

109TH CONGRESS
2D SESSION

S. 2438

To provide disaster assistance to agricultural producers for crop and livestock losses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 16 (legislative day, MARCH 15), 2006

Mr. CONRAD (for himself, Mr. MARTINEZ, Mr. SALAZAR, Mr. TALENT, Mr. DAYTON, Mr. BOND, Mr. DORGAN, Mr. COLEMAN, Mr. JOHNSON, Mr. BURNS, Mrs. MURRAY, Mr. THUNE, Mrs. LINCOLN, Mr. REID, Ms. STABENOW, Ms. LANDRIEU, Ms. CANTWELL, Mr. NELSON of Florida, Mr. PRYOR, Mr. BAUCUS, Mr. DURBIN, Mr. OBAMA, Mr. HAGEL, Mr. HARKIN, and Mr. NELSON of Nebraska) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To provide disaster assistance to agricultural producers for crop and livestock losses, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Emergency Agricultural Disaster Assistance Act of
6 2006”.

- 1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

Sec. 1. Short title; table of contents.
 Sec. 2. Definitions.

TITLE I—AGRICULTURAL PRODUCTION LOSSES

Sec. 101. Crop disaster assistance.
 Sec. 102. Livestock assistance.
 Sec. 103. Flooded crop and grazing land.
 Sec. 104. Sugarcane and sugar beet disaster assistance.
 Sec. 105. Specialty crops and nursery crops.
 Sec. 106. Dairy assistance.
 Sec. 107. Cottonseed.
 Sec. 108. Reduction in payments.

TITLE II—SUPPLEMENTAL NUTRITION AND AGRICULTURAL ECONOMIC DISASTER ASSISTANCE

Sec. 201. Replenishment of Section 32.
 Sec. 202. Supplemental economic loss payments.
 Sec. 203. Reduction in payments.

TITLE III—FORESTRY

Sec. 301. Tree assistance program.

TITLE IV—CONSERVATION

Sec. 401. Natural Resources Conservation Service.

TITLE V—FARM SERVICE AGENCY

Sec. 501. Funding for additional personnel.

TITLE VI—MISCELLANEOUS

Sec. 601. Authority to provide immunizations.
 Sec. 602. Waiver of certain provisions.
 Sec. 603. Funding.
 Sec. 604. Regulations.

TITLE VII—EMERGENCY DESIGNATION

Sec. 701. Emergency designation.

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

- 5 (1) **ADDITIONAL COVERAGE.**—The term “addi-
 6 tional coverage” has the meaning given the term in

1 section 502(b)(1) of the Federal Crop Insurance Act
2 (7 U.S.C. 1502(b)(1)).

3 (2) DISASTER COUNTY.—The term “disaster
4 county” means—

5 (A) a county included in the geographic
6 area covered by a natural disaster declaration;
7 and

8 (B) each county contiguous to a county de-
9 scribed in subparagraph (A).

10 (3) HURRICANE-AFFECTED COUNTY.—The term
11 “hurricane-affected county” means—

12 (A) a county included in the geographic
13 area covered by a natural disaster declaration
14 related to Hurricane Katrina, Hurricane Rita,
15 Hurricane Wilma, or a related condition; and

16 (B) each county contiguous to a county de-
17 scribed in subparagraph (A).

18 (4) INSURABLE COMMODITY.—The term “insur-
19 able commodity” means an agricultural commodity
20 (excluding livestock) for which the producers on a
21 farm are eligible to obtain a policy or plan of insur-
22 ance under the Federal Crop Insurance Act (7
23 U.S.C. 1501 et seq.).

24 (5) LIVESTOCK.—The term “livestock” in-
25 cludes—

- 1 (A) cattle (including dairy cattle);
- 2 (B) bison;
- 3 (C) sheep;
- 4 (D) swine; and
- 5 (E) other livestock, as determined by the
- 6 Secretary.

7 (6) NATURAL DISASTER DECLARATION.—The
8 term “natural disaster declaration” means—

- 9 (A) a natural disaster declared by the Sec-
10 retary—

- 11 (i) during calendar year 2005 under
12 section 321(a) of the Consolidated Farm
13 and Rural Development Act (7 U.S.C.
14 1961(a)); or

- 15 (ii) during calendar year 2006 under
16 that section, but for which a request was
17 pending as of December 31, 2005; or

- 18 (B) a major disaster or emergency des-
19 ignated by the President—

- 20 (i) during calendar year 2005 under
21 the Robert T. Stafford Disaster Relief and
22 Emergency Assistance Act (42 U.S.C.
23 5121 et seq.); or

1 (ii) during calendar year 2006 under
 2 that Act, but for which a request was
 3 pending as of December 31, 2005.

4 (7) NONINSURABLE COMMODITY.—The term
 5 “noninsurable commodity” means a crop for which
 6 the producers on a farm are eligible to obtain assist-
 7 ance under section 196 of the Federal Agriculture
 8 Improvement and Reform Act of 1996 (7 U.S.C.
 9 7333).

10 (8) SECRETARY.—The term “Secretary” means
 11 the Secretary of Agriculture.

12 **TITLE I—AGRICULTURAL** 13 **PRODUCTION LOSSES**

14 **SEC. 101. CROP DISASTER ASSISTANCE.**

15 (a) IN GENERAL.—The Secretary shall use such
 16 sums as are necessary of funds of the Commodity Credit
 17 Corporation to make emergency financial assistance au-
 18 thorized under this section available to producers on a
 19 farm that have incurred qualifying losses described in sub-
 20 section (c).

21 (b) ADMINISTRATION.—

22 (1) IN GENERAL.—Except as provided in para-
 23 graph (2), the Secretary shall make assistance avail-
 24 able under this section in the same manner as pro-
 25 vided under section 815 of the Agriculture, Rural

1 Development, Food and Drug Administration and
 2 Related Agencies Appropriations Act, 2001 (Public
 3 Law 106–387; 114 Stat. 1549A–55), including
 4 using the same loss thresholds for quantity and eco-
 5 nomic losses as were used in administering that sec-
 6 tion, except that the payment rate shall be 50 per-
 7 cent of the established price, instead of 65 percent.

8 (2) LOSS THRESHOLDS FOR QUALITY
 9 LOSSES.—In the case of a payment for quality loss
 10 for a crop under subsection (c)(2), the loss thresh-
 11 olds for quality loss for the crop shall be determined
 12 under subsection (d).

13 (c) QUALIFYING LOSSES.—Assistance under this sec-
 14 tion shall be made available to producers on farms, other
 15 than producers of sugar cane and sugar beets, that in-
 16 curred qualifying quantity or quality losses for the 2005
 17 crop due to damaging weather or any related condition
 18 (including losses due to crop diseases, insects, and delayed
 19 harvest), as determined by the Secretary.

20 (d) QUALITY LOSSES.—

21 (1) IN GENERAL.—Subject to paragraph (3),
 22 the amount of a payment made to producers on a
 23 farm for a quality loss for a crop under subsection
 24 (c)(2) shall be equal to the amount obtained by mul-
 25 tiplying—

1 (A) 65 percent of the payment quantity de-
2 termined under paragraph (2); by

3 (B) 50 percent of the payment rate deter-
4 mined under paragraph (3).

5 (2) PAYMENT QUANTITY.—For the purpose of
6 paragraph (1)(A), the payment quantity for quality
7 losses for a crop of a commodity on a farm shall
8 equal the lesser of—

9 (A) the actual production of the crop af-
10 fected by a quality loss of the commodity on the
11 farm; or

12 (B) the quantity of expected production of
13 the crop affected by a quality loss of the com-
14 modity on the farm, using the formula used by
15 the Secretary to determine quantity losses for
16 the crop of the commodity under subsection
17 (c)(1).

18 (3) PAYMENT RATE.—For the purpose of para-
19 graph (1)(B) and in accordance with paragraphs (5)
20 and (6), the payment rate for quality losses for a
21 crop of a commodity on a farm shall be equal to the
22 difference between—

23 (A) the per unit market value that the
24 units of the crop affected by the quality loss

1 would have had if the crop had not suffered a
2 quality loss; and

3 (B) the per unit market value of the units
4 of the crop affected by the quality loss.

5 (4) ELIGIBILITY.—For producers on a farm to
6 be eligible to obtain a payment for a quality loss for
7 a crop under subsection (c)(2), the amount obtained
8 by multiplying the per unit loss determined under
9 paragraph (1) by the number of units affected by
10 the quality loss shall be at least 25 percent of the
11 value that all affected production of the crop would
12 have had if the crop had not suffered a quality loss.

13 (5) MARKETING CONTRACTS.—In the case of
14 any production of a commodity that is sold pursuant
15 to 1 or more marketing contracts (regardless of
16 whether the contract is entered into by the pro-
17 ducers on the farm before or after harvest) and for
18 which appropriate documentation exists, the quan-
19 tity designated in the contracts shall be eligible for
20 quality loss assistance based on the 1 or more prices
21 specified in the contracts.

22 (6) OTHER PRODUCTION.—For any additional
23 production of a commodity for which a marketing
24 contract does not exist or for which production con-
25 tinues to be owned by the producer, quality losses

1 shall be based on the average local market discounts
 2 for reduced quality, as determined by the appro-
 3 priate State committee of the Farm Service Agency.

4 (7) QUALITY ADJUSTMENTS AND DISCOUNTS.—

5 The appropriate State committee of the Farm Serv-
 6 ice Agency shall identify the appropriate quality ad-
 7 justment and discount factors to be considered in
 8 carrying out this subsection, including—

9 (A) the average local discounts actually ap-
 10 plied to a crop; and

11 (B) the discount schedules applied to loans
 12 made by the Farm Service Agency or crop in-
 13 surance coverage under the Federal Crop Insur-
 14 ance Act (7 U.S.C. 1501 et seq.).

15 (8) ELIGIBLE PRODUCTION.—The Secretary
 16 shall carry out this subsection in a fair and equitable
 17 manner for all eligible production, including the pro-
 18 duction of fruits and vegetables, other specialty
 19 crops, and field crops.

20 (e) ELIGIBILITY FOR ASSISTANCE.—

21 (1) IN GENERAL.—Except as provided in para-
 22 graph (2), the producers on a farm shall not be eli-
 23 gible for assistance under this section with respect
 24 to losses to an insurable commodity or noninsurable
 25 commodity if the producers on the farm—

1 (A) in the case of an insurable commodity,
2 did not obtain a policy or plan of insurance for
3 the insurable commodity under the Federal
4 Crop Insurance Act (7 U.S.C. 1501 et seq.) for
5 the crop incurring the losses;

6 (B) in the case of a noninsurable com-
7 modity, did not file the required paperwork, and
8 pay the administrative fee by the applicable
9 State filing deadline, for the noninsurable com-
10 modity under section 196 of the Federal Agri-
11 culture Improvement and Reform Act of 1996
12 (7 U.S.C. 7333) for the crop incurring the
13 losses;

14 (C) had average adjusted gross income (as
15 defined by section 1001D(a) of the Food Secu-
16 rity Act of 1985 (7 U.S.C. 1308–3a(a)), of
17 greater than \$2,500,000 in 2004; or

18 (D) were not in compliance with highly
19 erodible land conservation and wetland con-
20 servation provisions.

21 (2) CONTRACT WAIVER.—The Secretary may
22 waive paragraph (1) with respect to the producers
23 on a farm if the producers enter into a contract with
24 the Secretary under which the producers agree—

1 (A) in the case of an insurable commodity,
2 to obtain a policy or plan of insurance under
3 the Federal Crop Insurance Act (7 U.S.C. 1501
4 et seq.) providing additional coverage for the in-
5 surable commodity for each of the next 2 crops,
6 at a coverage level that provides—

7 (i) not less than 65 percent of the ac-
8 tual production history for the crop pro-
9 duced on the farm; and

10 (ii) 100 percent of the expected mar-
11 ket price or a comparable coverage (as de-
12 termined by the Federal Crop Insurance
13 Corporation); and

14 (B) in the case of a noninsurable com-
15 modity, to file the required paperwork and pay
16 the administrative fee by the applicable State
17 filing deadline, for the noninsurable commodity
18 for each of the next 2 crops under section 196
19 of the Federal Agriculture Improvement and
20 Reform Act of 1996 (7 U.S.C. 7333).

21 (3) EFFECT OF VIOLATION.—In the event of
22 the violation of a contract under paragraph (2) by
23 a producer, the producer shall reimburse the Sec-
24 retary for the full amount of the assistance provided
25 to the producer under this section.

1 (f) TIMING.—

2 (1) IN GENERAL.—Subject to paragraph (2),
 3 the Secretary shall make payments to producers on
 4 a farm for a crop under this section not later than
 5 60 days after the date the producers on the farm
 6 submit to the Secretary a completed application for
 7 the payments.

8 (2) INTEREST.—If the Secretary does not make
 9 payments to the producers on a farm by the date de-
 10 scribed in paragraph (1), the Secretary shall pay to
 11 the producers on a farm interest on the payments at
 12 a rate equal to the current (as of the sign-up dead-
 13 line established by the Secretary) market yield on
 14 outstanding, marketable obligations of the United
 15 States with maturities of 30 years.

16 **SEC. 102. LIVESTOCK ASSISTANCE.**

17 (a) LIVESTOCK COMPENSATION PROGRAM.—

18 (1) USE OF COMMODITY CREDIT CORPORATION
 19 FUNDS.—Effective beginning on the date of enact-
 20 ment of this Act, the Secretary shall use funds of
 21 the Commodity Credit Corporation to carry out the
 22 2002 Livestock Compensation Program announced
 23 by the Secretary on October 10, 2002 (67 Fed. Reg.
 24 63070), to provide compensation for livestock losses
 25 during calendar year 2005 due to a disaster, as de-

1 terminated by the Secretary, except that the payment
2 rate shall be 75 percent of the payment rate estab-
3 lished for the 2002 Livestock Compensation Pro-
4 gram.

5 (2) ELIGIBLE APPLICANTS.—In carrying out
6 the program described in paragraph (1), the Sec-
7 retary shall provide assistance to any applicant
8 that—

9 (A)(i) conducts a livestock operation that
10 is located in a disaster county, including any
11 applicant conducting a livestock operation with
12 eligible livestock (within the meaning of the
13 livestock assistance program under section
14 101(b) of division B of Public Law 108–324
15 (118 Stat. 1234)); or

16 (ii) produces an animal described in sec-
17 tion 10806(a)(1) of the Farm Security and
18 Rural Investment Act of 2002 (21 U.S.C.
19 321d(a)(1)); and

20 (B) meets all other eligibility requirements
21 established by the Secretary for the program.

22 (3) MITIGATION.—In determining the eligibility
23 for or amount of payments for which a producer is
24 eligible under the livestock compensation program,
25 the Secretary shall not penalize a producer that

1 takes actions (recognizing disaster conditions) that
2 reduce the average number of livestock the producer
3 owned for grazing during the production year for
4 which assistance is being provided.

5 (4) LIMITATION.—The Secretary shall ensure,
6 to the maximum extent practicable, that no producer
7 on a farm receives duplicative payments under this
8 subsection and another Federal program with re-
9 spect to any loss.

10 (b) LIVESTOCK INDEMNITY PAYMENTS.—

11 (1) IN GENERAL.—The Secretary shall use such
12 sums as are necessary of funds of the Commodity
13 Credit Corporation to make livestock indemnity pay-
14 ments to producers on farms that have incurred live-
15 stock losses during calendar year 2005 due to a dis-
16 aster, as determined by the Secretary, including
17 losses due to hurricanes, floods, and anthrax.

18 (2) PAYMENT RATES.—Indemnity payments to
19 a producer on a farm under paragraph (1) shall be
20 made at a rate of not less than 30 percent of the
21 market value of the applicable livestock on the day
22 before the date of death of the livestock, as deter-
23 mined by the Secretary.

24 (c) LIVESTOCK INDEMNITY PROGRAM FOR CON-
25 TRACT GROWERS.—

1 (1) IN GENERAL.—Subject to subsection (d),
 2 the Secretary shall use funds of the Commodity
 3 Credit Corporation to establish a program to assist
 4 poultry producers in hurricane-affected counties that
 5 suffered income losses.

6 (2) TERMS AND CONDITIONS.—The program
 7 established under paragraph (1) shall contain simi-
 8 lar terms and conditions as the terms and conditions
 9 used for the livestock indemnity program for con-
 10 tract growers described in subpart E of chapter XIV
 11 of title 7, Code of Federal Regulations (as in effect
 12 on January 1, 2002).

13 (d) LIMIT ON AMOUNT OF ASSISTANCE.—The Sec-
 14 retary shall ensure, to the maximum extent practicable,
 15 that no producer on a farm receives duplicative payments
 16 under this section and any other Federal program for the
 17 same loss.

18 **SEC. 103. FLOODED CROP AND GRAZING LAND.**

19 (a) IN GENERAL.—The Secretary shall compensate
 20 eligible owners of flooded crop and grazing land in—

21 (1) the Devils Lake basin; and

22 (2) the McHugh, Lake Laretta, and Rose Lake
 23 closed drainage areas of the State of North Dakota.

24 (b) ELIGIBILITY.—

1 (1) IN GENERAL.—To be eligible to receive
2 compensation under this section, an owner shall own
3 land described in subsection (a) that, during the 2
4 crop years preceding receipt of compensation, was
5 rendered incapable of use for the production of an
6 agricultural commodity or for grazing purposes (in
7 a manner consistent with the historical use of the
8 land) as the result of flooding, as determined by the
9 Secretary.

10 (2) INCLUSIONS.—Land described in paragraph
11 (1) shall include—

12 (A) land that has been flooded;

13 (B) land that has been rendered inacces-
14 sible due to flooding; and

15 (C) a reasonable buffer strip adjoining the
16 flooded land, as determined by the Secretary.

17 (3) ADMINISTRATION.—The Secretary may es-
18 tablish—

19 (A) reasonable minimum acreage levels for
20 individual parcels of land for which owners may
21 receive compensation under this section; and

22 (B) the location and area of adjoining
23 flooded land for which owners may receive com-
24 pensation under this section.

1 (c) SIGN-UP.—The Secretary shall establish a sign-
2 up program for eligible owners to apply for compensation
3 from the Secretary under this section.

4 (d) COMPENSATION PAYMENTS.—

5 (1) IN GENERAL.—Subject to paragraphs (2)
6 and (3), the rate of an annual compensation pay-
7 ment under this section shall be equal to 90 percent
8 of the average annual per acre rental payment rate
9 (at the time of entry into the contract) for com-
10 parable crop or grazing land that has not been flood-
11 ed and remains in production in the county where
12 the flooded land is located, as determined by the
13 Secretary.

14 (2) REDUCTION.—An annual compensation
15 payment under this section shall be reduced by the
16 amount of any conservation program rental pay-
17 ments or Federal agricultural commodity program
18 payments received by the owner for the land during
19 any crop year for which compensation is received
20 under this section.

21 (3) EXCLUSION.—During any year in which an
22 owner receives compensation for flooded land under
23 this section, the owner shall not be eligible to par-
24 ticipate in or receive benefits for the flooded land
25 under—

1 (A) the Federal crop insurance program
2 established under the Federal Crop Insurance
3 Act (7 U.S.C. 1501 et seq.);

4 (B) the noninsured crop assistance pro-
5 gram established under section 196 of the Fed-
6 eral Agriculture Improvement and Reform Act
7 of 1996 (7 U.S.C. 7333); or

8 (C) any Federal agricultural crop disaster
9 assistance program.

10 (e) RELATIONSHIP TO AGRICULTURAL COMMODITY
11 PROGRAMS.—The Secretary, by regulation, shall provide
12 for the preservation of cropland base, allotment history,
13 and payment yields applicable to land described in sub-
14 section (a) that was rendered incapable of use for the pro-
15 duction of an agricultural commodity or for grazing pur-
16 poses as the result of flooding.

17 (f) USE OF LAND.—

18 (1) IN GENERAL.—An owner that receives com-
19 pensation under this section for flooded land shall
20 take such actions as are necessary to not degrade
21 any wildlife habitat on the land that has naturally
22 developed as a result of the flooding.

23 (2) RECREATIONAL ACTIVITIES.—To encourage
24 owners that receive compensation for flooded land to
25 allow public access to and use of the land for rec-

1 reational activities, as determined by the Secretary,
 2 the Secretary may—

3 (A) offer an eligible owner additional com-
 4 pensation; and

5 (B) provide compensation for additional
 6 acreage under this section.

7 (g) FUNDING.—

8 (1) IN GENERAL.—The Secretary shall use
 9 \$6,000,000 of funds of the Commodity Credit Cor-
 10 poration to carry out this section.

11 (2) PRO-RATED PAYMENTS.—In a case in which
 12 the amount made available under paragraph (1) for
 13 a fiscal year is insufficient to compensate all eligible
 14 owners under this section, the Secretary shall pro-
 15 rate payments for that fiscal year on a per acre
 16 basis.

17 **SEC. 104. SUGARCANE AND SUGAR BEET DISASTER ASSIST-**
 18 **ANCE.**

19 (a) FLORIDA.—The Secretary of Agriculture shall
 20 use \$120,000,000 of funds of the Commodity Credit Cor-
 21 poration to make payments to processors in Florida that
 22 are eligible to obtain a loan under section 156(a) of the
 23 Federal Agriculture Improvement and Reform Act of 1996
 24 (7 U.S.C. 7272(a)) to compensate first processors and
 25 producers for crop and other losses in hurricane-affected

1 counties that are related to hurricanes, tropical storms,
 2 excessive rains, floods, and wind in Florida during cal-
 3 endar year 2005, by an agreement on the same terms and
 4 conditions, to the maximum extent practicable, as the pay-
 5 ments made under section 102 of the Emergency Supple-
 6 mental Appropriations for Hurricane Disasters Assistance
 7 Act of 2005 (Public Law 108–324; 118 Stat. 1235), in-
 8 cluding that the 2005 base production of each harvesting
 9 unit shall be determined using the same base year crop
 10 production history that was used pursuant to the agree-
 11 ment under that section.

12 (b) LOUISIANA.—

13 (1) COMPENSATION FOR LOSSES.—The Sec-
 14 retary shall use the funds, facilities, and authorities
 15 of the Commodity Credit Corporation to make
 16 \$120,000,000 in payments to first processors of sug-
 17 arcane that operate in a disaster county in Lou-
 18 isiana, or obtain sugarcane from a disaster county in
 19 Louisiana, and that are eligible to obtain a loan
 20 under section 156(a) of the Federal Agriculture Im-
 21 provement and Reform Act of 1996 (7 U.S.C.
 22 7272(a)), to compensate the producers and first
 23 processors for crop and other losses due to Hurri-
 24 cane Katrina, Hurricane Rita, or related conditions.

1 (2) ADMINISTRATION.—Assistance under this
2 subsection shall be—

3 (A) shared by an affected first processor
4 with affected producers that provide commod-
5 ities to the processor in a manner that reflects
6 contracts entered into between the processor
7 and the producers, except with respect to a por-
8 tion of the amount of total assistance described
9 under paragraph (1) necessary to compensate
10 affected producers for individual losses experi-
11 enced by the producers, including losses due to
12 saltwater intrusion, flooding, wind damage, or
13 increased planting, replanting, or harvesting
14 costs, which shall be transferred by the first
15 processor to the affected producers without re-
16 gard to contractual share arrangements; and

17 (B) made available under such terms and
18 conditions as the Secretary determines are nec-
19 essary to carry out this subsection.

20 (3) LOSS DETERMINATION.—In carrying out
21 this subsection, the Secretary shall use the same
22 base year to determine crop loss that was elected by
23 a producer to determine crop loss in carrying out the
24 hurricane assistance program under section 207 of

1 the Agricultural Assistance Act of 2003 (Public Law
2 108–7; 117 Stat. 543).

3 (c) FUNDING.—The Secretary shall use \$40,000,000
4 of funds of the Commodity Credit Corporation to provide
5 assistance to sugar beet producers that suffered produc-
6 tion losses (including quality losses) for the 2005 crop
7 year.

8 (d) REQUIREMENT.—The Secretary shall make pay-
9 ments under this section in the same manner as payments
10 were made under section 208 of the Agricultural Assist-
11 ance Act of 2003 (Public Law 108–7; 117 Stat. 544), in-
12 cluding using the same indemnity benefits as were used
13 in carrying out that section.

14 **SEC. 105. SPECIALTY CROPS AND NURSERY CROPS.**

15 (a) IN GENERAL.—The Secretary shall use funds of
16 the Commodity Credit Corporation to provide assistance
17 to producers of specialty crops and nursery crops in hurri-
18 cane-affected counties.

19 (b) ADMINISTRATION.—

20 (1) IN GENERAL.—Assistance required by sub-
21 section (a) shall be carried out by the Secretary
22 under the same terms and conditions as the special
23 disaster relief programs carried out for producers
24 that suffered from crop damage and tree losses, and
25 carried out related cleanup, in certain areas of Flor-

1 ida due to Hurricanes Charley, Frances, and Jeanne
 2 during August and September 2004, as described in
 3 the notice of program implementation relating to
 4 Florida citrus, fruit, vegetable, and nursery crop dis-
 5 aster programs (69 Fed. Reg. 63134 (October 29,
 6 2004)).

7 (2) LOSS OF RECORDS.—Due to the complete
 8 destruction of the business records of many pro-
 9 ducers, the Secretary shall use the best available in-
 10 formation in determining eligibility, determining
 11 losses, and calculating payment amounts under this
 12 section.

13 (c) LIMIT ON AMOUNT OF ASSISTANCE.—The Sec-
 14 retary shall ensure, to the maximum extent practicable,
 15 that no producer on a farm receives duplicative payments
 16 under this section and any other Federal program for the
 17 same loss.

18 **SEC. 106. DAIRY ASSISTANCE.**

19 The Secretary shall use \$25,000,000 of the funds of
 20 the Commodity Credit Corporation to make payments to
 21 dairy producers for dairy production losses and dairy
 22 spoilage losses in hurricane-affected counties.

23 **SEC. 107. COTTONSEED.**

24 (a) DISTRIBUTION OF FUNDS.—The Secretary shall
 25 provide disaster assistance under subsection (c) and sec-

tion 104 of the Emergency Supplemental Appropriations for Hurricane Disasters Assistance Act, 2005 (Public Law 108–324; 118 Stat. 1235) under the same terms and conditions as assistance provided under section 206 of the Agricultural Assistance Act of 2003 (Public Law 108–7; 117 Stat. 543), except that assistance shall be—

(1) distributed to producers and first handlers of cottonseed; and

(2) based on cottonseed production during the most recent year for which a disaster payment specifically for cottonseed was not authorized.

(b) **TECHNICAL AMENDMENT.**—Section 104 of the Emergency Supplemental Appropriations for Hurricane Disasters Assistance Act, 2005 (Public Law 108–324; 118 Stat. 1235) is amended by inserting “or Secretary” after “President of the United States”.

(c) **COTTONSEED ASSISTANCE.**—The Secretary shall use \$15,000,000 of the funds of the Commodity Credit Corporation to provide assistance to producers and first-handlers of the 2005 crop of cottonseed in hurricane-affected counties.

SEC. 108. REDUCTION IN PAYMENTS.

The amount of any payment for which a producer is eligible under this title shall be reduced by any amount

1 received by the producer for the same loss or any similar
 2 loss under—

3 (1) the Department of Defense, Emergency
 4 Supplemental Appropriations to Address Hurricanes
 5 in the Gulf of Mexico, and Pandemic Influenza Act,
 6 2006 (Public Law 109–148; 119 Stat. 2680); or

7 (2) an agricultural disaster assistance provision
 8 contained in the announcement of the Secretary on
 9 January 26, 2006.

10 **TITLE II—SUPPLEMENTAL NU-**
 11 **TRITION AND AGRICULTURAL**
 12 **ECONOMIC DISASTER ASSIST-**
 13 **ANCE**

14 **SEC. 201. REPLENISHMENT OF SECTION 32.**

15 (a) DEFINITION OF SPECIALTY CROP.—In this sec-
 16 tion:

17 (1) IN GENERAL.—The term “specialty crop”
 18 means any agricultural crop.

19 (2) EXCEPTION.—The term “specialty crop”
 20 does not include—

21 (A) wheat;

22 (B) feed grains;

23 (C) oilseeds;

24 (D) cotton;

25 (E) rice; or

1 (F) peanuts.

2 (b) BASE STATE GRANTS.—

3 (1) IN GENERAL.—The Secretary shall use
4 \$25,500,000 of funds of the Commodity Credit Cor-
5 poration to make grants to the several States, the
6 District of Columbia, and the Commonwealth of
7 Puerto Rico to be used to support activities that
8 promote agriculture.

9 (2) AMOUNTS.—The amount of the grants shall
10 be—

11 (A) \$500,000 to each of the several States;
12 and

13 (B) \$250,000 to each of the Common-
14 wealth of Puerto Rico and the District of Co-
15 lumbia.

16 (c) GRANTS FOR VALUE OF PRODUCTION.—The Sec-
17 retary shall use \$74,500,000 of funds of the Commodity
18 Credit Corporation to make a grant to each of the several
19 States in an amount equal to the product obtained by mul-
20 tiplying—

21 (1) the share of the State of the total value of
22 specialty crop, livestock, and dairy production of the
23 United States for the 2004 crop year, as determined
24 by the Secretary; by

25 (2) \$74,500,000.

1 (d) SPECIAL CROP AND LIVESTOCK PRIORITY.—As
 2 a condition on the receipt of a grant under this section,
 3 a State shall agree to give priority to the support of spe-
 4 cialty crops and livestock in the use of the grant funds.

5 (e) USE OF FUNDS.—A State may use funds from
 6 a grant awarded under this section—

7 (1) to supplement State food bank programs or
 8 other nutrition assistance programs;

9 (2) to promote the purchase, sale, or consump-
 10 tion of agricultural products;

11 (3) to provide economic assistance to agricul-
 12 tural producers, giving a priority to the support of
 13 specialty crops and livestock; or

14 (4) for other purposes as determined by the
 15 Secretary.

16 **SEC. 202. SUPPLEMENTAL ECONOMIC LOSS PAYMENTS.**

17 The Secretary shall make a supplemental economic
 18 loss payment to any producer on a farm that received a
 19 direct payment for crop year 2005 under title I of the
 20 Farm Security and Rural Investment Act of 2002 (7
 21 U.S.C. 7901 et seq.) at a rate equal to the product ob-
 22 tained by multiplying—

23 (1) 30 percent of the direct payment rate in ef-
 24 fect for the program crop of the farmer;

1 (2) 85 percent of the program crop base of the
2 farmer; and

3 (3) the program payment yield for each pro-
4 gram crop of the farmer.

5 **SEC. 203. REDUCTION IN PAYMENTS.**

6 The amount of any payment for which a producer is
7 eligible under this title shall be reduced by any amount
8 received by the producer for the same loss or any similar
9 loss under—

10 (1) the Department of Defense, Emergency
11 Supplemental Appropriations to Address Hurricanes
12 in the Gulf of Mexico, and Pandemic Influenza Act,
13 2006 (Public Law 109–148; 119 Stat. 2680); or

14 (2) an agricultural disaster assistance provision
15 contained in the announcement of the Secretary on
16 January 26, 2006.

17 **TITLE III—FORESTRY**

18 **SEC. 301. TREE ASSISTANCE PROGRAM.**

19 (a) DEFINITION OF TREE.—In this section, the term
20 “tree” includes a tree (including a Christmas tree, orna-
21 mental tree, nursery tree, and potted tree), bush (includ-
22 ing a shrub), and vine.

23 (b) PROGRAM.—Except as otherwise provided in this
24 section, the Secretary shall use such sums as are necessary
25 of the funds of the Commodity Credit Corporation to pro-

1 vide assistance under the tree assistance program estab-
 2 lished under sections 10201 through 10203 of the Farm
 3 Security and Rural Investment Act of 2002 (7 U.S.C.
 4 8201 et seq.) to—

5 (1) producers who suffered tree losses in hurri-
 6 cane-affected counties; and

7 (2) fruit and tree nut producers in hurricane-
 8 affected counties for site preparation, replacement,
 9 rehabilitation, and pruning.

10 (c) COSTS.—Funds made available under this section
 11 shall also be made available to cover costs associated with
 12 tree pruning, tree rehabilitation, and other appropriate
 13 tree-related activities as determined by the Secretary.

14 (d) LIMIT ON AMOUNT OF ASSISTANCE.—The Sec-
 15 retary shall ensure, to the maximum extent practicable,
 16 that no producer on a farm receives duplicative payments
 17 under this section and any other Federal program for the
 18 same loss.

19 **TITLE IV—CONSERVATION**

20 **SEC. 401. NATURAL RESOURCES CONSERVATION SERVICE.**

21 (a) AUTHORITY TO CLEAR DEBRIS AND ANIMAL
 22 CARCASSES.—Notwithstanding any other provision of law,
 23 the Secretary, acting through the Natural Resources Con-
 24 servation Service, using funds made available for the
 25 emergency watershed protection program established

1 under section 403 of the Agricultural Credit Act of 1978
 2 (16 U.S.C. 2203), may provide financial and technical as-
 3 sistance to remove and dispose of debris and animal car-
 4 casses that could adversely affect health and safety on
 5 non-Federal land in a hurricane-affected county.

6 (b) **AUTHORITY TO USE CERTAIN PRACTICES.**—Not-
 7 withstanding any other provision of law, the Secretary,
 8 acting through the Natural Resources Conservation Serv-
 9 ice, may use direct check-writing practices and electronic
 10 transfers to provide financial and technical assistance
 11 under the emergency watershed protection program estab-
 12 lished under section 403 of the Agricultural Credit Act
 13 of 1978 (16 U.S.C. 2203) in a hurricane-affected county.

14 **TITLE V—FARM SERVICE** 15 **AGENCY**

16 **SEC. 501. FUNDING FOR ADDITIONAL PERSONNEL.**

17 The Secretary shall use \$40,000,000 of funds of the
 18 Commodity Credit Corporation to hire additional State
 19 and County Farm Service Agency personnel—

- 20 (1) to expedite the implementation of, and de-
 21 livery under, the agricultural disaster and economic
 22 assistance programs under this Act; and
- 23 (2) as the Secretary determines to be necessary
 24 to carry out other agriculture and disaster assist-
 25 ance programs.

1 **TITLE VI—MISCELLANEOUS**

2 **SEC. 601. AUTHORITY TO PROVIDE IMMUNIZATIONS.**

3 Notwithstanding any other provision of law, the Sec-
 4 retary of Defense may provide immunizations to employ-
 5 ees of the Department of Agriculture involved in direct
 6 recovery work in a hurricane-affected county.

7 **SEC. 602. WAIVER OF CERTAIN PROVISIONS.**

8 Notwithstanding any other provision of law, the Sec-
 9 retary may provide assistance in a hurricane-affected
 10 county under the emergency conservation program estab-
 11 lished under title IV of the Agricultural Credit Act of 1978
 12 (16 U.S.C. 2201 et seq.) without regard to subtitle C of
 13 title XII of the Food Security Act of 1985 (16 U.S.C.
 14 3821 et seq.).

15 **SEC. 603. FUNDING.**

16 The Secretary shall use the funds, facilities, and au-
 17 thorities of the Commodity Credit Corporation to carry
 18 out this Act, to remain available until expended.

19 **SEC. 604. REGULATIONS.**

20 (a) IN GENERAL.—The Secretary may promulgate
 21 such regulations as are necessary to implement this Act.

22 (b) PROCEDURE.—The promulgation of the regula-
 23 tions and administration of this Act shall be made without
 24 regard to—

1 (1) the notice and comment provisions of sec-
2 tion 553 of title 5, United States Code;

3 (2) the Statement of Policy of the Secretary of
4 Agriculture effective July 24, 1971 (36 Fed. Reg.
5 13804), relating to notices of proposed rulemaking
6 and public participation in rulemaking; and

7 (3) chapter 35 of title 44, United States Code
8 (commonly known as the “Paperwork Reduction
9 Act”).

10 (c) CONGRESSIONAL REVIEW OF AGENCY RULE-
11 MAKING.—In carrying out this section, the Secretary shall
12 use the authority provided under section 808 of title 5,
13 United States Code.

14 **TITLE VII—EMERGENCY** 15 **DESIGNATION**

16 **SEC. 701. EMERGENCY DESIGNATION.**

17 The amounts provided under this Act are designated
18 as an emergency requirement pursuant to section 402 of
19 H. Con. Res. 95 (109th Congress).

