

107TH CONGRESS  
1ST SESSION

# H. R. 2402

To provide for grants to assist value-added agricultural businesses, and to amend the Internal Revenue Code of 1986 to provide a tax credit for farmers' investments in value-added agriculture.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2001

Mr. MCHUGH introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Agriculture, 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 provide for grants to assist value-added agricultural businesses, and to amend the Internal Revenue Code of 1986 to provide a tax credit for farmers' investments in value-added agriculture.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Agricultural Producers  
5 Marketing Assistance Act”.

# **TITLE I—VALUE-ADDED AGRICULTURE**

## **SEC. 101. AGRICULTURE INNOVATION CENTER DEM- ONSTRATION PROGRAM.**

(a) PURPOSES.—The purposes of this section are to carry out a demonstration program under which agricultural producers are provided—

(1) technical assistance, including engineering services, applied research, scale production, and similar services to enable the producers to establish businesses for further processing of agricultural products;

(2) marketing, market development, and business planning;

(3) overall organizational, outreach, and development assistance to increase the viability, growth, and sustainability of value-added agricultural businesses.

(b) NATURE OF PROGRAM.—The Secretary of Agriculture (in this section referred to as the “Secretary”) shall—

(1) make grants to eligible applicants for the purposes of enabling the applicants to obtain the assistance described in subsection (a); and

1           (2) provide assistance to eligible applicants  
2           through the research and technical services of the  
3           Department of Agriculture.

4           (c) ELIGIBILITY REQUIREMENTS.—

5           (1) IN GENERAL.—An applicant shall be eligible  
6           for a grant and assistance described in subsection  
7           (b) to establish an Agriculture Innovation Center  
8           if—

9                   (A) the applicant—

10                          (i) has provided services similar to  
11                          those described in subsection (a); or

12                          (ii) shows the capability of providing  
13                          the services;

14                   (B) the application of the applicant for the  
15                   grant and assistance sets forth a plan, in ac-  
16                   cordance with regulations which shall be pre-  
17                   scribed by the Secretary, outlining support of  
18                   the applicant in the agricultural community, the  
19                   technical and other expertise of the applicant,  
20                   and the goals of the applicant for increasing  
21                   and improving the ability of local producers to  
22                   develop markets and processes for value-added  
23                   agricultural products;

24                   (C) the applicant demonstrates that re-  
25                   sources (in cash or in kind) of definite value are

1 available, or have been committed to be made  
2 available, to the applicant, to increase and im-  
3 prove the ability of local producers to develop  
4 markets and processes for value-added agricul-  
5 tural products; and

6 (D) the applicant meets the requirement of  
7 paragraph (2).

8 (2) BOARD OF DIRECTORS.—The requirement  
9 of this paragraph is that the applicant shall have a  
10 board of directors comprised of representatives of  
11 the following groups:

12 (A) The 2 general agricultural organiza-  
13 tions with the greatest number of members in  
14 the State in which the applicant is located.

15 (B) The Department of Agriculture or  
16 similar State organization or department, for  
17 the State.

18 (C) Organizations representing the 4 high-  
19 est grossing commodities produced in the State,  
20 according to annual gross cash sales.

21 (d) GRANTS AND ASSISTANCE.—

22 (1) IN GENERAL.—Subject to the availability of  
23 appropriations, the Secretary shall make annual  
24 grants to eligible applicants under this section, each  
25 of which grants shall not exceed the lesser of—

1 (A) \$1,000,000; or

2 (B) twice the dollar value of the resources  
3 (in cash or in kind) that the applicant has dem-  
4 onstrated are available, or have been committed  
5 to be made available, to the applicant in accord-  
6 ance with subsection (c)(1)(C).

7 (2) INITIAL LIMITATION.—In the first year of  
8 the demonstration program under this section, the  
9 Secretary shall make grants under this section, on a  
10 competitive basis, to not more than 10 eligible appli-  
11 cants.

12 (3) EXPANSION OF DEMONSTRATION PRO-  
13 GRAM.—In the second year of the demonstration  
14 program under this section, the Secretary may make  
15 grants under this section to not more than 10 eligi-  
16 ble applicants, in addition to any entities to which  
17 grants are made under paragraph (2) for such year.

18 (4) STATE LIMITATION.—In the first 3 years of  
19 the demonstration program under this section, the  
20 Secretary shall not make a Agricultural Innovation  
21 Center Demonstration Program grant under this  
22 section to more than 1 entity in any State.

23 (e) USE OF FUNDS.—An entity to which a grant is  
24 made under this section may use the grant only for the  
25 following purposes:

1 (1) Applied research.

2 (2) Consulting services.

3 (3) Office equipment.

4 (4) Hiring of employees, at the discretion of the  
5 board of directors of the entity.

6 (5) The making of matching grants, each of  
7 which shall be not more than \$5,000, to agricultural  
8 producers, so long as the aggregate amount of all  
9 such matching grants shall be not more than  
10 \$50,000.

11 (6) Legal services.

12 (f) LIMITATIONS ON AUTHORIZATION OF APPROPRIA-  
13 TIONS.—For grants and assistance under this section,  
14 there are authorized to be appropriated to the Secretary  
15 not more than—

16 (1) \$10,000,000 for fiscal year 2002;

17 (2) \$20,000,000 for each of fiscal years 2003  
18 and 2004.

19 (g) REPORT ON BEST PRACTICES.—

20 (1) EFFECTS ON THE AGRICULTURAL SEC-  
21 TOR.—The Secretary shall utilize \$300,000 per year  
22 of the funds appropriated pursuant to this section to  
23 support research at a land-grant university into the  
24 effects of value-added projects on agricultural pro-  
25 ducers and the commodity markets. The research

1       should systematically examine possible effects on de-  
2       mand for agricultural commodities, market prices,  
3       farm income, and Federal outlays on commodity  
4       programs using linked, long-term, global projections  
5       of the agricultural sector.

6               (2) DEPARTMENT OF AGRICULTURE.—Not later  
7       than 3 years after the first 10 grants are made  
8       under this section, the Secretary shall prepare and  
9       submit to the Committee on Agriculture, Nutrition,  
10      and Forestry of the Senate and to the Committee on  
11      Agriculture of the House of Representatives a writ-  
12      ten report on the effectiveness of the demonstration  
13      program conducted under this section at improving  
14      the production of value-added agricultural products  
15      and on the effects of the program on the economic  
16      viability of the producers, which shall include the  
17      best practices and innovations found at each of the  
18      Agriculture Innovation Centers established under the  
19      demonstration program under this section, and de-  
20      tail the number and type of agricultural projects as-  
21      sisted, and the type of assistance provided, under  
22      this section.

1 **TITLE II—FARMERS’ VALUE-**  
 2 **ADDED AGRICULTURAL IN-**  
 3 **VESTMENT TAX CREDIT**

4 **SEC. 201. CREDIT FOR FARMER INVESTMENT IN VALUE-**  
 5 **ADDED AGRICULTURAL PROPERTY.**

6 (a) IN GENERAL.—Subpart D of part IV of sub-  
 7 chapter A of chapter 1 of the Internal Revenue Code of  
 8 1986 (relating to business related credits) is amended by  
 9 adding at the end the following new section:

10 **“SEC. 45E. VALUE-ADDED AGRICULTURAL PROPERTY IN-**  
 11 **VESTMENT CREDIT.**

12 “(a) GENERAL RULE.—For purposes of section 38,  
 13 in the case of a taxpayer who is—

14 “(1) an eligible person, or

15 “(2) a farmer-owned entity,

16 the value-added agricultural property investment credit  
 17 determined under this section for any taxable year is 50  
 18 percent of the basis of any qualified value-added agricul-  
 19 tural property placed in service during the taxable year.  
 20 In the case of a farmer-owned entity, such credit shall be  
 21 allocated on a pro rata basis among eligible persons hold-  
 22 ing qualified interests in such entity as of the last day  
 23 of such taxable year.

24 “(b) MAXIMUM CREDIT.—For purposes of subsection  
 25 (a)—



1           “(1) PROPERTY PLACED IN SERVICE BY ELIGI-  
2           BLE PERSON.—In the case of property placed in  
3           service during a taxable year by an eligible person,  
4           the credit determined under this section for such  
5           year shall not exceed \$30,000, reduced by the  
6           amount of the creditable investments allowed for the  
7           taxable year under paragraph (2).

8           “(2) PROPERTY PLACED IN SERVICE BY FARM-  
9           ER-OWNED ENTITY.—

10           “(A) IN GENERAL.—In the case of prop-  
11           erty placed in service by a farmer-owned entity,  
12           the credit determined under this section shall  
13           not exceed the sum of the eligible person’s cred-  
14           itable investments in such entity as of the date  
15           such property is placed in service.

16           “(B) CREDITABLE INVESTMENTS.—For  
17           purposes of subparagraph (A), the term ‘cred-  
18           itable investments’ means, with respect to any  
19           property placed in service by a farmer-owned  
20           entity, the aggregate qualified investments  
21           made by the eligible person in such entity, re-  
22           duced (but not below zero) by the sum of—

23           “(i) the amount of the aggregate  
24           qualified investments made by such person  
25           in such entity which were taken into ac-

1 count under this section with respect to  
2 property previously placed in service by  
3 such entity, and

4 “(ii) the amount of the aggregate  
5 qualified investments made by such person  
6 in all other farmer-owned entities which  
7 were taken into account under this section  
8 with respect to property previously placed  
9 in service by such other entities.

10 “(C) LIMITATION.—For purposes of this  
11 paragraph, the aggregate qualified investments  
12 made by the eligible person which may be taken  
13 into account for any taxable year shall not ex-  
14 ceed \$30,000.

15 “(c) DEFINITIONS.—For purposes of this section—

16 “(1) QUALIFIED VALUE-ADDED AGRICULTURAL  
17 PROPERTY.—The term ‘qualified value-added agri-  
18 cultural property’ means property—

19 “(A) which is used to add value to a good  
20 or product, suitable for food or nonfood use, de-  
21 rived in whole or in part from organic matter  
22 which is available on a renewable basis, includ-  
23 ing agricultural crops and agricultural wastes  
24 and residues, wood wastes and residues, and  
25 domesticated animal wastes,

1 “(B)(i) to which section 168 applies with-  
2 out regard to any useful life, or

3 “(ii) with respect to which depreciation (or  
4 amortization in lieu of depreciation) is allowable  
5 and having a useful life (determined as of the  
6 time such property is placed in service) of 3  
7 years or more, and

8 “(C) which is owned and operated by an  
9 eligible person or a farmer-owned entity.

10 “(2) ELIGIBLE PERSON.—

11 “(A) IN GENERAL.—The term ‘eligible per-  
12 son’ means a person who materially participates  
13 during the taxable year in an eligible farming  
14 business.

15 “(B) MATERIAL PARTICIPATION.—For  
16 purposes of subparagraph (A), the determina-  
17 tion of whether a person materially participates  
18 in the trade or business of farming shall be  
19 made in a manner similar to the manner in  
20 which such determination is made under section  
21 2032A(e)(6). In the case that the person is a  
22 corporation, cooperative, partnership, estate, or  
23 trust, such determination shall be made at the  
24 shareholder, partner, or beneficial interests level  
25 (as the case may be).

1           “(C) ELIGIBLE FARMING BUSINESS.—For  
2           purposes of subparagraph (A), the term ‘eligible  
3           farming business’ means a farming business (as  
4           defined in section 263A(e)(4)) which is not a  
5           passive activity (within the meaning of section  
6           469(c)).

7           “(3) FARMER-OWNED ENTITY.—

8           “(A) IN GENERAL.—The term ‘farmer-  
9           owned entity’ means—

10           “(i) a corporation (including an S cor-  
11           poration) in which eligible persons own 50  
12           percent or more of the total voting power  
13           of the stock and 50 percent or more (in  
14           value) of the stock,

15           “(ii) a partnership in which eligible  
16           persons own 50 percent or more of the  
17           total voting power of the profits interest  
18           and 50 percent or more (in value) of the  
19           profits interest, and

20           “(iii) a cooperative in which eligible  
21           persons own 50 percent or more of the  
22           total voting power of the member patron-  
23           age interests and 50 percent or more (in  
24           value) of the member patronage interests.

1                   “(B)       CONSTRUCTIVE       OWNERSHIP  
2       RULES.—For purposes of subparagraph (A),  
3       rules similar to the rules of section  
4       263A(e)(2)(B) shall apply; except that, in ap-  
5       plying such rules, the members of an individ-  
6       ual’s family shall be the individuals described in  
7       subparagraph (C).

8                   “(C) MEMBERS OF FAMILY.—The family  
9       of any individual shall include only his spouse  
10      and children, grandchildren, and great grand-  
11      children (whether by the whole or half blood),  
12      and the spouses of his children, grandchildren,  
13      and great grandchildren, who reside in the  
14      same household or jointly operate farming busi-  
15      nesses (as defined in section 263A(e)(4)). For  
16      purposes of the preceding sentence, a child who  
17      is legally adopted, or who is placed with the  
18      taxpayer by an authorized placement agency for  
19      adoption by the taxpayer, shall be treated as a  
20      child by blood.

21                  “(4) QUALIFIED INVESTMENTS.—

22                  “(A) IN GENERAL.—The term ‘qualified  
23      investments’ means a payment of cash for the  
24      purchase of a qualified equity interest in a  
25      farmer-owned entity.

1 “(B) QUALIFIED EQUITY INTEREST.—The  
2 term ‘qualified equity interest’ means—

3 “(i) any stock in a domestic corpora-  
4 tion if such stock is acquired by the tax-  
5 payer after December 31, 2000, and before  
6 January 1, 2007, at its original issue (di-  
7 rectly or through an underwriter) from the  
8 corporation solely in exchange for cash,

9 “(ii) any capital or profits interest in  
10 a domestic partnership if such interest is  
11 acquired by the taxpayer after December  
12 31, 2000, and before January 1, 2007, and

13 “(iii) any patronage interest in a co-  
14 operative if such interest is acquired by the  
15 taxpayer after December 31, 2000, and be-  
16 fore January 1, 2007.

17 Rules similar to the rules of section 1202(c)(3)  
18 shall apply for purposes of this paragraph.

19 “(d) SPECIAL RULES.—For purposes of this  
20 section—

21 “(1) TREATMENT OF MARRIED INDIVIDUALS.—

22 In the case of a separate return by a married indi-  
23 vidual (as defined in section 7703), subsection  
24 (b)(3)(A) shall be applied by substituting ‘\$15,000’  
25 for ‘\$30,000’.

1           “(2) APPLICABLE RULES.—Under regulations  
2       prescribed by the Secretary—

3           “(A) ALLOCATION OF CREDIT IN THE CASE  
4       OF ESTATES AND TRUSTS.—Rules similar to the  
5       rules of subsection (d) of section 52 shall apply.

6           “(B) CERTAIN PROPERTY NOT ELIGI-  
7       BLE.—Rules similar to the rules of section  
8       50(b) shall apply.

9           “(3) BASIS ADJUSTMENT.—For purposes of  
10      this subtitle, if a credit is allowed under this section  
11      to any eligible person with respect to qualified value-  
12      added agricultural property, the basis of such prop-  
13      erty shall be reduced by the amount of the credit so  
14      allowed and increased by the amount of recapture  
15      under subsection (e).

16      “(e) RECAPTURE IN THE CASE OF CERTAIN DISPOSI-  
17      TIONS.—

18           “(1) IN GENERAL.—Under regulations pre-  
19      scribed by the Secretary, rules similar to the rules  
20      of section 50(a) shall apply with respect to an eligi-  
21      ble person if, within the 5-year period beginning on  
22      the date qualified value-added agricultural property  
23      with respect to which such person was allowed a  
24      credit under subsection (a) is originally placed in  
25      service—

1           “(A) such property ceases to be qualified  
2           for purposes of this section,

3           “(B) the eligible person or the farmer-  
4           owned entity (as the case may be) disposes of  
5           all or part of such property, or

6           “(C) the eligible person or the farmer-  
7           owned entity (as the case may be) ceases to be  
8           an eligible person or farmer-owned entity for  
9           purposes of this section.

10          “(2) SPECIAL RULES IN EVENT OF DEATH.—

11           “(A) IN GENERAL.—The period in para-  
12           graph (1) shall be suspended with respect to an  
13           eligible person for the 2-year period beginning  
14           on the date of death of such person.

15           “(B) HEIRS WHO ARE ELIGIBLE PER-  
16           SONS.—In the case that an heir of an eligible  
17           person is also an eligible person, neither para-  
18           graph (1) nor subparagraph (A) of this para-  
19           graph (unless elected by such heir) shall apply  
20           with respect to the transfer of property to such  
21           heir.

22          “(f) REGULATIONS.—The Secretary shall prescribe  
23          such regulations as may be necessary to carry out the pur-  
24          poses of this section.



1       “(g) TERMINATION.—This section shall not apply to  
2 property placed in service after December 31, 2006.”.

3       (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-  
4 NESS CREDIT.—Section 38(b) of such Code (defining cur-  
5 rent year business credit) is amended by striking “plus”  
6 at the end of paragraph (12), by striking the period at  
7 the end of paragraph (13) and inserting “, plus”, and by  
8 adding at the end the following new paragraph:

9               “(14) in the case of an eligible person (as de-  
10 fined in section 45E(c)), the value-added agricul-  
11 tural property investment credit determined under  
12 section 45E(a).”.

13       (c) CREDIT ALLOWABLE AGAINST MINIMUM TAX.—

14               (1) IN GENERAL.—Subsection (c) of section 38  
15 of such Code is amended by redesignating paragraph  
16 (3) as paragraph (4) and by inserting after para-  
17 graph (2) the following new paragraph:

18               “(3) VALUE-ADDED AGRICULTURAL PROPERTY  
19 INVESTMENT CREDIT ALLOWED AGAINST MINIMUM  
20 TAX.—

21               “(A) IN GENERAL.—The amount deter-  
22 mined under paragraph (1)(A) shall be reduced  
23 by the portion of the value-added agricultural  
24 property investment credit not used against the  
25 normal limitation.

“(B) PORTION OF VALUE-ADDED AGRICULTURAL PROPERTY INVESTMENT CREDIT NOT USED AGAINST NORMAL LIMITATION.—For purposes of subparagraph (A), the portion of the value-added agricultural property investment credit not used against the normal limitation is the excess (if any) of—

“(i) the portion of the credit allowable under subsection (a) which is attributable to the value-added agricultural property investment credit, over

“(ii) the limitation of paragraph (1) (determined without regard to this paragraph) reduced by the portion of the credit under subsection (a) which is not so attributable.”.

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) of such Code is amended by inserting “or the value-added agricultural property investment credit” after “employment credit”.

(d) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 of such Code is amended by adding at the end thereof the following new paragraph:

“(10) NO CARRYBACK OF VALUE-ADDED AGRICULTURAL PROPERTY INVESTMENT CREDIT BEFORE

1       EFFECTIVE DATE.—No portion of the unused busi-  
2       ness credit for any taxable year which is attributable  
3       to the credit determined under section 45E may be  
4       carried back to any taxable year ending before the  
5       date of the enactment of section 45E.”.

6       (e) DEDUCTION FOR CERTAIN UNUSED BUSINESS  
7       CREDITS.—Subsection (c) of section 196 of such Code is  
8       amended by striking “and” at the end of paragraph (8),  
9       by striking the period at the end of paragraph (9) and  
10      inserting “, and”, and by adding after paragraph (9) the  
11      following new paragraph:

12               “(10) the value-added agricultural property in-  
13      vestment credit determined under section 45E.”.

14      (f) BASIS ADJUSTMENT.—Subsection (a) of section  
15      1016 of such Code is amended by striking “and” at the  
16      end of paragraph (26), by striking the period at the end  
17      of paragraph (27) and inserting “; and”, and by adding  
18      at the end the following new paragraph:

19               “(28) to the extent provided in section  
20      45E(d)(3), in the case of payments with respect to  
21      which a credit has been allowed under section 38.”.

22      (g) CLERICAL AMENDMENT.—The table of sections  
23      for subpart D of part IV of subchapter A of chapter 1  
24      of such Code is amended by adding at the end thereof  
25      the following new section:

“Sec. 45E. Value-added agricultural property investment credit.”.

1       (h) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to qualified investments (as defined  
3 in section 45E(c)(5) of the Internal Revenue Code of 1986  
4 (as added by this section) made, and property placed in  
5 service, after December 31, 2000.

○