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## Status of Tobacco Quota Buyout Legislation

# Policy Update

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August 2, 2002

The majority of the tobacco policy questions being asked today are some variant of these two: (1) Is there really going to be a tobacco quota buyout? and (2) When?

This issue of Policy Update is provided to summarize where buyout legislation currently stands, offer some insight on where it may be heading, and focus on what some of the important political considerations will be as the buyout issue moves forward in Congress.

But before delving into any discussion of a quota buyout, it bears emphasizing that any buyout will have to be played out in a political arena. Further, it is not at all uncommon for a Congressional committee to take a pig and a cow and somehow send a zebra out of committee. So as you read the information provided here and as you consider other information relevant to the buyout discussion, just keep in mind that once this discussion moves into the realm of politics, it could change drastically and it could change very quickly.

### **Summary of similarities and differences among the different proposals**

Basically, there are five pieces of tobacco quota buyout and transition legislation on the table today that all have some potential to shape the bill that may eventually come to be known as “the” tobacco buyout.

Two recent pieces of legislation to be added to the list of buyout bills are those entered in late June by Representative Fletcher (R-Kentucky) and Senator Cleland (D-Georgia). The Fletcher and Cleland bills (note that Fletcher is on the House side and Cleland is on the Senate side) are similar in many respects and a number of individuals and groups have suggested that these bills are likely companions for an FDA regulation bill that was introduced by Senators Kennedy (D-Massachusetts) and DeWine (R-Ohio) in mid-June. The Fletcher and Cleland bills joined the McIntyre (D-North Carolina) and Goode (I-Virginia) bills that were introduced earlier this year. The latest addition is a companion bill to the McIntyre bill introduced in the Senate by Senator Miller (D-Georgia) in late July. A table summarizing key elements of each of the bills is provided in this issue of Policy Update.

The McIntyre bill (and similar Miller bill in the Senate) includes a tobacco quota buyout, compensation for active tobacco growers, termination of the existing federal tobacco program, and provisions for granting FDA authority to regulate tobacco products.

The Goode bill includes a tobacco quota buyout, compensation for active tobacco growers, and replacing the tobacco program with a production license and minimum price guarantee program. The Goode bill also allows consideration of payments to other stakeholders besides quota owners and growers that may suffer due to elimination of the program (graders, warehousemen, equipment dealers, etc.).

Both the Fletcher and Cleland bills include a tobacco quota buyout, compensation for active tobacco growers, replacing the tobacco program with a modified system of annual production licenses, and price support based on costs of production. They also include establishment of a Center for Tobacco-Dependent Communities for rural development assistance and funding.

Several elements are common among all four bills. They all propose paying quota owners \$8 per pound. They all propose paying active growers \$4 per pound. They all propose that the payments be spread over five years. None of them have payment limits. They are all projected to have a total cost between \$15 and \$19 billion. All propose to pay for the buyout and related programs by imposing a user fee on tobacco manufacturers and importers, except the Goode bill which does not fully specify a funding source. It is likely that future projected Phase II payments would be terminated upon passage of any buyout.

But there are key differences as well. While they all propose payments of \$8/lb for quota owners, they use different bases for making the payments. The same is true for the \$4/lb payments to active growers. The Fletcher bill includes an additional payment of \$2/lb for active tobacco growers who agree to give up future production rights. The Cleland bill reduces the grower payment from \$4/lb to \$2/lb if the grower decides to remain in tobacco production. The Fletcher and Cleland bills include options for small quota owners to receive expected total payments in one lump sum instead of spread over 5 years.

# Side-By-Side Comparison of Tobacco Quota Buyout Bills

Bill Number Sponsor	HR-5035 Fletcher	S-2706 Cleland	HR-4753 Goode	HR-3940 -- S-2764 McIntyre -- Miller
<b>Bill Title</b>	Tobacco Equity Elimination Act of 2002	Aid to Tobacco-Dependent Communities Act of 2002	Tobacco Market Transition Act of 2002	Tobacco Livelihood and Economic Assistance for our Farmers (LEAF) Act of 2002
<b>Introduced</b>	June 28, 2002	June 28, 2002	May 16, 2002	March 12, 2002 -- July 19, 2002
<b>Co-Sponsors (8/2/02)</b>	Bishop, Bryant, Etheridge, Hayes, Lewis, Price, Wamp, Boucher, Clement, Gordon, Hilleary, Lucas, Rogers, Whitfield	(none)	Boucher, Jones, Gordon, Lewis	<b>McIntyre:</b> Abercrombie, Boyd, Clement, Condit, Graham, Lewis, Wilson, Bishop, Brown, Clyburn, Davis, Hilleary, Spratt <b>Miller:</b> none
<b>Quota Buyout</b>				
<b>Eligibility</b>	Quota owners on July 1, 2002	Quota owners on January 1, 2002	Quota owners on July 1, 2002	Quota owners on January 1, 2002
<b>Payment Rate</b>	\$8/lb	\$8/lb	\$8/lb	\$8/lb
<b>Payment Base</b>	Total available will be based on 1998 basic quota times \$8/lb. Payments based on share of 2002 national basic quota owned.	Average basic quota owned 1997-1999	Either 2002 basic quota owned or average of basic quota owned 1997-1999	1998 basic quota owned
<b>Grower Compensation</b>				
<b>Eligibility</b>	Active grower during 2002 crop year	Active grower during 2001 crop year plus any one of the 1998-2000 crop years	Active grower during 2001 or 2002 crop years	Active grower during 2001 crop year
<b>Payment Rate</b>	\$4/lb + \$2/lb if grower gives up future production rights	\$4/lb if grower gives up future production rights or \$2/lb if grower obtains future production permit	\$4/lb	\$4/lb
<b>Payment Base</b>	Total available will be based on 1998 marketing quota times \$8/lb. Payments based on grower's share of national average of effective quota and marketings for 2001 and 2002.	Average of 1997-1999 marketing quota	Choose either 2001 or 2002 marketings	2001 marketings
<b>Payment Limits</b>	None	None	None	None
<b>Payment Timing</b>	5 equal annual payments, 2003-2007 (quota owners with less than 1,000 lbs who give up future production rights may receive total compensation in 2003)	5 equal annual payments, 2004-2008 (quota owners with less than 1,000 lbs who give up future production rights may receive total compensation in 2003)	5 equal annual payments, 2002-2006	5 equal annual payments, 2003-2007
<b>Tobacco Program</b>	Modified to system of annual production licenses. Maintains minimum support price based on cost of production. Grower cooperatives provide guaranteed market. No-net assessments continued.	Modified to system of annual production permits. Maintains minimum support price based on cost of production. Grower cooperatives provide guaranteed market. No-net assessments continued. Permit program referendum required every 3 years.	Replaces program with a production license and minimum price guarantee program administered by a federally chartered corporation. No-net assessments continued.	Terminates existing federal tobacco program. Includes provisions that attempt to maintain production in traditional regions.
<b>Other Provisions</b>	Establishes a Center for Tobacco-Dependent Communities for rural development assistance and funding.	Establishes a Center for Tobacco-Dependent Communities for rural development assistance and funding.	Allows consideration of payments to others adversely affected by elimination of the tobacco program (e.g., graders, warehousemen, equipment dealers, etc.)	Grants FDA the authority to regulate the manufacture, marketing, packaging, and labeling of tobacco products
<b>Expected Cost</b>	\$18-\$19 billion	\$15-\$16 billion	\$17-\$18 billion	\$15-\$16 billion
<b>Funding Source</b>	User fee on tobacco manufacturers and importers. Fees terminated after obligations of the bill are met.	User fee on tobacco manufacturers and importers	Trust Fund created with existing No-Net-Cost funds and other funds yet-to-be-determined	User fee on tobacco manufacturers and importers. 85% for buyout, 15% for FDA regulation.

## Current Political Realities

**1. Time is short and the clock is ticking.** There are not that many legislative days left in this session. Congress is currently off for the scheduled August recess, which began July 29. They will reconvene September 4, but are scheduled to recess again the first week of October. While they don't always finish and recess as early as they are scheduled to, there may be more pressure to finish on time this year because a lot of seats are up for grabs in the November election and they'll be anxious to get home to campaign. Congress is *scheduled* to have four weeks of legislative days remaining.

**2. While the buyout issue is extremely important to tobacco growers and to this region, the buyout faces some stiff competition for attention in Congress' few remaining days this session.** The buyout is in line behind a long list of things that are real hot button issues, especially just before big mid-term elections. This list includes:

- a. Homeland Security,
- b. All of the Appropriations Bills that have to be passed by September 30 (where the appropriations bills are the separate pieces of legislation that provide annual funding for all of the government's agencies and continuing programs),
- c. A host of technical bills related to the 9-11 attack, (things like building standards, airport security, etc.),
- d. A Medicare prescription benefit program.

**3. A third political reality is that a lot of these other issues are way ahead of a tobacco buyout in the political process.** Before a committee will seriously take up discussion of a particular bill, they generally schedule hearings that are designed to allow experts and stakeholders to weigh in on the subject. As of the August recess, with only four scheduled weeks remaining in this session, no hearings have been scheduled on the tobacco buyout issue or the FDA issue. Most of the other hot button issues mentioned above are either in the hearing stage or well beyond.

**4. The upcoming November elections are indeed a factor.** That can mean a lot of things, some of which would suggest putting a rush on buyout legislation, but some of which would suggest putting the brakes on buyout legislation. Often, Congress adopts a kind of wait-and-see attitude and action plan when the balance of power in Congress is as close as it is today and it's unclear which way the balance will tip after November.

**5. Any buyout will require a lot of support.** It will require at least 218 votes in the House, and only about 100 representatives are from all of the tobacco states combined. On the Senate side, buyout legislation will require at least 60 votes, and each tobacco state has only two senators. Somehow, a quota buyout will have to achieve a lot of buy-in support from representatives and senators from states that will (1) not directly benefit from any of the buyout money, and (2) essentially impose higher prices on their tobacco-consuming constituents. That's a tough sell. This is where the ties between a tobacco quota buyout and FDA regulation over tobacco products make a significant difference.

**6. A buyout of the magnitude of those on the table will be expensive.** No, make that REALLY, REALLY expensive, even by government standards. It is not likely that Congress will shell out \$15 billion for a tobacco quota buyout in the foreseeable future. All other options considered, **the most likely source of funding is tobacco manufacturers**, through a user fee that can be passed along to consumers of their products. Just because this will force manufacturers to be at the table in buyout discussions, it doesn't mean they won't be kicking and screaming all the way. In fact, so far, only one manufacturer has endorsed the idea of paying for a buyout with a user fee and all the rest have expressed objections to the idea.

**7. In the big picture, tobacco, in general, is still a fairly easy target.** The glamour days of smoking are history. At last count, 17 states have increased their state cigarette excise tax this year (including Tennessee) and at least 8 states now have state cigarette excise taxes in excess of \$1 per pack. Each time you bring the tobacco discussion to the table, in one sense, you're opening a can of worms.

## On The Other Hand . . .

So far, most of the political considerations mentioned have pointed to an uphill road for a tobacco buyout, especially this year. But there are other political realities that may help pave the way for a buyout to move forward.

1. A peanut quota buyout was included in the 2002 Farm Bill. For one thing, it indicates somewhat of a mood change in Washington over the last few years. Some reports have suggested that if you use the peanut quota buyout as a

barometer, there is no hope for a tobacco quota buyout *and* keeping a tobacco price support and supply control program. However, it bears mentioning that while in fact the *old* peanut quota program no longer exists, peanuts now have program crop status, meaning that they are eligible for direct payments, counter-cyclical payments, LDPs and Marketing Loan Gains, which is a far cry from the implication that they are totally at the mercy of the market.

2. As of a ruling in July, class action status has been preserved for the grower class action lawsuit against manufacturers and leaf buyers, apparently paving the way for a jury trial. According to a recent report, the discovery phase of the case is scheduled to be completed within a year and the trial is set for March 2004. While this discussion does not come from the point of view of a lawyer or a political analyst—from an economist’s viewpoint, it seems that such a ruling may provide additional incentives for tobacco manufacturers to work with growers, legislators, and public health interests on a comprehensive solution.

3. Election pressures may be strong in some key tobacco state seats, which may provide an incentive for a quicker resolution of the issue.

4. The public health community has been solidly behind a tobacco quota buyout, and has supported a tobacco program for growers, along with FDA regulation (S-2626, Kennedy) over manufactured tobacco products.

## In Summary

For now, what can we definitively say about prospects for a buyout? Unfortunately, not much, although keep the following in mind:

1. A buyout appears to have more support in Congress today than it ever has before.
2. But every day that passes with no substantial action taken toward moving a buyout forward in Congress, the probability is reduced that it will happen *this year*.
3. The more unified the entire grower community appears on the buyout issue, the greater the momentum will be when this issue does get swept up in the political tides.
4. And finally, don’t forget that those political tides can be strong and have a mind of their own, and a congressional committee really can start with a cow and a pig and wind up with a zebra.

The following are some internet links that will be helpful if you want more information on buyout legislation and status as it progresses.

Current Tobacco Issues, APAC  
[www.agpolicy.org/tobissue.html](http://www.agpolicy.org/tobissue.html)

Tobacco Economics Online, University of KY  
[www.uky.edu/Agriculture/TobaccoEcon/](http://www.uky.edu/Agriculture/TobaccoEcon/)

Look up Legislation by Topic or Number (Tobacco Quota Buyout Legislation: HR5035, S2706, HR4735, HR3940. FDA Legislation: S2626)  
<http://thomas.loc.gov/home/thomas.html>

Spreadsheet Tool for Analyzing a Tobacco Quota Buyout  
[www.uky.edu/Agriculture/TobaccoEcon/publications/buyouttool.html](http://www.uky.edu/Agriculture/TobaccoEcon/publications/buyouttool.html)

APAC Tobacco Information Links  
[www.agpolicy.org/toblinfo.html](http://www.agpolicy.org/toblinfo.html)

APAC  
The Agricultural Policy Analysis Center  
310 Morgan Hall  
Knoxville, TN 37996-4519

(865) 974-7407  
[www.agpolicy.org](http://www.agpolicy.org)

*Visit our website for more information on Tobacco Policy, our representative Tennessee Tobacco Farms (TnFARMS), the farm bill scenario and its implications, or other ag policy issues. As we receive more detailed information on buyout legislation, expect to see more analysis about the effects of the proposals on Tennessee farms. Questions, comments and input are welcomed.*

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