Order Code RL31790

CRS Report for Congress

Received through the CRS Web

Tobacco Quota Buyout Proposals in the 108th Congress

Updated November 12, 2004

name redacted
Agriculture Policy Specialist
Resources, Science, and Industry Division

Tobacco Quota Buyout Proposals in the 108th Congress

Summary

On October 22, 2004, the tobacco quota buyout was signed into law. Title VI of P.L. 108-357 is known as the Fair and Equitable Tobacco Reform Act of 2004. This legislation eliminated the tobacco quota program and compensated active producers and absentee quota owners for the lost value. The concept of a quota buyout was not new, but it gained political momentum after being endorsed in the final report of a presidential commission on tobacco, *Tobacco at a Crossroads, A Call for Action* (May 14, 2001), and by the leading U.S. cigarette manufacturer, Philip Morris. Several quota bills were introduced in the 107th Congress without subsequent legislative action. Supporters of a buyout and legislative sponsors again put the proposal on the legislative agenda of the 108th Congress by introducing several differing bills.

Eventually, H.R. 4033 (Jenkins; March 25, 2004) and S. 1490 (McConnell; July 30, 2003) were attached to unrelated tax legislation (H.R. 4520 in the House and S. 1637 in the Senate), which was taken up by conferees on October 5, 2004. These bills proposed to eliminate tobacco quotas and the price support loan program. As compensation, quota owners (including absentee owners) and active producers would receive lump sum payments. Active producers were to receive $7 per pound in the House version or $8 per pound in the Senate version for the quota they owned in 2002, plus $3 per pound in the House version or $4 per pound in the Senate version for the quantity of tobacco they were allowed to produce. Most producers grow more than the quota they own because they lease quota from other landlords. The absentee landlords also were be paid for the quota they owned in 2002.

The estimated cost of the House and Senate bills was, respectively, $9.6 billion and $12 billion. The source of funding for the two bills differed, coming from the federal treasury in the House bill and from tobacco product manufacturers and importers in the Senate bill.

Many public health advocates and Philip Morris strongly supported a tobacco quota buyout accompanied by new legal authority for the Food and Drug Administration (FDA) to regulate tobacco products. The proposed FDA authority was included in identical bills in the House and Senate (H.R. 4433, Davis-Waxman; and S. 2461, DeWine-Kennedy). The FDA authority also was included in the Senate version of the tax bill, but not in the House version, where there was strong opposition.

The Chairman's mark for the conference committee on H.R. 4520 included a tobacco title (Title VI) that closely matched the House version, H.R. 4033, with quota buyout payments of $7 per pound and active producer payments of $3 per pound. Under the conference agreement, funding would come from assessments on tobacco product manufacturers and importers (as proposed in S. 1490). FDA regulatory authority over tobacco products, however, was not included.

This report is intended to serve as a history and evolution of the tobacco buyout. It will not be updated.

Contents

List of Figures

List of Tables

Tobacco Quota Buyout Proposals in the 108th Congress

Several bills were introduced in the 108th Congress that proposed to eliminate tobacco marketing quotas and compensate the owners for the loss of asset value associated with quotas.[1] The bills also proposed to make "transition payments" to active producers. This report describes the various legislative proposals and presents a side-by-side comparison of the conference committee agreement with the House and Senate versions that went into conference. The conference agreement was enacted as P.L. 108-357, Title VI, the Fair and Equitable Tobacco Reform Act of 2004.

One basis for comparing proposals is the total amount of money paid to farmers and the source of funds. However, the quota buyout involved more than the transfer of money. The design of future tobacco production and marketing policy in each bill had important consequences for farmers, communities, and the nation. Some proposals would have eliminated quotas. Others would have replaced quotas with production licenses or permits for only active producers, thereby eliminating quota rents. Also, there was the question of whether some level of domestic tobacco price support would be continued or eliminated.

To compare the bills in the context of public policy, it is helpful to examine them against a set of objectives framed around the question: What should a quota buyout program seek to accomplish? As the policy debate unfolded, general agreement did not exist on this question. Different interest groups seeking legislation had different objectives.

Quota owners argued that they should be compensated for federal policies that discourage consumption of tobacco products and diminish farmers' ability to earn a livelihood. Producers leasing a large amount of quota from absentee owners wanted to see their costs of production decline by granting them sole production rights and prohibiting absentee quota ownership. Farmers who did not have quota argued that they should not be prohibited, as under existing law, from growing tobacco. Also, there were some public health advocates that saw the quota program as a desirable constraint on U.S. tobacco production. The cost of these proposals was important, especially to the manufacturers if they were the ones who would pay for a buyout. Finally, most involved parties anticipated or were working toward the goal of linking quota buyout authority with new authority for the Food and Drug Administration

[1] The idea of a quota buyout is not new. Two differing buyout proposals were contained in S. 1415 in the 106th Congress. The bill, largely related to regulation of tobacco products, was debated on the Senate floor but never reached a vote. Also, the 2002 farm bill (P.L. 107-171, Sec. 1309) included peanut quota buyout provisions as part of the redesign of support for that commodity.

(FDA) to regulate tobacco products. The linkage was seen as political necessity to broaden support for both efforts, and disagreement on this issue almost blocked passage of the legislation.

Design and Impact of Marketing Quotas

The federal tobacco support program has worked through a combination of commodity price support loans and marketing quotas. Price support loans guaranteed farmers minimum set prices for tobacco (the 2004 loan prices for the two principal types, flue-cured and burley, are $1.69 and $1.873/lb. respectively). These prices were mandated by a formula in the law.[2] Marketing quotas, which specified the maximum quantity of tobacco that could be sold, were assigned by the U.S. Department of Agriculture (USDA) each year to farms that had a history of tobacco production. The purpose of quotas was to limit supplies in order to force buyers to pay the loan prices or more (the 2004 national basic quotas for flue-cured and burley were 471.3 million pounds and 302.1 million pounds respectively). Together, the combination of guaranteed minimum prices and managed supply was designed to create a stable market for farmers and tobacco product manufacturers. Also, the pattern of assigning quotas to farmland with a history of quotas confined production to the traditional growing regions and farms. This system of support had operated since the 1930s and was authorized in permanent law (7 U.S.C. 1311 *et seq.*). (See CRS Report 95-129, *Tobacco Price Support: An Overview of the Program*.)

The economic stability that was desired and expected from the tobacco support program was not achieved. First, the support prices for U.S. tobacco, as mandated by law, were higher than prices for competing tobacco in world markets. As a consequence, U.S. farmers steadily lost both export and domestic markets to foreign producers. The declines are pictured in Figures 1 and 2 (based on USDA data). Second, tobacco support prices were higher than the costs of production. This created economic profits that were capitalized into the marketing quota lease rates and land prices. So, marketing quotas became an asset that added substantial value to farmland, and became a source of rental income for owners choosing not to grow tobacco themselves. Conversely, rent on quotas became a sizable expense for active producers renting quota in an attempt to expand or even maintain output in the face of shrinking markets.

---

[2] The law (7 U.S.C. 1445) specifies that each year's support price be based on the five-year moving average of auction prices and the change in the annual index of tobacco producer costs of production.

Figure 1. U.S. Share of world Tobacco Exports

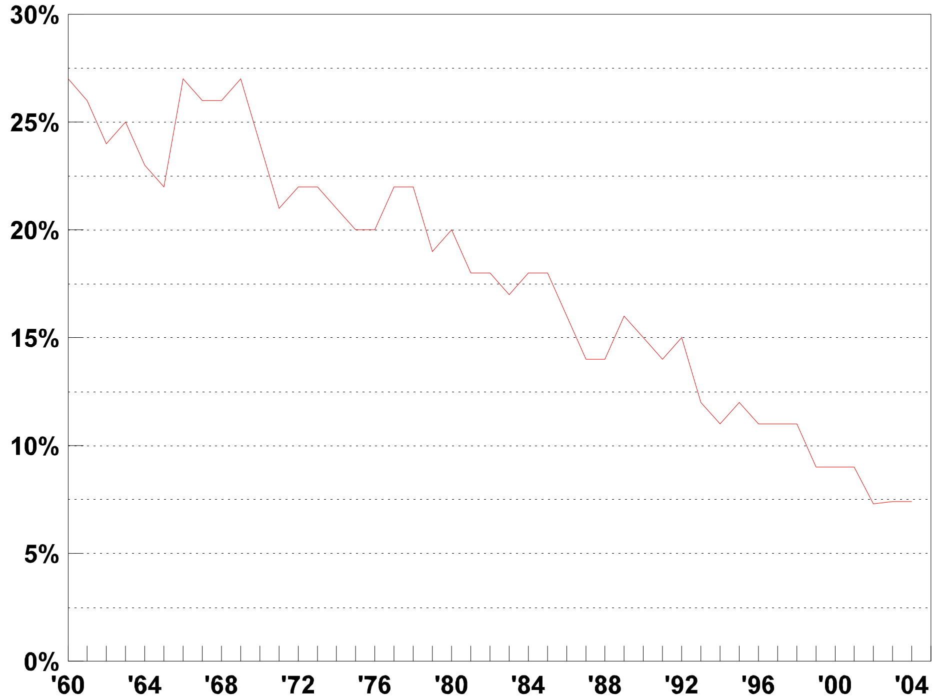
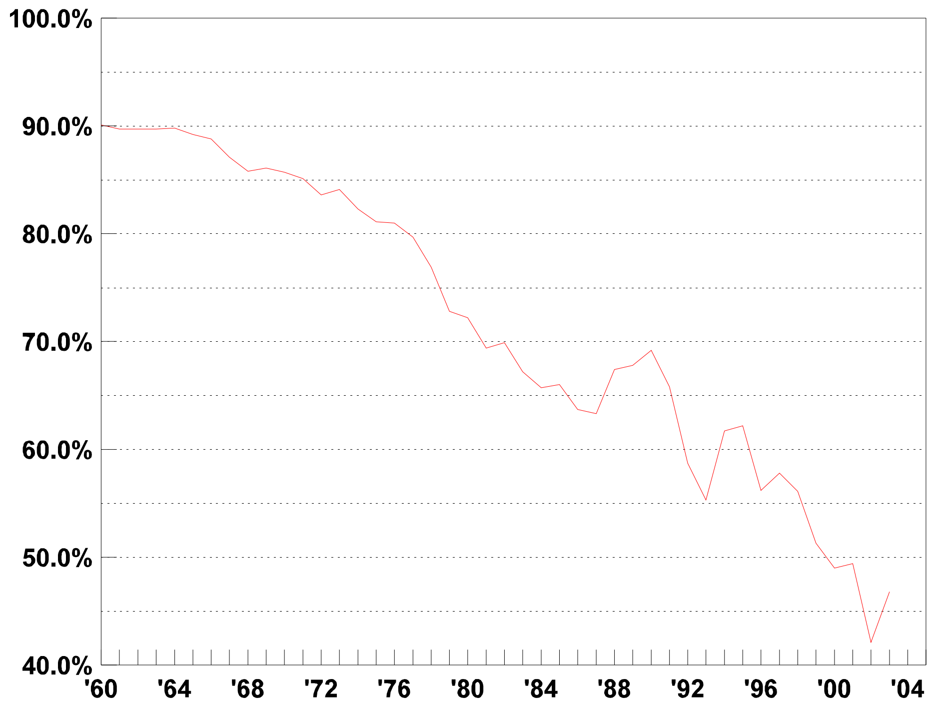


Figure 2. Share of U.S. Tobacco in U.S. Cigarettes



As with other crops, the number of active tobacco producers has declined over time and production has become concentrated onto fewer but larger farms. In 1982 there were about 180,000 farms producing tobacco. By 2002, just 20 years later, the number of active producers was about 57,000, a 68% decline.[3] Most of these active tobacco farmers owned some marketing quota themselves and also rented quota from about 359,000 other absentee quota owners.[4] In the mid-1990s, burley producers owned about 44% of their effective quota and leased the remaining 56% at an average cost of $0.33/lb. Lease and transfer of quota had been prohibited for flue-cured tobacco since 1986. Instead, active flue-cured producers rent farmland that had quota attached to it, thereby obtaining the tobacco production rights. In the mid-1990s, flue-cured producers owned about 33% of their effective quota and rented the remaining 67% at an average cost of $0.37/lb.[5] Newer USDA cost of production data put the average rental cost of quota in 2003 at $0.63/lb. for flue-cured and $0.57/lb. for burley.[6]

One reason for increased consolidation and higher quota rental fees was the sharp decline in quota levels after 1997, as shown in Figure 3 and Table 1. The decline was due to the reversal of previously rapidly growing export markets for U.S.-manufactured cigarettes. The basic quotas for flue-cured and burley tobacco declined 52% and 57% respectively after 1997. Farmers needed to market enough tobacco to maintain their revenue and to economically utilize their barns, equipment, and labor. This required renting more quota. Along with these economic pressures to consolidate, several sources of financial aid made it possible for farmers to pay higher rental rates for quota.

First, in conjunction with Phase II of the 1998 Master Settlement Agreement, cigarette manufacturers agreed to distribute $5.15 billion to tobacco producers and quota owners over a 12-year period.[7] Second, to help offset decreases in marketing quotas, Congress acted to provide assistance. Four separate emergency assistance laws (P.L. 106-78, P.L. 106-224, P.L. 107-25, P.L. 108-7) included what the industry called direct "tobacco loss payments (TLPs)" totaling $860 million. Third, Congress directed the Commodity Credit Corporation (CCC) to take ownership of all 1999 tobacco pledged as price support loan collateral and to assume all financial losses

---

[3] U.S. Census of Agriculture, 2002.

[4] President's Commission on Improving Economic Opportunity in Communities Dependent on Tobacco Production While Protecting Public Health, Tobacco at a Crossroads, A Call for Action, May 14, 2001.

[5] Data are from Linda F. Foreman, Tobacco Farmers' Ownership and Rental of Tobacco Quota, in *Tobacco Situation and Outlook Report*, Economic Research Service, U.S. Department of Agriculture, September 2001.

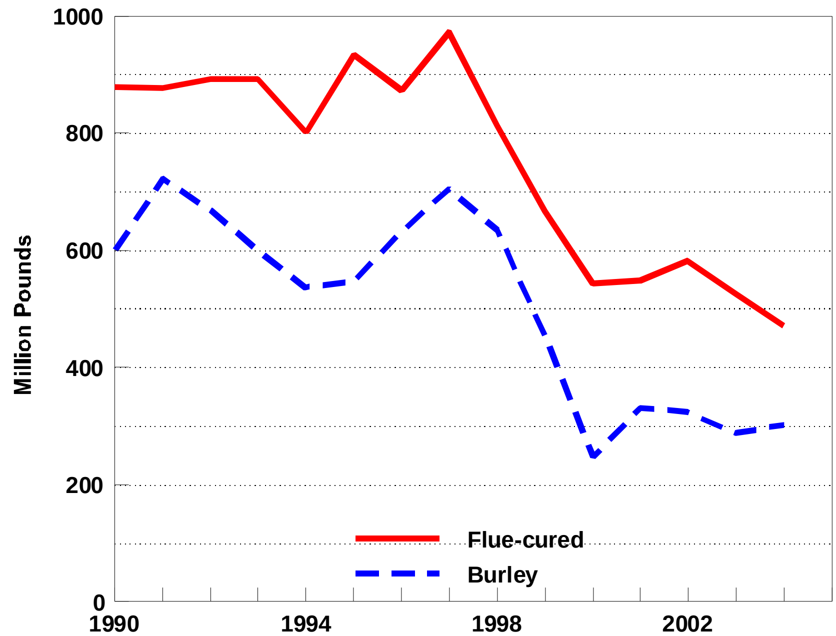
[6] Economic Research Service, U.S. Department of Agriculture, "Tobacco production costs and returns per planted acre and per hundredweight, 2002-2003."

[7] In 1998, cigarette manufacturers agreed to pay states $206 billion over 25 years to settle a lawsuit brought by a number of states' attorney generals. This Master Settlement Agreement included no monies specifically dedicated to farmers. Subsequently and separately, manufacturers agreed on payments to tobacco-producing states specifically for farmers, called Phase II payments.

(P.L. 106-387, as amended). CCC finally completed disposal of this inventory in December 2003 by burying it in landfills. According to CCC data, the total cost of acquisition, interest on principal, storage, and disposal was about $625 million.

These three sources of financial assistance, rather than income from the sale of tobacco, are the primary reason active producers were able to pay higher rental rates to absentee quota owners as they bid against each other for their share of a declining national tobacco quota. (See CRS Report RS20802, *Tobacco Farmer Assistance*.)

Figure 3. Flue-Cured and Burley Basic Quota



Why a Quota Buyout

Make Tobacco Production Profitable for Active Producers

Active tobacco producers were being hurt financially both by declining marketing quotas, which reduced their sales revenue, and higher quota rental rates, which raised their production costs. Farmers felt there was little they could do to increase the demand for tobacco, especially since it was federal policy to discourage consumption of tobacco products. However, the elimination of quota rents, through a buyout of marketing quotas, could reduce the costs of production substantially for farmers leasing substantial amounts of quota. At the same time, active producers might continue to receive the price benefit of a continuing support program.

Advocates of this policy approach (H.R. 245, Fletcher; H.R. 986, Goode) proposed to give marketing licenses (or permits specifying quantity limits) to active producers, just as with marketing quotas. However, the licenses would be issued only to active producers and all forms of rent would be prohibited. This restriction would prevent the licenses from acquiring any exchangeable value. The initial recipients of the licenses would be current tobacco producers wanting to continue as active growers.

Active producers, not just absentee landlords, also would have received quota buyout payments under all of the legislative proposals that were offered. This provided the farmers who wanted to quit growing tobacco with sizable benefits. The farmers who remained active producers under the license scheme would receive a windfall from their buyout payment since they would have suffered no losses (they would continue to get the extra income created by licenses and price support).

This framework for a quota buyout, of licensed future production and continued price support, was developed by the President's Commission on Improving Economic Opportunity in Communities Dependent on Tobacco Production While Protecting Public Health.[8] This commission included advocates for tobacco farmers, anti-smoking and health organizations, and rural community development proponents. H.R. 245 and H.R. 986 largely were modeled on the Commission's recommendations.

Make U.S. Tobacco Price Competitive

There was little disagreement that U.S. tobacco could become substantially more competitive in the domestic as well as export markets if prices declined by the amount paid in quota rents. Such a price reduction would happen if tobacco support program loan rates were reduced substantially or eliminated. The quota rent paid to absentee landlords would vanish. The decline in revenue from lower tobacco prices largely would be offset by the elimination of quota rent payments, leaving the producer in about the same net revenue situation. In fact, a North Carolina agricultural economist once estimated that in the absence of the price support program, U.S. tobacco production could increase by possibly 50%.[9]

At the same time, the economic analysis noted there would be substantial adjustment costs associated with dropping support prices to free market levels or eliminating the program. Most immediately, the value in quotas would be wiped out. This would eliminate the rental income of absentee quota owners. Furthermore, all of the farmland with quota, whether owned by absentee landlords or active producers, would drop in value. However, the economic adjustments associated with a reduction in tobacco prices could be minimized, if not eliminated, by compensating quota owners for lost asset values.

This "free market" policy approach (H.R. 140, McIntyre; H.R. 4033, Jenkins) was most appealing to active producers who wanted to see an expansion of their tobacco enterprises. These producers likely had a sizable investment in barns and

---

[8] The Commission's final report was *Tobacco at a Crossroads: A Call for Action*, May 2001.

[9] A. Blake Brown, *Implications of Elimination of the US Flue-Cured Tobacco Program*, Department of Agricultural and Resource Economics, North Carolina State University, September 18, 1997.

machinery, and probably rented a large proportion of their annual effective marketing quota. This option was equally appealing to farmers intending to exit from tobacco production. The farmers most disadvantaged would have been small to medium sized operations and those that were inefficient because of high costs or low yields who wanted to continue growing tobacco.

As compared to a system of licensed producers, this "free market" option would result in fewer but larger farms because of economies of size. Also, production likely would move within each of the tobacco states to the geographic locations with the most suitable soils and climate for economical production. The very fact that production could increase substantially made the "free market" option unappealing to some anti-smoking and health advocates.

Somewhere between the Commission concept of production licenses with continued price support and the free market proposal, S. 1490 (McConnell) proposed to eliminate quotas and price support but allocate a national crop acreage base among active producers. Should supplies become excessive, an acreage limitation program would require reductions in planting. This acreage reduction concept was used in conjunction with the support programs for grains and cotton before being eliminated by the 1996 farm bill.

H.R. 3160 was introduced as a bipartisan consensus proposal by Fletcher, McIntyre, and Goode. This bill was similar to the McConnell bill in most respects. One major variation was a different basis for calculating the amount of money paid to quota owners and active producers. Under S. 1490, payments would have totaled about $11 billion, compared to about $15 billion under H.R. 3160. However, S. 1490 included some community development assistance that was not present in H.R. 3160.

Paying for a Quota Buyout

The value of tobacco marketing quota depended on several factors, including expectations about the future. Quota owners knew exactly how much rent they earned from active producers. What they did not know was how long the tobacco program would continue to operate, or the size of national marketing quotas in future years.

Survey data from Kentucky revealed that the average sale price of marketing quotas was $2.58/lb. in 2001 (when lease rates averaged $0.62/lb.), and $2.08/lb. in 2000 (when lease rates averaged $0.58/lb.), and $1.75 in 1999 (when lease rates averaged $0.40/lb.).[10] One would expect to get much higher sale prices with annual rents of these magnitudes. These sale prices compared to lease rates implied a time horizon of about five years, based upon a 5% interest rate. In other words, buyers were discounting the purchase price of quota relative to annual rent in anticipation of future quota reductions or elimination of the program.

---

[10] Will Snell, *Burley Quota Lease and Sales Survey Results*, University of Kentucky, August 2001.

Most quota buyout bills proposed to pay owners $8/lb. This payment was equal to the present value of annual rental income of $0.40/lb. in perpetuity at an interest rate of 5%. The buyout price of $8/lb. was a much higher price than sellers of quota were getting in the marketplace. Also, the buyout offered to pay active producers an additional $4/lb. for all production on the farm. The payment to producers typically was described as a "transition payment."

A buyout program that payed $8/lb. to quota owners plus $4/lb. to active producers would pay $12/lb. for each pound of quota that qualifies for the program. Depending on the crop years used to calculate payments and some assumptions about participation levels, a rough and unofficial estimate of the buyout and transition payments ranged from about $11 to $19 billion. How much would a typical tobacco farmer receive?

- The average North Carolina tobacco farmer harvested about 21 acres in 2002, producing about 45,000 pounds. Buying out this average North Carolina producer, who owned 33% of the quota and rented 67%, would cost $298,800 ($118,800 in quota payments and $180,000 in transition payments).
- In South Carolina, the average tobacco farmer harvested 35 acres in 2002, bringing in about 66,000 pounds. Buying out this average South Carolina producer, who owned 33% of the quota and rented 67%, would cost $438,240 ($174,240 in quota payments and $264,000 in transition payments).
- Kentucky tobacco farms averaged 4 acres, producing about 7,500 pounds in 2002. Buying out this average Kentucky producer, who owned 44% of the quota and rents 56%, would cost $56,400 ($26,400 in quota payments and $30,000 in transition payments).

The President's Commission recommended that federal excise taxes on cigarettes and other tobacco products serve as the source of revenue for the proposed buyout (estimated at $0.17 per pack on cigarettes for five years). However, all of the legislative proposals described in this report included an assessment on manufacturers and importers of tobacco products, or the use of U.S. Treasury funds, rather than an increase in excise taxes on cigarettes.

Certainly, manufacturers could benefit from a buyout if the support price for tobacco were reduced. One tobacco manufacturer, Philip Morris, stated its willingness to help pay for a tobacco buyout program. If U.S. manufacturers could save $0.60/lb. on their 2004 purchase intentions of about 450 million pounds, the savings would amount to $270 million. Additional savings would accrue if a drop in the price of U.S. tobacco pushed down the price of foreign supplies. Additionally, overseas operations also would save on the lower prices for both US. leaf and foreign leaf. One tobacco analyst estimated it would take about 14 years for manufacturers to recover the cost of a $15 billion quota buyout program.[11] Philip Morris [12] had

---

[11] USDA economist Bob Tarczy offered this estimate in his presentation on "Potential Financial Impact of a Buyout" at the 41st Tobacco Workers' Conference, January 22, 2004, (continued...)

coupled its offer to participate in a buyout with a proposal for FDA regulation of tobacco products. Health groups also advocated FDA regulation.[13] Philip Morris was the only major manufacturer known to support FDA regulation or a quota buyout. (See identical bills H.R. 4433 and S. 2461).

Doubts about whether strong divisions in Congress over proposed FDA regulatory authority could be overcome encouraged sponsors of H.R. 4033 (Jenkins; March 25, 2004) to seek about $9.6 billion in funding out of the U.S. Treasury, rather than from assessments on manufacturers. The bill was cosponsored by most supporters of the so-called House consensus bill. This bill provided $1/lb. lower quota buyout and transition payment rates ($7/lb. and $3/lb. respectively). In contrast to other proposals, Phase II payments to growers would continue and provide an additional benefit of about $2.6 billion. The Jenkins bill also was included as Title VII in the House-passed H.R. 4520, a tax bill called the American Jobs Creation Act of 2004.

Following the lead of the House in using the tax bill as the legislative vehicle for the tobacco quota buyout, the Senate retrieved its previously adopted S. 1637, the Jumpstart Our Business Strength (JOBS) Act, and amended it by attaching the slightly modified McConnell buyout bill (S. 1490) and the DeWine-Kennedy FDA tobacco product regulation authority (S. 2461).

Conferees took up the tax legislation (the differing House and Senate versions of H.R. 4520) on October 5, 2004. The Chairman's mark for the conference committee included tobacco quota buyout provisions (Title VI). The tobacco provisions largely reflected the House version, but funded the buyout with an assessment on manufacturers and importers of tobacco products rather than from the U.S. Treasury. Like the House version of H.R. 4520, the Chairman's mark contained no authority for FDA regulation of tobacco products.

The Chairman's mark, like both the House and Senate proposals, eliminated tobacco marketing quotas, acreage allotments, and nonrecourse loan price support authority. It contained no provisions to control how much tobacco might be grown in the future, who could produce it, or where it could be produced. As compensation, the roughly 416,000 current quota owners would be paid $7 per pound (in 10 equal annual installments) on their 2002 basic marketing quotas (totaling about $6.7 billion). Similarly, the roughly 57,000 active producers would be paid $3 per pound on their 2002 effective marketing quotas (totaling about $2.9 billion). Nearly all of the active producers also were quota owners, and they would get both payments on that portion of the effective quota they also owned.

---

[11] (...continued)
Nashville, TN.

[12] PM USA's *Fundamental Principles of a Tobacco Quota Buyout* and *FDA & Tobacco* are posted on the Internet at [http://www.philipmorrisusa.com/home.asp].

[13] The summary of the joint views of several health groups is available at [http://www.tobaccofreekids.org/research/factsheets/pdf/0181.pdf].

Total expenditures were limited to a maximum of $10.140 billion. The expenditures would be made over a 10-year period from FY2005 through FY2014. If domestic cigarette consumption remained at the current level of about 19.75 billion packs, the cost to manufactures would be about 5¢ per pack each year for 10 years. Remaining Phase II payments of about $2.6 billion from manufacturers to farmers (adopted in conjunction with the Master Settlement Agreement between major manufacturers and states) would terminate.

Table 1. National Quota Levels and Actual Marketings of Flue-Cured and Burley Tobacco, 1990-2004

	Flue-cured, types 11-14			Burley, type 31			Flue-cured and Burley		
Crop Year	Basic Quota	Effective Quota	Actual Mktings	Basic Quota	Effective Quota	Actual Mktings	Basic Quota	Effective Quota	Actual Mktings
	Million Pounds								
1990	877.7	936.1	920.2	601.3	741.2	592.2	1,479.0	1,677.3	1,512.4
1991	877.6	891.5	882.5	724.1	846.1	657.0	1601.7	1737.6	1,539.5
1992	891.8	899.0	901.0	668.5	835.6	699.8	1560.3	1734.6	1,600.8
1993	892.0	889.6	891.7	601.9	717.9	626.6	1493.9	1607.5	1,518.3
1994	802.6	798.5	806.8	536.3	605.9	568.0	1338.9	1404.4	1,374.8
1995	934.6	924.9	854.2	546.5	577.9	480.4	1481.1	1502.8	1,334.6
1996	873.6	943.6	896.7	631.3	719.8	516.3	1504.9	1663.4	1,413.0
1997	973.8	1,019.8	1,013.5	704.5	879.8	628.8	1678.3	1899.6	1,642.3
1998	814.3	819.6	815.2	635.4	867.5	588.7	1449.7	1687.1	1,403.9
1999	667.7	671.5	645.0	452.6	690.1	551.2	1120.3	1361.6	1,196.2
2000	543.0	553.0	564.1	247.0	361.9	307.4	790	914.9	871.5
2001	548.4	545.3	544.4	332.0	368.8	335.8	880.4	914.1	880.2
2002	582.0	545.3	564.8	324.2	349.3	298.8	906.2	894.6	863.6
2003	526.3	536.2	507.7	287.8	330.0	271.7	814.1	866.2	798.0
2004	471.3	500.0	na	302.1	331.0	na	773.4	831	na

Source: Data are from Economic Research Service, *Tobacco Outlook*, Sep. 2004, and the Farm Service Agency.

Table 2. Comparison of Tobacco Quota Buyout Proposals Sent to Conference in the 108th Congress

Senate-passed H.R. 4520 (Grassley, Jumpstart Our Business Strength (JOBS) Act, adopted July 15, 2004, with S.Amdt. 3562, substituting the language of S. 1637 for the House language. S. 1637 was approved by the Senate on May 11, 2004)	**House-passed H.R. 4520** (Thomas, American Jobs Creation Act of 2004, adopted June 17, 2004)	**Conference Committee Agreement on H.R. 4520, P.L. 108-357** (American Jobs Creation Act of 2004, adopted by conferees October 6, 2004, signed into law October 22, 2004)
Tobacco Market Transition Act (TMTA) of 2004 Subtitle B, Title XI of H.R. 4520 (Chapter 2 of S.Amdt. 3563, and similar to S. 1490, (McConnell). [Sec. 1140-1152]	**Fair and Equitable Tobacco Reform Act of 2004** Title VII of H.R. 4520 (similar to H.R. 4033, Jenkins)	**Fair and Equitable Tobacco Reform Act of 2004** Title VI of P.L. 108-357
FDA Regulation Subtitle A, Title XI of H.R. 4520 (Chapter 1 of S.Amdt. 3563, and identical to S. 2461 (DeWine/Kennedy). Gives FDA regulatory authority over the content and marketing of tobacco products. [Sec. 1101-1132]	None	None
Total Payments and Other Spending Total payments to quota owners and producers are about $11.6 billion. Additional spending of about $0.4 billion. for community assistance, research, administration, and stability programs, and settlement of outstanding loans under the current program. (CRS cost estimates).	Total payments to quota owners and producers are about $9.6 billion. There is no additional spending for community assistance or other activities. (CRS cost estimates).	Total payments to quota owners and producers, as well as costs related to disposition of loan pool stocks, are limited to $10.14 billion. There is no additional spending for community assistance or other activities.

Senate-passed H.R. 4520 (Grassley, Jumpstart Our Business Strength (JOBS) Act, adopted July 15, 2004, with S.Amdt. 3562, substituting the language of S. 1637 for the House language. S. 1637 was approved by the Senate on May 11, 2004)	**House-passed H.R. 4520** (Thomas, American Jobs Creation Act of 2004, adopted June 17, 2004)	**Conference Committee Agreement on H.R. 4520, P.L. 108-357** (American Jobs Creation Act of 2004, adopted by conferees October 6, 2004, signed into law October 22, 2004)
Funding Sources Payments to quota owners and active producers, and other expenses, are to be made from a Tobacco Trust Fund created in the CCC. Money comes from quarterly assessments on product manufacturers and importers. Cigarettes pay 99.409%. [Sec. 1151 (380S)] Remaining Phase II payments of about $2.7 billion for farmers by manufacturers under the MSA would stop.	Funds to make payments are drawn from the general fund of the Treasury, but not to exceed the revenues coming into the Treasury from excise taxes on tobacco products. [Sec. 725] The remaining $2.7 billion in manufacturer Phase II payments to farmers under the MSA would continue.	Payments to quota owners and active producers, and other expenses, are from a Tobacco Trust Fund created in the CCC. Money comes from quarterly assessments on tobacco product manufacturers and importers. Cigarettes pay 96.331%. [Sec. 625] Remaining Phase II payments of about $2.5 billion for farmers by manufacturers under the MSA would stop.
Payment Timing Payments to quota owners and producers are made in 10 equal annual installments from 2004 through 2013. Advance payment options are available to owners and producers. [Sec 1151 (380B and 380C)]	Payments to quota owners and producers are made in 5 equal annual installments from FY2005 through FY2009. [Sec. 722(e) and 723(d)]	Payments to quota owners and producers are made in 10 equal annual installments from FY2005 through FY2014. [Sec. 622(e) and 623(d)] Advance payment options are available to owners and producers through financial institutions. [Sec. 624(e)]
Quota Owner Payments Quota owners as of July 1, 2002, are to be paid $8/lb. on marketing year 2002 basic quota, divided into 10 equal payments of 80¢ per pound. [Sec. 1151 (380B)] (Estimated cost = $7.6 billion)	Quota owners as of July 1, 2004, are to be paid in proportion to their 2002 basic quota. Total amount available for payments is $7/lb. times the total basic quota for the 2002 marketing year. [Sec. 721(3) and Sec. 722 (e)] (Estimated cost = $6.7 billion)	Quota owners (numbering about 416,000 (including about 57,000 active producers and 359,000 landlords) as of the date of enactment are to be paid $7/lb. on marketing year 2002 basic quota, divided into 10 equal payments of 70¢ per pound. [Sec. 622] (Estimated cost = $6.7 billion)

Senate-passed H.R. 4520 (Grassley, Jumpstart Our Business Strength (JOBS) Act, adopted July 15, 2004, with S.Amdt. 3562, substituting the language of S. 1637 for the House language. S. 1637 was approved by the Senate on May 11, 2004)	**House-passed H.R. 4520** (Thomas, American Jobs Creation Act of 2004, adopted June 17, 2004)	**Conference Committee Agreement on H.R. 4520, P.L. 108-357** (American Jobs Creation Act of 2004, adopted by conferees October 6, 2004, signed into law October 22, 2004)
Active Producer Payments Traditional producers (numbering about 60,000), who raised tobacco in 2000, 2001, or 2002, are paid $4/lb. on 2002 marketing year effective quota, divided into 10 annual installments of 40¢ per pound. Payments are reduced by 1/3 for each year tobacco was not grown by the producer. [Sec. 1151 (380C)] (Estimated cost = $3.9 billion. Nearly all producers own some quota.)	Farmers who share in the risk of production and are actively engaged in producing tobacco for the 2004 crop year are paid in proportion to actual marketings or quantity considered planted in the 2002 marketing year. Total amount available for payments is $3/lb. times the total marketings in the 2002 marketing year. [Sec. 721(1) and 723(d)] (Estimated cost = $2.9 billion)	Traditional producers (numbering about 57,000), who raised tobacco in 2000, 2001, or 2002, are paid $3/lb. on 2002 marketing year effective quota, divided into 10 annual installments of 30¢ per pound. Payments are reduced by 1/3 for each year tobacco was not grown by the producer. [Sec. 623] (Estimated cost = $2.9 billion. Nearly all producers own some quota.)
Quotas and Licenses Current marketing quotas and acreage allotments are terminated. [Sec. 1141] In future years, a national base acreage and base poundage is established for each kind of tobacco. Poundage permits are divided among only active producers. [Sec. 1151 (380I)]	Marketing quotas and acreage allotments are terminated. [Sec. 711]	Marketing quotas and acreage allotments are terminated. [Sec. 611 and 612] There are no restrictions on who can produce tobacco in the future or where it can be produced.
Price Support Price support loans and no net cost assessments are terminated. [Sec. 1142] Annual assessments of up to 5¢ per pound divided equally between producers and purchasers are used to finance a Tobacco Market Stability Program. [Sec. 1151 (380M)]	Price support loans and no net cost assessments are terminated. [Sec. 712]	Price support loans and no net cost assessments are terminated. [Sec. 612]

Senate-passed H.R. 4520 (Grassley, Jumpstart Our Business Strength (JOBS) Act, adopted July 15, 2004, with S.Amdt. 3562, substituting the language of S. 1637 for the House language. S. 1637 was approved by the Senate on May 11, 2004)	**House-passed H.R. 4520** (Thomas, American Jobs Creation Act of 2004, adopted June 17, 2004)	**Conference Committee Agreement on H.R. 4520, P.L. 108-357** (American Jobs Creation Act of 2004, adopted by conferees October 6, 2004, signed into law October 22, 2004)
Production Controls and Restrictions An new Acreage / Poundage Limitation Program (like the current quota system) allocates tobacco base acres and pounds among only active producers and requires reductions when needed in order to balance supply with demand at reasonable prices. Unlike the current quota program, the new acreage and poundage bases cannot be sold, leased or transferred. [Sec. 1151(380M)]	In 2005 and subsequent marketing years, there are no acreage or quantity limits on production, no restrictions on who can produce tobacco, and no restrictions on the regions allowed to produce tobacco.	In 2005 and subsequent marketing years, there are no acreage or quantity limits on production, no restrictions on who can produce tobacco, and no restrictions on the regions allowed to produce tobacco.
Tobacco Board Establishes a permanent Tobacco Quality Board in USDA to examine domestic production and imports and advise on matters of quality and appropriate production levels. Establishes a permanent Production Board in USDA for each kind of tobacco to advise on the appropriate acreage limitations. [Sec. 1151 (380G and 380H)]	None	None
Other Tobacco Programs The Federal Crop Insurance Corporation is authorized to fund the research and development of insurance for tobacco producers. Funding from an assessment on tobacco producers and purchasers is authorized at a rate of up to 5¢ per pound. [Sec. 1152]	None	None

Senate-passed H.R. 4520 (Grassley, Jumpstart Our Business Strength (JOBS) Act, adopted July 15, 2004, with S.Amdt. 3562, substituting the language of S. 1637 for the House language. S. 1637 was approved by the Senate on May 11, 2004)	**House-passed H.R. 4520** (Thomas, American Jobs Creation Act of 2004, adopted June 17, 2004)	**Conference Committee Agreement on H.R. 4520, P.L. 108-357** (American Jobs Creation Act of 2004, adopted by conferees October 6, 2004, signed into law October 22, 2004)
Community Assistance Makes economic development grants to Maryland ($20 mil.), Pennsylvania ($14 mil.), South Carolina ($50 mil.), and North Carolina ($50 mil). Grants are to be made in equal annual payments over five years. [Sec. 51 (380O)] Makes grants to colleges and universities for research on agricultural (tobacco and tobacco-related) enterprises, technologies, and uses ($12 mil./year for five years = $60 mil.). [Sec. 1151 (380Q)]	None	None

Table 3. Tobacco Quota Holder and Producer Transition Payment Estimates, by State

State	Quota Holder Payments	Producer Transition Payments	Total Quota Buyout Payments
	–Million $–		
North Carolina	$2,751.9	$1,190.9	$3,942.8
Kentucky	$1,735.9	$733.1	$2,469.0
Tennessee	$527.9	$239.6	$767.5
South Carolina	$508.3	$216.4	$724.7
Virginia	$458.3	$208.4	$666.6
Georgia	$429.4	$182.9	$612.3
Florida	$83.9	$35.7	$119.6
Ohio	$74.1	$34.0	$108.1
Indiana	$60.5	$27.0	$87.6
Wisconsin	$44.3	$19.0	$63.2
Missouri	$22.3	$9.7	$31.9
West Virginia	$14.2	$10.5	$24.8
Alabama	$3.3	$1.4	$4.6
Total	$6,714.1	$2,908.6	$9,622.7

Source: Based on basic and effective quota data from USDA's, Farm Service Agency.

Table 4. Summary of the Tobacco Quota Buyout Law

Fair and Equitable Tobacco Reform Act of 2004 Title VI of H.R. 4520, American Jobs Creation Act of 2004
FDA Regulation of Tobacco Products No provisions in this legislation grant the Food and Drug Administration regulatory authority over tobacco products.
Total Payments and Other Spending Total payments to quota holders (estimated at $6.714 billion) and active producers (estimated at $2.909 billion), as well as costs related to disposition of loan pool stocks (estimated at $517 million), are limited to $10.14 billion. There is no additional spending authority for community assistance or other activities. Annual payments will be about $1 billion beginning in 2005 and ending in 2014.
Funding Sources Payments to quota owners and active producers, and expenses related to disposal of existing price support loan stocks, are from a Tobacco Trust Fund created in the CCC. Trust Fund revenues are from quarterly assessments on tobacco product manufacturers and importers. The initial allocation by class for FY2005 is cigarettes, 96.331%; cigars, 2.783%; snuff, 0.539%; roll-your-own tobacco, 0.171%; chewing tobacco, 0.111%; pipe tobacco, 0.066%. Each year the allocation will be changed to mirror changes in market shares. Each manufacturer and importer's pro rata share of the domestic market becomes their contribution to the total collection. Assessments and collections are done quarterly. The assessments are allocated according to the gross domestic volume share of the market held by each class of tobacco product. [Sec. 625] If domestic cigarette sales remain constant at the 2004 level of 19.75 billion packs, the buyout program cost will amount to about 5¢ per pack. Cigarette manufacturer Phase II producer payment obligations of about $2.6 billion for 2005-2010 end under provisions of the Phase II agreement.
Payment Timing Payments to quota owners and producers are made in 10 equal annual installments from FY2005 through FY2014. [Sec. 622(e) and 623(d)] Advance payment options likely will be available to owners and producers from financial institutions to which they assign their contracts. [Sec. 624(e)]
Quota Owner Payments Quota owners (numbering about 416,000 (including about 57,000 active producers and 359,000 landlords) as of the date of enactment are to be paid $7/lb. on marketing year 2002 basic quota, divided into 10 equal payments of 70¢ per pound. [Sec. 622] (Estimated cost = $6.7 billion)
Active Producer Payments Active producers (numbering about 57,000), who raised tobacco in 2000, 2001, or 2002, are paid $3/lb. on 2002 marketing year effective quota, divided into 10 annual installments of 30¢ per pound. Payments are reduced by 1/3 for each year tobacco was not grown by the producer. [Sec. 623] (Estimated cost = $2.9 billion. Nearly all producers own some quota.)

Assignment of Payments Holders of contracts to receive payments may have them assigned to financial institutions. The CCC will then make annual payments to the financial institutions. [Sec. 624(e)] This enables recipients to receive a lump sum distribution, instead of 10 equal annual payments, by discounting the contract with a financial institution.
Production Controls and Restrictions Marketing quotas and acreage allotments are terminated. [Sec. 611 and 612] There will be no restrictions on who can produce tobacco in 2005 and future years or where it can be produced. Production likely will be consolidated onto fewer, larger farms in the most economical regions. Total production is expected to increase, but in regions already producing tobacco.
Price Support Price support loans and no-net-cost assessments are terminated. [Sec. 612] Market prices are expected to decline by 20-30%. Producers are expected to achieve price and income stability through contract arrangements with manufacturers and export buyers.
Disposal of Loan Pool Stocks Loan pool stocks acquired under previous price support operations will be sold by price stabilization cooperatives and the CCC. Losses in excess of no-net-cost account funds are to be reimbursed from the Tobacco Trust Fund. [Sec. 641] An estimated $517 million should be available for this purpose from the Trust Fund after subtracting buyout expenditures from total funds.
Tobacco Inspection and Grading Mandatory inspection and grading of imported tobacco is eliminated. [Sec. 611(b)] USDA inspection and grading of tobacco on a user fee basis will continue only at designated auction markets and only so long as 2/3 of the growers selling at the market the previous year vote their approval. Over 80% of leaf tobacco is now contracted for sale and the remainder is expected to quickly shift, implying a rapid end to auction markets.

For More Information

CRS Products

CRS Report RS21642, *Comparing Quota Buyout Payments for Peanuts and Tobacco*.

CRS Report RL32619, *FDA Regulation of Tobacco Products: A Policy and Legal Analysis.*

CRS Report RS20802, *Tobacco Farmer Assistance*.

CRS Report 95-129, *Tobacco Price Support: An Overview of the Program*.

CRS Report RL31528, *Tobacco Quota Buyout Proposals in the 107th Congress*.

CRS Report RL30947, *U.S. Tobacco Production, Consumption, and Export Trends*.

Other Resources

Three university-based sites with a focus upon tobacco policy issues are as follows:

NC State University, Tobacco Economics
[http://www.ces.ncsu.edu/depts/agecon/tobacco_econ/];

University of Kentucky, Tobacco Economics Online
[http://www.uky.edu/Agriculture/TobaccoEcon/];

University of Tennessee, Tobacco Policy and Economics
[http://www.agpolicy.org/tobacco.html].

The Economic Research Service maintains a Tobacco Briefing Room [http://www.ers.usda.gov/Briefing/Tobacco/].

The National Agricultural Statistics Service (NASS) keeps track of production and publishes data by commodity [http://www.usda.gov/nass/pubs/estindx1.htm].

Farm Service Agency (FSA) administers tobacco quota and price support loan programs and publishes fact sheets describing program operations along with activity details [http://www.fsa.usda.gov/pas/publications/facts/pubfacts.htm].

The Foreign Agriculture Service keeps track of tobacco exports and imports by the United States and other countries [http://www.fas.usda.gov/currwmt.html].