

105TH CONGRESS
1ST SESSION

H. R. 2692

To combine the Consolidated Farm Service Agency and the Natural Resources Conservation Service of the Department of Agriculture as a single agency under an Under Secretary of Agriculture for Foreign Agriculture and Agricultural Field Services and to ensure the equitable treatment of socially disadvantaged farmers and ranchers and employees of the Department who are members of a socially disadvantaged group.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 22, 1997

Mr. SMITH of Oregon introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To combine the Consolidated Farm Service Agency and the Natural Resources Conservation Service of the Department of Agriculture as a single agency under an Under Secretary of Agriculture for Foreign Agriculture and Agricultural Field Services and to ensure the equitable treatment of socially disadvantaged farmers and ranchers and employees of the Department who are members of a socially disadvantaged group.

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 “Department of Agriculture Civil Rights and Efficiency
 4 Act of 1997”.

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

Sec. 1. Short title; table of contents.

**TITLE I—DEPARTMENT OF AGRICULTURE
REORGANIZATION**

Sec. 101. Under Secretary of Agriculture for Foreign Agriculture and Agricultural Field Services.

Sec. 102. Under Secretary of Agriculture for Forestry.

Sec. 103. Establishment of Farm Service Agency.

Sec. 104. Personnel of Farm Service Agency.

Sec. 105. Regulations regarding management of State, county, and area offices of Farm Service Agency.

**TITLE II—IMPLEMENTATION OF RECOMMENDATIONS OF
CIVIL RIGHTS ACTION TEAM**

Sec. 201. Definitions.

Sec. 202. Representation on county and area committees.

Sec. 203. Authority of Secretary to remove members and employees of county and area committees.

Sec. 204. Office of Civil Rights Protection for Program Participants.

Sec. 205. Prompt investigation of discrimination claims.

Sec. 206. Approval by Secretary of legal settlements involving \$25,000 or more.

Sec. 207. Calculation of socially disadvantaged farmers and ranchers in census of agriculture.

Sec. 208. Study of recruitment and hiring practices regarding members of socially disadvantaged groups.

Sec. 209. Activities of Inspector General of the Department of Agriculture.

TITLE III—EFFECTIVE DATE

Sec. 301. Effective Date.

1 **TITLE I—DEPARTMENT OF AGRI-**
2 **CULTURE REORGANIZATION**

3 **SEC. 101. UNDER SECRETARY OF AGRICULTURE FOR FOR-**
4 **EIGN AGRICULTURE AND AGRICULTURAL**
5 **FIELD SERVICES.**

6 (a) ESTABLISHMENT.—There is established in the
7 Department of Agriculture the position of Under Sec-
8 retary of Agriculture for Foreign Agriculture and Agricul-
9 tural Field Services. The Under Secretary shall be ap-
10 pointed by the President, by and with the advice and con-
11 sent of the Senate.

12 (b) FUNCTIONS OF UNDER SECRETARY.—

13 (1) PRINCIPAL FUNCTIONS.—The Secretary of
14 Agriculture shall delegate to the Under Secretary of
15 Agriculture for Foreign Agriculture and Agricultural
16 Field Services those functions and duties performed,
17 as of the effective date of this Act—

18 (A) by the Under Secretary of Agriculture
19 for Farm and Foreign Agricultural Services;
20 and

21 (B) by the Under Secretary of Agriculture
22 for Natural Resources and Environment (other
23 than the functions and duties of that Under
24 Secretary related to the Forest Service).

1 (2) ADDITIONAL FUNCTIONS.—The Under Sec-
2 retary of Agriculture for Foreign Agriculture and
3 Agricultural Field Services shall perform such other
4 functions and duties as may be required by law or
5 prescribed by the Secretary of Agriculture.

6 (c) SUCCESSION.—The person who is serving as
7 Under Secretary of Agriculture for Farm and Foreign Ag-
8 ricultural Services on the effective date of this Act and
9 who was appointed by the President, by and with the ad-
10 vice and consent of the Senate, shall not be required to
11 be reappointed under subsection (a) to the successor posi-
12 tion established under this section if the person occupies
13 the new position within 180 days after the effective date
14 of this Act.

15 (d) CONFORMING AMENDMENTS.—

16 (1) EXISTING POSITION.—Section 225 of the
17 Department of Agriculture Reorganization Act of
18 1994 (7 U.S.C. 6931) is repealed.

19 (2) EXECUTIVE SCHEDULE.—Section 5314 of
20 title 5, United States Code, is amended by striking
21 “Under Secretary of Agriculture for Farm and For-
22 eign Agricultural Services.” and inserting “Under
23 Secretary of Agriculture for Agriculture and Agricul-
24 tural Field Services.”.

1 (3) CROSS REFERENCE.—Section 226A(d)(1) of
2 the Department of Agriculture Reorganization Act
3 of 1994 (7 U.S.C. 6933(d)(1)) is amended by strik-
4 ing “Under Secretary of Agriculture for Farm and
5 Foreign Agricultural Services” and inserting “Under
6 Secretary of Agriculture for Foreign Agriculture and
7 Agricultural Field Services”.

8 **SEC. 102. UNDER SECRETARY OF AGRICULTURE FOR FOR-**
9 **ESTRY.**

10 (a) ESTABLISHMENT.—There is established in the
11 Department of Agriculture the position of Under Sec-
12 retary of Agriculture for Forestry. The Under Secretary
13 shall be appointed by the President, by and with the advice
14 and consent of the Senate.

15 (b) FUNCTIONS OF UNDER SECRETARY.—

16 (1) PRINCIPAL FUNCTIONS.—The Secretary of
17 Agriculture shall delegate to the Under Secretary of
18 Agriculture for Forestry those functions and duties
19 performed, as of the effective date of this Act, by the
20 Under Secretary of Agriculture for Natural Re-
21 sources and Environment related to the Forest Serv-
22 ice.

23 (2) ADDITIONAL FUNCTIONS.—The Under Sec-
24 retary of Agriculture for Forestry shall perform such

1 other functions and duties as may be required by
2 law or prescribed by the Secretary of Agriculture.

3 (c) SUCCESSION.—The person who is serving as
4 Under Secretary of Agriculture for Natural Resources and
5 Environment on the effective date of this Act and who
6 was appointed by the President, by and with the advice
7 and consent of the Senate, shall not be required to be re-
8 appointed under subsection (a) to the successor position
9 established under this section if the person occupies the
10 new position within 180 days after the effective date of
11 this Act.

12 (d) CONFORMING AMENDMENTS.—

13 (1) EXISTING POSITION.—Section 245 of the
14 Department of Agriculture Reorganization Act of
15 1994 (7 U.S.C. 6961) is repealed.

16 (2) EXECUTIVE SCHEDULE.—Section 5314 of
17 title 5, United States Code, is amended by striking
18 “Under Secretary of Agriculture for Natural Re-
19 sources and Environment.” and inserting “Under
20 Secretary of Agriculture for Forestry.”.

21 **SEC. 103. ESTABLISHMENT OF FARM SERVICE AGENCY.**

22 (a) ESTABLISHMENT.—The Secretary of Agriculture
23 shall establish and maintain a Farm Service Agency in
24 the Department of Agriculture.

25 (b) FUNCTIONS OF FARM SERVICE AGENCY.—

1 (1) PRINCIPAL FUNCTIONS.—The Secretary
2 shall assign to the Farm Service Agency jurisdiction
3 over the administrative, financial, and regulatory ac-
4 tivities performed, as of the effective date of this
5 Act—

6 (A) by the Consolidated Farm Service
7 Agency; and

8 (B) by the Natural Resources Conservation
9 Service, including the functions specified in sec-
10 tion 246(b) of the Department of Agriculture
11 Reorganization Act of 1994 (7 U.S.C. 6962(b)),
12 as in effect on the day before the effective date
13 of this Act.

14 (2) ADDITIONAL FUNCTIONS.—The Farm Serv-
15 ice Agency shall perform such other administrative,
16 financial, and regulatory activities as may be re-
17 quired by law or prescribed by the Secretary of Agri-
18 culture.

19 (c) INTERAGENCY TRANSFER OF RECORDS, PROP-
20 PERTY, PERSONNEL, AND FUNDS.—

21 (1) RELATED TRANSFERS.—Subject to para-
22 graph (2), as part of the transfer of administrative,
23 financial, and regulatory responsibilities to the Farm
24 Service Agency under subsection (b), the Secretary
25 of Agriculture shall transfer—

1 (A) any of the records, property, or per-
 2 sonnel affected by the transfer or delegation of
 3 the administrative, financial, and regulatory re-
 4 sponsibilities; and

5 (B) unexpended balances (available or to
 6 be made available for use in connection with the
 7 transferred or delegated administrative, finan-
 8 cial, and regulatory responsibilities) of appro-
 9 priations, allocations, or other funds of the De-
 10 partment.

11 (2) APPLICABLE LAW RELATING TO FUNDS
 12 TRANSFER.—Section 1531 of title 31, United States
 13 Code, shall apply to any transfer of funds under
 14 paragraph (1).

15 (d) CONFORMING AMENDMENTS.—

16 (1) CONSOLIDATED FARM SERVICE AGENCY.—
 17 Section 226 of the Department of Agriculture Reor-
 18 ganization Act of 1994 (7 U.S.C. 6932) is repealed.

19 (2) NATURAL RESOURCES CONSERVATION
 20 SERVICE.—Section 246 of the Department of Agri-
 21 culture Reorganization Act of 1994 (7 U.S.C. 6962)
 22 is repealed.

23 **SEC. 104. PERSONNEL OF FARM SERVICE AGENCY.**

24 (a) USE OF FEDERAL AND NON-FEDERAL EMPLOY-
 25 EES.—

1 (1) USE AUTHORIZED.—In the implementation
2 of programs and activities assigned to the Farm
3 Service Agency, the Secretary of Agriculture may
4 use interchangeably in local offices of the Agency
5 both Federal employees of the Department of Agri-
6 culture and non-Federal employees of county and
7 area committees established under section 8(b)(5) of
8 the Soil Conservation and Domestic Allotment Act
9 (16 U.S.C. 590h(b)(5)).

10 (2) EXCEPTION.—Notwithstanding paragraph
11 (1), no personnel action (as defined in section
12 2302(a)(2)(A) of title 5, United States Code) may
13 be taken with respect to a Federal employee unless
14 such action is taken by another person who is a Fed-
15 eral employee or deemed to be a Federal employee
16 under subsection (b).

17 (b) COUNTY EXECUTIVE DIRECTOR.—

18 (1) MANAGEMENT AND SUPERVISORY DU-
19 TIES.—The County Executive Director hired by a
20 county or area committee established under section
21 8(b)(5) of the Soil Conservation and Domestic Allot-
22 ment Act (16 U.S.C. 590h(b)(5)) shall be deemed to
23 be a Federal employee for purposes of—

1 (A) the management of local offices of the
2 Farm Service Agency in that county or area;
3 and

4 (B) the supervision of personnel of the
5 Farm Service Agency in that county or area,
6 regardless of whether the personnel are Federal
7 employees of the Department or non-Federal
8 employees of that county or area committee.

9 (2) REGULATIONS.—The Secretary of Agri-
10 culture shall issue regulations prescribing the man-
11 ner in which, and the extent to which, the County
12 Executive Director may carry out the management
13 and supervisory responsibilities provided under para-
14 graph (1).

15 (c) COUNTY CREDIT RESPONSIBILITIES.—

16 (1) ASSIGNMENT AND DUTIES.—In each county
17 or area served by a county or area committee estab-
18 lished under section 8(b)(5) of the Soil Conservation
19 and Domestic Allotment Act (16 U.S.C.
20 590h(b)(5)), the Secretary of Agriculture shall as-
21 sign a Federal employee of the Department of Agri-
22 culture to be responsible for making determinations
23 in that county or area regarding the eligibility of
24 persons for assistance under the agricultural credit
25 programs administered by the Farm Service Agency

1 related to farm ownership and operating, emergency,
2 and disaster loans. The employee assigned must be
3 qualified to perform such duties.

4 (2) CONSULTATION.—The Federal employee as-
5 signed to an area or county shall carry out the em-
6 ployee's duties under paragraph (1) in consultation
7 with the county or area committee for that county
8 or area. However, the employee shall not otherwise
9 be answerable to the county or area committee.

10 (3) SUCCESSION.—The Federal employee who,
11 on the effective date of this Act, is performing the
12 duties described in paragraph (1) in a county or
13 area shall continue to perform such duties for that
14 county or area unless and until the Secretary of Ag-
15 riculture assigns a successor under paragraph (1).

16 **SEC. 105. REGULATIONS REGARDING MANAGEMENT OF**
17 **STATE, COUNTY, AND AREA OFFICES OF**
18 **FARM SERVICE AGENCY.**

19 The Secretary of Agriculture shall issue regulations
20 applicable to State, county, and area offices of the Farm
21 Service Agency to prescribe—

22 (1) the management and administration of such
23 offices; and

24 (2) the classification, employment, and person-
25 nel management of non-Federal employees of such

1 offices carrying out programs and activities assigned
2 to the Farm Service Agency.

3 **TITLE II—IMPLEMENTATION OF**
4 **RECOMMENDATIONS OF**
5 **CIVIL RIGHTS ACTION TEAM**

6 **SEC. 201. DEFINITIONS.**

7 For purposes of this title:

8 (1) SOCIALLY DISADVANTAGED GROUP.—The
9 term “socially disadvantaged group” means a group
10 whose members have been subjected to racial, ethnic,
11 or gender prejudice because of their identity as
12 members of a group without regard to their individ-
13 ual qualities.

14 (2) SOCIALLY DISADVANTAGED FARMER OR
15 RANCHER.—The term “socially disadvantaged farm-
16 er or rancher” means a farmer or rancher who is a
17 member of a socially disadvantaged group.

18 (3) COUNTY OR AREA COMMITTEE.—The term
19 “county or area committee” means a county or area
20 committee established under section 8(b)(5) of the
21 Soil Conservation and Domestic Allotment Act (16
22 U.S.C. 590h(b)(5)).

1 **SEC. 202. REPRESENTATION ON COUNTY AND AREA COM-**
2 **MITTEES.**

3 Section 8(b)(5)(B) of the Soil Conservation and Do-
4 mestic Allotment Act (16 U.S.C. 590h(b)(5)(B)) is
5 amended by striking clause (iv) and inserting the following
6 new clause:

7 “(iv) In addition to the members of a
8 county or area committee elected by agricul-
9 tural producers under clause (ii), the Secretary
10 shall appoint two nonvoting members for each
11 committee who shall serve as the Secretary’s
12 representatives on the committee. The members
13 appointed under this clause shall advise the
14 committee regarding the rules and policies of
15 the Department to promote the interests of so-
16 cially disadvantaged groups (as defined in sec-
17 tion 201 of the Department of Agriculture Civil
18 Rights and Efficiency Act of 1997). A member
19 appointed under this clause shall submit to the
20 Secretary a written report whenever the mem-
21 ber believes the committee (or a member or em-
22 ployee of the committee) has violated such rules
23 and policies or any other civil rights law.”.

1 **SEC. 203. AUTHORITY OF SECRETARY TO REMOVE MEM-**
2 **BERS AND EMPLOYEES OF COUNTY AND**
3 **AREA COMMITTEES.**

4 (a) REMOVAL OF MEMBERS FOR CAUSE.—Section
5 8(b)(5)(B)(v) of the Soil Conservation and Domestic Allot-
6 ment Act (16 U.S.C. 590h(b)(5)(B)(v)) is amended by
7 adding at the end the following new sentence: “The Sec-
8 retary may remove a member for cause on a charge of
9 misconduct, delinquency, or inefficiency.”.

10 (b) ORDERS FOR EMPLOYEE REMOVAL.—If the Sec-
11 retary of Agriculture makes a finding that an employee
12 of a county or area committee has discriminated against
13 a socially disadvantaged farmer or rancher in administer-
14 ing an activity or program of the Farm Service Agency
15 or otherwise violates a rule or policy of the Department
16 of Agriculture, the Secretary may order the county or area
17 committee to remove the employee or take other appro-
18 priate disciplinary action against the employee.

19 (c) EFFECT OF FAILURE TO COMPLY.—If a county
20 or area committee fails to comply with an order issued
21 under subsection (b) with respect to disciplinary action to
22 be taken against an employee of the county or area com-
23 mittee, the Secretary may withhold from the funds other-
24 wise paid to the county or area committee or employees
25 of the county or area committee an amount equal to not

1 more than two years' pay at the rate the employee was
2 receiving at the time of the order.

3 **SEC. 204. OFFICE OF CIVIL RIGHTS PROTECTION FOR PRO-**
4 **GRAM PARTICIPANTS.**

5 (a) ESTABLISHMENT.—The Secretary of Agriculture
6 may establish an Office of Civil Rights Protection for Pro-
7 gram Participants under the jurisdiction of the Assistant
8 Secretary of Agriculture for Administration.

9 (b) ENFORCEMENT.—Upon establishment, the Office
10 shall be the primary office of the Department of Agri-
11 culture responsible for enforcing—

12 (1) the civil rights rules and practices of the
13 Department of Agriculture to ensure the fair and eq-
14 uitable treatment of participants in programs and
15 activities of the Department of Agriculture; and

16 (2) those rules and policies of the Department
17 designed to promote the interests of such partici-
18 pants who are members of socially disadvantaged
19 groups (including socially disadvantaged farmers
20 and ranchers).

21 (c) INVESTIGATIONS.—Upon establishment, the Of-
22 fice shall be the primary office of the Department respon-
23 sible for investigating claims submitted to the Secretary
24 or otherwise brought to the attention of the Secretary that
25 a Federal employee of the Department or a non-Federal

1 employee of a county or area committee discriminated
2 against a member of a socially disadvantaged group in the
3 operation of a program or activity of the Department of
4 Agriculture.

5 **SEC. 205. PROMPT INVESTIGATION OF DISCRIMINATION**
6 **CLAIMS.**

7 (a) NOTICE OF DISCRIMINATION CLAIMS.—If the ad-
8 ministrative appeal of an adverse decision of the Depart-
9 ment of Agriculture contains an allegation that an agency
10 or employee of the Department or a non-Federal employee
11 of a county or area committee discriminated against a
12 member of a socially disadvantaged group in the operation
13 of a program or activity of the Department, the Secretary
14 of Agriculture shall be notified in writing of the allegation
15 as soon as possible.

16 (b) INITIATION OF INVESTIGATION.—Upon receipt of
17 a notice under subsection (a), the Secretary may assemble
18 a team of employees of the Department of Agriculture to
19 investigate the actions of the agency, Federal employee,
20 or non-Federal employee against whom the allegation of
21 discrimination is raised. The Secretary shall make the de-
22 cision whether to assemble such a team as soon as possible
23 after the receipt of the notice.

24 (c) CONSIDERATIONS.—The purpose of an investiga-
25 tion under this section is not to gather or consider evi-

1 dence of discrimination. In the case of a claim alleging
2 that a member of a socially disadvantaged group was de-
3 nied participation in a Department program on account
4 of being a member of a socially disadvantaged group, the
5 team shall consider whether the member met the eligibility
6 requirements for participation in the program. In the case
7 of other adverse decisions involving a member of a socially
8 disadvantaged group in which a claim of discrimination
9 is raised, the team shall consider whether the acts or fail-
10 ure to act of the agency, employee, or non-Federal em-
11 ployee have a legitimate basis.

12 (d) TIME FOR INVESTIGATION.—The team assigned
13 to investigate a particular claim shall endeavor to complete
14 its investigation within 30 days, but the team shall com-
15 plete the investigation before a final decision is made on
16 the appeal. The results of each investigation shall be sub-
17 mitted to the Secretary.

18 **SEC. 206. APPROVAL BY SECRETARY OF LEGAL SETTLE-**
19 **MENTS INVOLVING \$25,000 OR MORE.**

20 Notwithstanding section 3702(a) of title 31, United
21 States Code, if the amount of a proposed settlement for
22 a claim against the United States Government is equal
23 to \$25,000 or more and the claim against the United
24 States arose out of an act or failure to act of an employee
25 of the Department of Agriculture or an employee of a

1 county or area committee, the claim may be settled only
2 with the personal approval of the Secretary of Agriculture.

3 **SEC. 207. CALCULATION OF SOCIALLY DISADVANTAGED**
4 **FARMERS AND RANCHERS IN CENSUS OF AG-**
5 **RICULTURE.**

6 Any census of agriculture undertaken under the au-
7 thority of section 142 of title 13, United States Code, or
8 any other provision of law shall separately enumerate or
9 sample each agricultural producer who is a socially dis-
10 advantaged farmer or rancher.

11 **SEC. 208. STUDY OF RECRUITMENT AND HIRING PRAC-**
12 **TICES REGARDING MEMBERS OF SOCIALLY**
13 **DISADVANTAGED GROUPS.**

14 (a) STUDY REQUIRED.—The Secretary of Agriculture
15 shall conduct a study of the recruitment and hiring prac-
16 tices of the Department of Agriculture and county and
17 area committees for the purpose of developing rec-
18 ommendations for increasing the number of qualified
19 members of socially disadvantaged groups recruited for
20 employment.

21 (b) SUBMISSION TO CONGRESS.—Not later than 60
22 days after the effective date of this Act, the Secretary shall
23 submit to Congress a report containing the results of the
24 study.

1 **SEC. 209. ACTIVITIES OF INSPECTOR GENERAL OF THE DE-**
2 **PARTMENT OF AGRICULTURE.**

3 (a) REOCCURRING REVIEW.—The Inspector General
4 of the Department of Agriculture shall include in each re-
5 port required to be prepared by the Inspector General
6 under section 5 of the Inspector General Act of 1978
7 (Public Law 95–452; 5 U.S.C. App.) the following:

8 (1) An audit of the civil rights rules and prac-
9 tices of the Department of Agriculture and rules and
10 policies of the Department designed to promote the
11 interests of socially disadvantaged groups, the imple-
12 mentation of such rules and practices during the pe-
13 riod covered by the report, and enforcement actions
14 undertaken or underway during that period regard-
15 ing violations of such rules and practices.

16 (2) An audit of each legal settlement involving
17 the Department of Agriculture that was entered into
18 during the period covered by the report to determine
19 whether—

20 (A) the settlement was appropriate given
21 the facts of the claim; and

22 (B) the process by which the claim was in-
23 vestigated and settled was timely.

24 (b) REVIEW OF NEPOTISM AND CONFLICTS OF IN-
25 TEREST.—Not later than 60 days after the effective date
26 of this Act, the Inspector General of the Department of

1 Agriculture shall submit to Congress a report regarding
2 the extent to which nepotism and conflicts of interest
3 occur in the administration of Department of Agriculture
4 programs. The Inspector General shall base the report on
5 an audit of randomly selected State and local offices of
6 the Department.

7 **TITLE III—EFFECTIVE DATE**

8 **SEC. 301. EFFECTIVE DATE.**

9 (a) EFFECTIVE DATE.—Except as provided in sub-
10 section (b), this Act and the amendments made by this
11 Act shall take effect 120 days after the date of the enact-
12 ment of this Act.

13 (b) ACTIVITIES IN ANTICIPATION OF EFFECTIVE
14 DATE.—Beginning on the date of the enactment of this
15 Act, the Secretary of Agriculture shall take such actions
16 as the Secretary considers necessary to ensure the prompt
17 implementation of this Act and the amendments made by
18 this Act upon the effective date of this Act. Such actions
19 may include the commencement of rule making and the
20 selection of persons to serve in positions created by this
21 Act.

