18 **SEC. 402. TERMINATION OF TOBACCO PRICE SUPPORT**  
19 **LOAN AND NO NET COST PROVISIONS AND**  
20 **REPEAL OF RELATED PROVISIONS.**

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

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

1 (2) by striking subsection (c);

2 (3) in subsection (d)(3)—

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

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

8 (4) by redesignating subsections (d) and (e) as  
9 subsection (c) and (d), respectively.

10 (b) TERMINATION OF TOBACCO PRICE SUPPORT AND  
11 NO NET COST PROVISIONS.—Sections 106, 106A, 106B,  
12 and 106C of the Agricultural Act of 1949 (7 U.S.C. 1445,  
13 1445–1, 1445–2, 1445–3) are repealed.

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

17 (d) REVIEW OF BURLEY TOBACCO IMPORTS.—Sec-  
18 tion 3 of Public Law 98–59 (7 U.S.C. 625) is repealed.

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

24 (f) TRANSITION PROVISIONS.—

1           (1) PRICE SUPPORT LOAN OBLIGATIONS.—The  
2           amendments made by this section shall not affect  
3           any person’s obligations that arise under or with re-  
4           spect to the price support loan program or loans  
5           issued through such program under any provision of  
6           law in effect before the amendments take effect as  
7           provided under subsection (g).

8           (2) TOBACCO STOCKS AND LOANS.—The Sec-  
9           retary of Agriculture shall issue regulations that re-  
10          quire—

11                   (A) the orderly disposition of quota to-  
12                   bacco held by any producer-owned cooperative  
13                   marketing association that has entered into a  
14                   loan agreement with the Commodity Credit  
15                   Corporation to make price support available to  
16                   producers of quota tobacco;

17                   (B) the repayment of all tobacco price sup-  
18                   port loans or surrender of collateral by such as-  
19                   sociations not later than one year after this sec-  
20                   tion becomes effective.

21           (3) SPECIAL RULES FOR TERMINATION OF NO  
22           NET COST FUNDS AND ACCOUNTS.—Notwithstanding  
23           any other provision of law, upon the repeal by sub-  
24           section (b) of the authorities in section 106A and  
25           106B of the Agricultural Act of 1949 for the estab-

1 lishment of tobacco no net cost funds and accounts,  
2 respectively—

3 (A) any obligation of a tobacco producer,  
4 purchaser, or importer to make payments into  
5 any such fund or account also shall terminate;  
6 and

7 (B) any monies in any such fund or ac-  
8 count shall be disposed of in the manner pre-  
9 scribed by the Secretary of Agriculture, except  
10 that—

11 (i) to the extent needed, such monies  
12 shall be applied or used for the purposes  
13 therefor prescribed by such sections; and

14 (ii) if any monies remain, the Sec-  
15 retary shall transfer such monies to the  
16 Secretary of Health and Human Services  
17 for use in accordance with section 402.

18 (g) APPLICATION OF AMENDMENTS.—This section  
19 and the amendments made by this section shall apply with  
20 respect to the 2004 and subsequent tobacco crops.

21 **SEC. 403. CONTINUED AVAILABILITY OF FEDERAL CROP IN-**  
22 **SURANCE.**

23 Nothing in this title shall be construed to affect the  
24 eligibility of tobacco producers to obtain crop insurance

- 1 for their crops pursuant to the Federal Crop Insurance
- 2 Act (7 U.S.C. 1501 et seq.) under the terms of such Act.

○