

110TH CONGRESS  
1ST SESSION

# S. 1160

To ensure an abundant and affordable supply of highly nutritious fruits, vegetables, and other specialty crops for American consumers and international markets by enhancing the competitiveness of United States-grown specialty crops.

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## IN THE SENATE OF THE UNITED STATES

APRIL 19, 2007

Ms. STABENOW (for herself, Mr. CRAIG, Mr. CRAPO, Mrs. CLINTON, Mr. CASEY, Mr. LEVIN, Mrs. BOXER, Mrs. FEINSTEIN, Mrs. MURRAY, Ms. CANTWELL, Mr. WYDEN, Mr. SMITH, Mr. ISAKSON, Mr. BROWN, Mr. MENENDEZ, Mr. BURR, and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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# A BILL

To ensure an abundant and affordable supply of highly nutritious fruits, vegetables, and other specialty crops for American consumers and international markets by enhancing the competitiveness of United States-grown specialty crops.

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 “Specialty Crops Competition Act of 2007”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purpose.

Sec. 3. Definitions.

#### TITLE I—MARKETING

Sec. 101. Implementation of food safety programs under marketing orders.

Sec. 102. Fruit and vegetable market news allocation.

Sec. 103. Grants to States to enhance competitiveness of specialty crops.

Sec. 104. Operating loans.

Sec. 105. Value-added grant program.

#### TITLE II—INTERNATIONAL TRADE

Sec. 201. Foreign market access study and strategy plan.

Sec. 202. Technical assistance for specialty crops.

Sec. 203. Protection of intellectual property rights in plants and plant-derived material.

Sec. 204. Plant patents.

Sec. 205. Coordination of trade objectives.

Sec. 206. Grants for market analysis of anti-dumping and countervailing duty cases.

#### TITLE III—SPECIALTY CROP RESEARCH AND GRANTS

Sec. 301. National specialty crops development initiative grant program.

Sec. 302. Mechanized harvesting for production and processing methods.

#### TITLE IV—INVASIVE PEST RESEARCH AND DISEASE RESPONSE

Sec. 401. Threat identification and mitigation program.

Sec. 402. Emergency control, prevention, and eradication programs.

Sec. 403. Restoration of import and entry agricultural inspection functions to the Department of Agriculture.

Sec. 404. Consultations on sanitary and phytosanitary restrictions for fruits and vegetables.

Sec. 405. Clean plant network.

#### TITLE V—PERMANENT DISASTER RELIEF AUTHORITY FOR SPECIALTY CROPS

Sec. 501. Permanent authority to provide emergency agricultural assistance for specialty crops.

Sec. 502. Tree assistance program.

#### TITLE VI—NUTRITION

Sec. 601. Increased purchases of fruits and vegetables.

Sec. 602. Expansion of fresh fruit and vegetable program.

Sec. 603. Food stamp nutrition education.

Sec. 604. Food stamp fruit and vegetable electronic benefit transfer pilot project.

Sec. 605. Nutritional Education Program Review Committee.

Sec. 606. Sense of the Senate on Federal nutrition programs.

## TITLE VII—MISCELLANEOUS

Sec. 701. Elimination of limitation on adjusted gross income from eligibility requirements for environmental quality incentives program.

Sec. 702. Technical assistance under conservation programs.

Sec. 703. Integrated pest management initiative.

Sec. 704. Sustainability practices.

Sec. 705. Exemption of State agencies from the Federal Insecticide, Fungicide, and Rodenticide Act.

Sec. 706. Transportation infrastructure cost reduction grant program.

Sec. 707. Office of Pest Management Policy.

Sec. 708. Food safety initiatives.

Sec. 709. Census of specialty crops.

Sec. 710. Farm Worker Housing.

**1 SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress finds that—

3 (1) a secure domestic food supply is a national  
4 security imperative for the United States;

5 (2) a competitive specialty crop industry in the  
6 United States is necessary for the production of an  
7 abundant, affordable supply of highly nutritious  
8 fruits, vegetables, and other specialty crops (including  
9 nursery crops, floriculture, and low-growing  
10 dense perennial turfgrass sod), which are vital to the  
11 health and well-being of all Americans;

12 (3) increased consumption of specialty crops  
13 will provide tremendous health and economic bene-  
14 fits to both consumers and specialty crop growers;

15 (4) specialty crop growers believe that there are  
16 numerous areas of Federal agriculture policy that  
17 could be improved to promote increased consumption  
18 of specialty crops and increase the competitiveness

1 of producers in the efficient production of affordable  
2 specialty crops in the United States;

3 (5) the competitiveness of United States spe-  
4 cialty crop producers depends on maintaining the  
5 current restrictions in section 1106(b) of the Farm  
6 Security and Rural Investment Act of 2002 (7  
7 U.S.C. 7916(b)) that prohibit the planting of fruits  
8 and vegetables and other specialty crops on acres for  
9 which a producer receives direct payments or  
10 counter-cyclical payments, including not allowing  
11 any temporary loss in program benefits as a remedy  
12 for 1 year or other short-term shifts to specialty  
13 crops;

14 (6) as the globalization of markets continues, it  
15 is becoming increasingly difficult for United States  
16 producers to compete against heavily subsidized for-  
17 eign producers in both the domestic and foreign  
18 markets;

19 (7) United States specialty crop producers con-  
20 tinue to face serious tariff and non-tariff trade bar-  
21 riers in many export markets; and

22 (8) Congress supports the intent of the market  
23 access program established under section 203 of the  
24 Agricultural Trade Act of 1978 (7 U.S.C. 5623).

1       (b) PURPOSE.—It is the purpose of this Act to make  
2 necessary changes in and additions to Federal agricultural  
3 policy to accomplish the goals of increasing specialty crop  
4 consumption and improving the competitiveness of United  
5 States specialty crop producers.

6 **SEC. 3. DEFINITIONS.**

7       In this Act:

8           (1) DEPARTMENT.—The term “Department”  
9 means the Department of Agriculture.

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

12          (3) SPECIALTY CROP.—The term “specialty  
13 crop” means fruits, vegetables, tree nuts, dried  
14 fruits, nursery crops, floriculture, and horticulture.

15          (4) STATE.—The term “State” means each of  
16 the several States of the United States.

17          (5) STATE DEPARTMENT OF AGRICULTURE.—  
18 The term “State department of agriculture” means  
19 the agency, commission, or department of a State  
20 government responsible for protecting and promoting  
21 agriculture in the State.

## 1                   **TITLE I—MARKETING**

### 2   **SEC. 101. IMPLEMENTATION OF FOOD SAFETY PROGRAMS**

#### 3                   **UNDER MARKETING ORDERS.**

4                   Section 8c(7) of the Agricultural Adjustment Act (7

5   U.S.C. 608c(7)), reenacted with amendments by the Agri-

6   cultural Marketing Agreement Act of 1937, is amended—

7                   (1) by redesignating subparagraphs (C) and

8                   (D) as subparagraph (D) and (E), respectively; and

9                   (2) by inserting after subparagraph (B) the fol-

10                  lowing new subparagraph (C):

11                  “(C) In the case of an order relating to a specialty

12   crop (as defined in section 3 of the Specialty Crops Com-

13   petitiveness Act of 2004), authorizing the implementation

14   of food safety programs, such as good agricultural and

15   manufacturing practices, ISO 9000 standards, and Haz-

16   ard Analysis of Critical Control Points programs, designed

17   to enhance the safety of the specialty crop and products

18   derived from specialty crops.”.

### 19   **SEC. 102. FRUIT AND VEGETABLE MARKET NEWS ALLOCA-**

#### 20                  **TION.**

21                  (a) IN GENERAL.—The Secretary, acting through the

22   Administrator of the Agricultural Marketing Service, shall

23   carry out market news activities to provide timely price

24   information of United States fruits and vegetables in the

25   United States.

1       (b) AUTHORIZATION OF APPROPRIATIONS.—There is  
2 authorized to be appropriated to carry out this section  
3 \$9,000,000 for each of fiscal years 2008 through 2012,  
4 to remain available until expended.

5 **SEC. 103. GRANTS TO STATES TO ENHANCE COMPETITIVENESS OF SPECIALTY CROPS.**

6       (a) AVAILABILITY AND PURPOSE OF GRANTS.—

7               (1) IN GENERAL.—For each of fiscal years  
8 2008 through 2012, the Secretary shall make a  
9 grant under this section to each State that submits  
10 an application for a grant for that fiscal year in ac-  
11 cordance with the terms and conditions established  
12 under paragraph (4).

13               (2) USE OF GRANT FUNDS.—The grant funds  
14 shall be used by the State department of agriculture  
15 solely to enhance the competitiveness of United  
16 States specialty crops.

17               (3) MAINTENANCE OF EFFORT.—The State  
18 shall provide assurances to the Secretary that funds  
19 provided to the State under this section will be used  
20 only to supplement, not to supplant, the amount of  
21 Federal, State, and local funds otherwise expended  
22 in support of specialty crops and specialty crop pro-  
23 ducers in the State.

7 (b) AMOUNT.—

13 (A) the value of specialty crop production  
14 in the State during the preceding calendar year;  
15 bears to

16 (B) the value of specialty crop production  
17 during that calendar year in all those States  
18 submitting applications for a grant for that fis-  
19 cal year.

23 (3) AVAILABILITY OF FUNDS.—

24 (A) IN GENERAL.—Any funds remaining  
25 after allocations are made under paragraph (2)

1           shall be available on a competitive basis to any  
2           State department of agriculture that submits  
3           an application to the Secretary.

4           (B) CRITERIA.—The Secretary shall—  
5                   (i) establish criteria for review of ap-  
6                   plications submitted under subparagraph  
7                   (A); and  
8                   (ii) award funds to applicants that  
9                   best fulfill the criteria.

10           (c) GRANT EXPENDITURE PRIORITIES.—

11           (1) IN GENERAL.—It is the intent of Congress  
12           that specialty crop producers, organizations, and  
13           commissions should benefit from the disposition of  
14           grant funds under this section.

15           (2) ELIGIBILITY.—To be eligible to receive a  
16           grant under this section, a State department of agri-  
17           culture shall conduct at least 1 public hearing, or  
18           provide some other method for public comment, to  
19           obtain the advice and opinion of specialty crop pro-  
20           ducers, organizations, and commissions in the State  
21           regarding the use of grant funds.

22           (3) CONSIDERATION.—The Secretary shall en-  
23           sure that a State department of agriculture con-  
24           siders the advice and opinions received under para-

1 graph (2) when making decisions about the use of  
2 grant funds.

3 (d) USE OF COMMODITY CREDIT CORPORATION.—Of  
4 funds of the Commodity Credit Corporation, the Secretary  
5 shall use to carry out this section—

6 (1) \$200,000,000 for fiscal year 2008;  
7 (2) \$250,000,000 for fiscal year 2009;  
8 (3) \$300,000,000 for fiscal year 2010;  
9 (4) \$350,000,000 for fiscal year 2011; and  
10 (5) \$400,000,000 for fiscal year 2012.

11 **SEC. 104. OPERATING LOANS.**

12 Section 313(a)(1) of the Consolidated Farm and  
13 Rural Development Act (7 U.S.C. 1943(a)(1)) is amend-  
14 ed—

15 (1) by inserting “(or, if the borrower is a pro-  
16 ducer of a specialty crop (as defined in section 3 of  
17 the Specialty Crops Competition Act of 2007),  
18 \$500,000)” after “\$200,000”; and

19 (2) by inserting “(or, if the borrower is a pro-  
20 ducer of a specialty crop (as so defined),  
21 \$1,500,000)” after “\$700,000”.

22 **SEC. 105. VALUE-ADDED GRANT PROGRAM.**

23 Section 231(b)(4) of the Agricultural Risk Protection  
24 Act of 2000 (7 U.S.C. 1621 note; Public Law 106–224)  
25 is amended—

## **TITLE II—INTERNATIONAL TRADE**

## 8 SEC. 201. FOREIGN MARKET ACCESS STUDY AND STRATEGY

9 PLAN.

10 (a) DEFINITION OF URUGUAY ROUND AGREEMENTS.—In this section, the term “Uruguay Round  
11 Agreements” includes any agreement described in section  
12 101(d) of the Uruguay Round Agreements Act (19 U.S.C.  
13 3511(d)).

15 (b) STUDY.—The Comptroller General of the United  
16 States shall study—

17 (1) the extent to which United States specialty  
18 crops have or have not benefitted from any reduc-  
19 tions of foreign trade barriers, as provided for in the  
20 Uruguay Round Agreements; and

21 (2) the reasons why United States specialty  
22 crops have or have not benefitted from such trade-  
23 barrier reductions.

24 (c) STRATEGY PLAN.—The Secretary shall prepare  
25 a foreign market access strategy plan based on the study

1 in subsection (b), to increase exports of specialty crops,  
2 including an assessment of the foreign trade barriers that  
3 are incompatible with the Uruguay Round Agreements  
4 and a strategy for removing those barriers.

5 (d) REPORT.—Not later than 1 year after the date  
6 of enactment of this Act—

7 (1) the Comptroller General shall submit to  
8 Congress a report that contains the results of the  
9 study; and

10 (2) the Secretary shall submit to Congress the  
11 strategy plan.

12 **SEC. 202. TECHNICAL ASSISTANCE FOR SPECIALTY CROPS.**

13 Section 3205 of the Farm Security and Rural Invest-  
14 ment Act of 2002 (7 U.S.C. 5680) is amended by striking  
15 subsection (d) and inserting the following:

16 “(d) PETITION.—A participant in the program may  
17 petition the Secretary for an extension of a project carried  
18 out under this section that exceeds, or will exceed, applica-  
19 ble time restrictions.

20 “(e) FUNDING.—

21 “(1) IN GENERAL.—The Secretary shall make  
22 available of funds of, or an equal value of commod-  
23 ities owned by, the Commodity Credit Corporation—

24 “(A) \$4,000,000 for fiscal year 2008;

25 “(B) \$6,000,000 for fiscal year 2009;

1                   “(C) \$8,000,000 for fiscal year 2010; and  
2                   “(D) \$10,000,000 for each of fiscal years  
3                   2011 and 2012.

4                   “(2) CARRYOVER OF UNOBLIGATED FUNDS.—  
5                   In a case in which the total amount of funds or com-  
6                   modities made available under paragraph (1) for a  
7                   fiscal year is not obligated in that fiscal year, the  
8                   Secretary shall make available in the subsequent fis-  
9                   cal year an amount equal to—

10                  “(A) the amount made available for the  
11                  fiscal year under paragraph (1); plus  
12                  “(B) the amount not obligated in the pre-  
13                  vious fiscal year.”.

14 **SEC. 203. PROTECTION OF INTELLECTUAL PROPERTY**  
15                   **RIGHTS IN PLANTS AND PLANT-DERIVED MA-**  
16                   **TERIAL.**

17                  (a) ESTABLISHMENT.—The Secretary shall establish  
18                  an office in the Department for the sole purpose of encour-  
19                  aging the development and protection of intellectual prop-  
20                  erty rights in plants and material derived from plants.

21                  (b) DUTIES.—The office shall be an advocate for the  
22                  interests of United States producers of specialty crops—  
23                  (1) before the Office of Patents, Trademarks,  
24                  and Copyrights of the Department of Commerce and  
25                  other Federal agencies; and

#### 4 SEC. 204. PLANT PATENTS.

5 (a) NOVELTY.—Section 162 of title 35, United States  
6 Code, is amended—

7 (1) by striking the section heading and insert-  
8 ing the following:

## 9 “§ 162. Description, claim, novelty”;

10 (2) in the first undesignated paragraph, by  
11 striking "No plant" and inserting the following:

12        "(a) DESCRIPTION.—No plant";

13 (3) in the second undesignated paragraph, by  
14 striking “The claim” and inserting the following:

15        "(b) CLAIM.—The claim"; and

16 (4) by adding at the end the following:

17        "(c) NOVELTY.—

18       “(1) IN GENERAL.—Except as provided in para-  
19       graph (2), no plant patent application shall be de-  
20        nied, nor shall any issued plant patent be invalidated  
21       for failure to comply with section 102(b).

22               “(2) EXCEPTIONS.—Paragraph (1) shall not  
23               apply if—

24                   “(A) more than 4 years prior to the date  
25                   of the application for patent in the United

1 States (or more than 6 years in the case of a  
2 tree or vine), the plant was—

3 “(i) described in a printed publication  
4 in the United States and a foreign country;  
5 and

6 “(ii) sold or otherwise available for  
7 asexual reproduction to other persons in  
8 the foreign country, by or with the consent  
9 of the inventor or discoverer, or the suc-  
10 cessor in interest of the inventor or discov-  
11 erer; or

12 “(B) more than 1 year prior to the date of  
13 the application for patent in the United States,  
14 the plant was in public use or on sale in the  
15 United States, by or with the consent of the in-  
16 ventor or discoverer, or the successor in interest  
17 of the inventor or discoverer”.

18 (b) RIGHT OF PRIORITY.—Section 119 of title 35,  
19 United States Code, is amended—

20 (1) in subsection (a), by adding before the pe-  
21 riod at the end “(except in the case of plant patents  
22 as provided in subsection (f))”; and

23 (2) by striking subsection (f) and inserting the  
24 following:

25 “(f) PLANT PATENTS.—

1           “(1) IN GENERAL.—An application for plant  
2       breeder’s rights filed in a WTO member country (or  
3       in a foreign UPOV Contracting Party) shall—

4           “(A) have the same effect for right of pri-  
5       ority under subsections (b) and (c) as applica-  
6       tions for patents, subject to the same conditions  
7       as apply to applications for patents; and

8           “(B) subject to paragraph (2), have the  
9       same effect as a plant patent application would  
10      have if filed in the United States on the date  
11      on which the application for the rights of a  
12      plant breeder was filed in the foreign country,  
13      if the application in the United States is filed  
14      not later than 4 years (or 6 years in the case  
15      of a tree or vine) after the application is filed  
16      in the foreign country.

17           “(2) EXCEPTION.—No patent shall be granted  
18      on any application for a plant patent that—

19           “(A) more than 4 years prior to the date  
20      of the application for patent in the United  
21      States (or more than 6 years in the case of a  
22      tree or vine), had been—

23           “(i) described in a printed publication  
24      in the United States and a foreign country;  
25      and

1                             “(ii) sold or otherwise available for  
2                             asexual reproduction to other persons in  
3                             the foreign country, by or with the consent  
4                             of the inventor or discoverer, or the suc-  
5                             cessor in interest of the inventor or discov-  
6                             erer; or

7                             “(B) more than 1 year prior to the date of  
8                             the application for patent in the United States,  
9                             had been in public use or on sale in the United  
10                             States.”.

11                             (c) CONFORMING AMENDMENT.—The table of chap-  
12                             ters for chapter 15 of title 35, United States Code is  
13                             amended by striking the item relating to section 162 and  
14                             inserting the following:

“162. Description, claim, novelty.”.

15                             (d) APPLICATION.—The amendments made by this  
16                             section apply to—

17                             (1) all applications for plant patents filed on or  
18                             after the date of enactment of this Act, or pending  
19                             on that date; and

20                             (2) in the case of the amendments made by  
21                             subsection (a), all plant patents in force on the date  
22                             of enactment of this Act.

23 **SEC. 205. COORDINATION OF TRADE OBJECTIVES.**

24                             The President shall ensure, to the maximum extent  
25                             practicable, that there is—

7 SEC. 206. GRANTS FOR MARKET ANALYSIS OF ANTI-DUMP-  
8 ING AND COUNTERVAILING DUTY CASES.

9 (a) IN GENERAL.—The Secretary may make grants  
10 under this section to a State agency or an association of  
11 specialty crop producers (referred to in this section as an  
12 “eligible entity”) to conduct or procure market analysis  
13 in connection with anti-dumping and countervailing duty  
14 cases involving a specialty crop under consideration by the  
15 United States International Trade Commission or the De-  
16 partment of Commerce.

17 (b) GRANT CRITERIA.—To be eligible for a grant  
18 under this section, an eligible entity shall establish to the  
19 satisfaction of the Secretary that—  
20 (1) there has been significant price underselling  
21 of the imported specialty crop, as compared with the  
22 previous 3-year average price of the domestic spe-  
23 cialty crop; and

4 (c) MATCHING FUNDS.—To be eligible to receive a  
5 grant under this section, an eligible entity that receives  
6 a grant under this section shall contribute non-Federal  
7 funds to carry out the market analysis project for which  
8 the grant is provided in an amount that is at least equal  
9 to the amount of the grant.

10 (d) FUNDING.—For each of fiscal years 2008  
11 through 2012, the Secretary shall use \$10,000,000 of  
12 funds of the Commodity Credit Corporation to make  
13 grants under this section.

## 14      **TITLE III—SPECIALTY CROP**

## 15      **RESEARCH AND GRANTS**

16 SEC. 301. NATIONAL SPECIALTY CROPS DEVELOPMENT INITIATIVE GRANT PROGRAM.

17

18 (a) ESTABLISHMENT.—The Secretary shall establish  
19 a program to award grants to eligible entities to improve  
20 the efficiency and competitiveness of United States spe-  
21 cialty crop producers.

22 (b) ELIGIBLE ENTITIES.—

23 (1) IN GENERAL.—Subject to paragraph (2),  
24 the Secretary shall determine eligibility standards  
25 for grants under this section.

(A) nonprofit United States specialty crop trade organizations and foundations;

(B) nonprofit State and regional specialty crop organizations;

7 (C) Federal agencies;

10 (E) agricultural commodity boards and  
11 commissions; and

(F) research and extension programs of institutions of higher education focusing on the specialty crop industry.

15 (c) USE OF FUNDS.—As a condition of receiving a  
16 grant under this section, an eligible entity shall agree to  
17 use funds from grants for—

18 (1) research that addresses the short-term, in-  
19 termediate, and long-term needs of the United  
20 States specialty crop industry, including production  
21 technology (such as plant breeding, pest and disease  
22 management, production, physiology, food science),  
23 mechanization, marketing, product development,  
24 health and nutrition, food security, and food safety

1 to improve the competitiveness of the United States  
2 specialty crop industry; or

3 (2) development and implementation of industry-specific strategic plans to prioritize research and  
4 develop United States specialty crop industry and  
5 research collaboration.

6 (d) FUNDING.—Of the funds of the Commodity Credit  
7 Corporation, the Secretary shall use to carry out this  
8 section \$200,000,000 for each of fiscal years 2008  
9 through 2012.

10 **SEC. 302. MECHANIZED HARVESTING FOR PRODUCTION**  
11 **AND PROCESSING METHODS.**

12 The Secretary shall authorize the Administrator of  
13 the Agricultural Research Service and the Administrator  
14 of the Cooperative State Research, Education, and Extension  
15 Service to conduct research in the areas of mechanized  
16 harvesting and new production and processing methods  
17 for specialty crops.

18 **TITLE IV—INVASIVE PEST RESPONSE**  
19 **SEARCH AND DISEASE RESPONSE**

20 **SEC. 401. THREAT IDENTIFICATION AND MITIGATION PROGRAM.**

21 (a) ESTABLISHMENT.—The Secretary, acting  
22 through the Administrator of the Animal and Plant

1 Health Inspection Service, shall establish a program to de-  
2 termine and prioritize foreign threats to domestic produc-  
3 tion of specialty crops, including threats of bioterrorism.

4 (b) PROGRAM.—In conducting the program estab-  
5 lished under subsection (a), the Secretary shall—

6 (1) consult with the Director of the Center for  
7 Plant Health Science and Technology;

8 (2) conduct in partnership with States, early  
9 pest detection and surveillance activities associated  
10 with the Cooperative Agricultural Pest Survey;

11 (3) develop risk assessments of the potential  
12 threat to the specialty crop industry in the United  
13 States from foreign threats;

14 (4) collaborate with the National Plant  
15 Board—

16 (A) to prioritize foreign threats to the spe-  
17 cialty crop industry; and

18 (B) in consultation with State departments  
19 of agriculture and other State or regional re-  
20 source partnerships, develop action plans that  
21 effectively address the foreign threats, including  
22 pathway analysis, offshore mitigation measures,  
23 and comprehensive exclusion measures at ports  
24 of entry and other key distribution centers in

1                   addition to strategies to employ if the foreign  
2                   pest or disease is introduced;

3                   (5) implement action plans developed under  
4                   paragraph (4)(B) as soon as the action plans devel-  
5                   oped to test the effectiveness of the action plans and  
6                   help prevent new foreign and domestic pest and dis-  
7                   ease threats from being introduced or widely dis-  
8                   seminated in the United States;

9                   (6) as appropriate, consult with the Adminis-  
10                   trator of the Agricultural Research Service and use  
11                   the expertise of the Agricultural Research Service in  
12                   the development of pest and disease detection and  
13                   control or eradication strategies; and

14                   (7) after prioritizing foreign threats and devel-  
15                   oping action plans under paragraph (4), consult with  
16                   the United States Trade Representative to ensure  
17                   that future trade agreements include measures to  
18                   mitigate the threats.

19                   (c) REPORTS.—Not later than 1 year after the date  
20                   of the enactment of this Act, and annually thereafter, the  
21                   Secretary shall update and submit to Congress the priority  
22                   list and action plans described in subsection (b)(4), includ-  
23                   ing an accounting of funds expended on the action plans.

24                   (d) FUNDING.—

9 SEC. 402. EMERGENCY CONTROL, PREVENTION, AND  
10 ERADICATION PROGRAMS.

11 (a) EXTRAORDINARY EMERGENCY.—Section 415 of  
12 the Plant Protection Act (7 U.S.C. 7715) is amended by  
13 striking subsection (e) and inserting the following:

14        "(e) SECRETARIAL DISCRETION.—The decision to  
15 declare an extraordinary emergency under subsection (a)  
16 shall—

17               “(1) be solely the decision of the Secretary; and  
18               “(2) remain in effect until the Secretary deter-  
19               mines that the threat posed by the plant pest or  
20               noxious weed has abated.”.

21 (b) COMPENSATION.—Section 416 of the Plant Pro-  
22 tection Act (7 U.S.C. 7716) is amended to read as follows:

23 "SEC. 416. COMPENSATION.

24        "(a) IN GENERAL—

1           “(1) GENERAL RULE.—Except as provided in  
2 subsection (c), the Secretary shall compensate the  
3 owner of any plant, plant biological control organ-  
4 ism, plant product, plant pest, noxious weed, arti-  
5 cle, or means of conveyance destroyed or otherwise  
6 disposed of by the Secretary under section 414 or  
7 415.

8           “(2) DISTRIBUTION RESTRICTIONS.—If any  
9 plant or article is located in a quarantine area and  
10 is restricted by the quarantine from being moved or  
11 distributed outside of the quarantine area, and the  
12 plant or article is inspected by the Secretary and de-  
13 termined not to be infested with or capable of trans-  
14 mitting any disease or pest, the owner of the plant  
15 or article shall be eligible for compensation from the  
16 Secretary for loss in market value attributable to the  
17 regulatory restrictions in the distribution of the  
18 plant or article.

19           “(b) AMOUNT.—

20           “(1) IN GENERAL.—Subject to paragraphs (2)  
21 and (3), the compensation under subsection (a) shall  
22 be based on the fair market value, as determined by  
23 the Secretary, of the destroyed plant, plant biological  
24 control organism, plant product, plant pest, noxious  
25 weed, article, or means of conveyance.

1           “(2) LIMITATION.—Compensation paid any  
2        owner under this section shall not exceed the dif-  
3        ference between—

4           “(A) the fair market value of the destroyed  
5        plant, plant biological control organism, plant  
6        product, plant pest, noxious weed, article, or  
7        means of conveyance; and

8           “(B) any compensation received by the  
9        owner from a State or other source for the de-  
10       stroyed plant, plant biological control organism,  
11        plant product, plant pest, noxious weed, article,  
12        or means of conveyance.

13           “(3) REVIEWABILITY.—A determination by the  
14        Secretary of the amount paid under this section  
15        shall be final and not subject to—

16           “(A) judicial review; or

17           “(B) review of longer than 60 days by any  
18        officer or employee of the Federal Government  
19        other than the Secretary or the designee of the  
20        Secretary.

21           “(c) EXCEPTIONS.—No payment shall be made by  
22        the Secretary under this section for—

23           “(1) any plant, plant biological control orga-  
24        nism, plant product, plant pest, noxious weed, arti-  
25        cle, or means of conveyance that has been moved or

1       handled by the owner in violation of this title or an  
2       agreement for the control and eradication of diseases  
3       or pests;

4           “(2) any plant, plant biological control organ-  
5       ism, plant product, plant pest, noxious weed, arti-  
6       cle, or means of conveyance that is refused entry  
7       under this title; or

8           “(3) any plant, plant biological control organ-  
9       ism, plant product, plant pest, noxious weed, arti-  
10       cle, or means of conveyance that becomes or has be-  
11       come affected with or exposed to any pest or disease  
12       because of a violation of this title or an agreement  
13       for the control and eradication of diseases or pests  
14       by the owner.”.

15       (c) TRANSFER AUTHORITY.—Section 442 of the  
16 Plant Protection Act (7 U.S.C. 7772) is amended by strik-  
17 ing subsection (c) and inserting the following:

18           “(c) SECRETARIAL DISCRETION.—

19           “(1) DECLARATION OF EMERGENCY.—The deci-  
20       sion to declare an emergency in connection with a  
21       plant pest or noxious weed that threatens any part  
22       of the agricultural production of the United States  
23       shall—

24           “(A) be solely the decision of the Sec-  
25       retary; and

1                         “(B) remain in effect until the Secretary  
2                         determines that the threat posed by the plant  
3                         pest or noxious weed has abated.

4                         “(2) FUNDS.—

5                         “(A) IN GENERAL.—The decision of the  
6                         Secretary to transfer funds pursuant to this  
7                         section shall be—

8                         “(i) based solely on the threat to agri-  
9                         cultural production in the United States;  
10                         and

11                         “(ii) except as provided in subparagraph (B), final.

13                         “(B) PROHIBITIONS.—Notwithstanding  
14                         any other provision of law, it shall be unlawful  
15                         for any officer or employee of the Federal Gov-  
16                         ernment other than the Secretary or the des-  
17                         ignee of the Secretary to contradict, impede, or  
18                         reverse the transfer of funds the Secretary con-  
19                         siders necessary for the arrest, control, eradi-  
20                         cation, or prevention of the spread of a plant  
21                         pest or noxious weed and for related expenses.

22                         “(d) APPLIED RESEARCH.—

23                         “(1) IN GENERAL.—The Secretary shall use  
24                         such funds of the Commodity Credit Corporation as  
25                         the Secretary considers necessary to carry out ap-

1 plied research to resolve issues that may arise during  
2 a plant pest emergency, including research to de-  
3 velop new or improved—

4           “(A) diagnostic methods;  
5           “(B) biocontrol tools;  
6           “(C) eradication or control tools; or  
7           “(D) such other programs and activities as  
8           the Secretary determines advance the effort to  
9           arrest, control, eradicate, or prevent the spread  
10           of a plant pest or noxious weed.

11           “(2) COOPERATIVE AGREEMENTS.—If feasible,  
12           the Secretary may enter into a cooperative agree-  
13           ment with an affected State—

14           “(A) to assist in the applied research, pre-  
15           vention, eradication, or control programs; and  
16           “(B) if cost-effective, to use State per-  
17           sonnel to carry out the programs.

18           “(3) NO COST SHARE.—The Secretary may not  
19           delay implementation of programs described in this  
20           subsection due to the inability of a State or coop-  
21           erator to provide a cost-share to carry out the pro-  
22           gram.”.

1   **SEC. 403. RESTORATION OF IMPORT AND ENTRY AGRICUL-**  
2                   **TURAL INSPECTION FUNCTIONS TO THE DE-**  
3                   **PARTMENT OF AGRICULTURE.**

4       (a) REPEAL OF TRANSFER OF FUNCTIONS.—Section  
5    421 of the Homeland Security Act of 2002 (6 U.S.C. 231)  
6    is repealed.

7       (b) CONFORMING AMENDMENT TO FUNCTION OF  
8    SECRETARY OF HOMELAND SECURITY.—Section 402 of  
9    the Homeland Security Act of 2002 (6 U.S.C. 202) is  
10   amended—

11               (1) by striking paragraph (7); and  
12               (2) by redesignating paragraph (8) as para-  
13               graph (7).

14       (c) TRANSFER AGREEMENT.—

15               (1) IN GENERAL.—Not later than the effective  
16    date described in subsection (g), the Secretary and  
17    the Secretary of Homeland Security shall enter into  
18    an agreement to effectuate the return of functions  
19    required by the amendments made by this section.

20               (2) USE OF CERTAIN EMPLOYEES.—The agree-  
21    ment may include authority for the Secretary to use  
22    employees of the Department of Homeland Security  
23    to carry out authorities delegated to the Animal and  
24    Plant Health Inspection Service regarding the pro-  
25    tection of domestic livestock and plants.

1       (d) RESTORATION OF DEPARTMENT EMPLOYEES.—  
2 Not later than the effective date described in subsection  
3 (e), not less than 2,600 full-time equivalent positions of  
4 the Department of Agriculture transferred to the Depart-  
5 ment of Homeland Security under section 421(g) of the  
6 Homeland Security Act of 2002 (6 U.S.C. 231(g)) (as in  
7 effect on the day before the effective date described in sub-  
8 section (g)) shall be restored to the Department of Agri-  
9 culture.

10       (e) AUTHORITY OF APHIS.—

11           (1) ESTABLISHMENT OF PROGRAM.—The Sec-  
12 retary shall establish within the Animal and Plant  
13 Health Inspection Service a program, to be known  
14 as the “International Agricultural Inspection Pro-  
15 gram”, under which the Administrator of the Animal  
16 and Plant Health Inspection Service (referred to in  
17 this subsection as the “Administrator”) shall carry  
18 out import and entry agricultural inspections.

19           (2) INFORMATION GATHERING AND INSPEC-  
20 TIONS.—In carrying out the program under para-  
21 graph (1), the Administrator shall have full access  
22 to—

23               (A) each secure area of any terminal for  
24 screening passengers or cargo under the control  
25 of the Department of Homeland Security on the

1           day before the date of enactment of this Act for  
2           purposes of carrying out inspections and gath-  
3           ering information; and

4                   (B) each database (including any database  
5                   relating to cargo manifests or employee and  
6                   business records) under the control of the De-  
7                   partment of Homeland Security on the day be-  
8                   fore the date of enactment of this Act for pur-  
9                   poses of gathering information.

10                  (3) INSPECTION ALERTS.—The Administrator  
11                  may issue inspection alerts, including by indicating  
12                  cargo to be held for immediate inspection.

13                  (4) INSPECTION USER FEES.—The Adminis-  
14                  trator may, as applicable—

15                   (A) continue to collect any agricultural  
16                   quarantine inspection user fee; and  
17                   (B) administer any reserve account for the  
18                   fees.

19                  (5) CAREER TRACK PROGRAM.—

20                   (A) IN GENERAL.—The Administrator  
21                  shall establish a program, to be known as the  
22                  “import and entry agriculture inspector career  
23                  track program”, to support the development of  
24                  long-term career professionals with expertise in  
25                  import and entry agriculture inspection.

5 (i) develop a strategic plan to incor-  
6 porate import and entry agricultural in-  
7 spectors into the infrastructure protecting  
8 food, fiber, forests, bioenergy, and the en-  
9 vironment of the United States from ani-  
10 mal and plant pests, diseases, and noxious  
11 weeds; and

12 (ii) as part of the plan under clause  
13 (i), provide training for import and entry  
14 agricultural inspectors participating in the  
15 program not less frequently than once each  
16 year to improve inspection skills.

17 (f) DUTIES OF SECRETARY.—

18 (1) IN GENERAL.—The Secretary shall—

19 (A) develop standard operating procedures  
20 for inspection, monitoring, and auditing relating  
21 to import and entry agricultural inspections, in  
22 accordance with recommendations from the  
23 Comptroller General of the United States and  
24 reports of interagency advisory groups, as appli-  
25 cable; and

6 (2) FEDERAL AND STATE COOPERATION.—

14 (B) ADVISORY COMMITTEE.—

15 (i) ESTABLISHMENT.—The Secretary  
16 shall establish a committee, to be known as  
17 the “International Trade Inspection Advi-  
18 sory Committee” (referred to in this sub-  
19 paragraph as the “committee”), to advise  
20 the Secretary on policies and other issues  
21 relating to import and entry agricultural  
22 inspection.

23 (ii) MODEL.—In establishing the com-  
24 mittee, the Secretary shall use as a model

1 the Agricultural Trade Advisory Com-  
2 mittee.

3 (iii) MEMBERSHIP.—The committee  
4 shall be composed of members rep-  
5 resenting—

6 (I) State departments of agri-  
7 culture;

8 (II) directors of ports and air-  
9 ports in the United States;

### 10 (III) the transportation industry;

11 (IV) the public; and

12 (V) such other entities as the  
13 Secretary determines to be appro-  
14 priate.

18 (A) the resource needs for import and  
19 entry agricultural inspection, including the  
20 number of inspectors required;

21 (B) the adequacy of—

22 (i) inspection and monitoring proce-  
23 dures and facilities in the United States;  
24 and

1 (ii) the strategic plan developed under  
2 subsection (e)(5)(B)(i); and

3 (C) new and potential technologies and  
4 practices, including recommendations regarding  
5 the technologies and practices, to improve im-  
6 port and entry agricultural inspection.

14 (B) if amounts described in subparagraph  
15 (A) are unavailable, from amounts of the Com-  
16 modity Credit Corporation.

17 (g) EFFECTIVE DATE.—The amendments made by  
18 this section take effect on the date that is 180 days after  
19 the date of enactment of this Act.

20 SEC. 404. CONSULTATIONS ON SANITARY AND  
21 PHYTOSANITARY RESTRICTIONS FOR FRUITS  
22 AND VEGETABLES.

23 (a) CONSULTATIONS ON SANITARY AND  
24 PHYTOSANITARY RESTRICTIONS FOR FRUITS AND VEGE-  
25 TABLES.—To the maximum extent practicable, the Sec-

1     retary shall consult with interested persons, and conduct  
2     annual briefings, on sanitary and phytosanitary trade  
3     issues, including—

4                 (1) the development of a strategic risk manage-  
5     ment framework; and  
6                 (2) as appropriate, implementation of peer re-  
7     view for risk analysis.

8                 (b) SPECIAL CONSULTATIONS ON IMPORT-SENSITIVE  
9     PRODUCTS.—Section 2104(b)(2)(A)(ii)(II) of the Bipar-  
10   tisan Trade Promotion Authority Act of 2002 (19 U.S.C.  
11   3804(b)(2)(A)(ii)(II)) is amended—

12                 (1) by striking “whether the products so identi-  
13     fied” and inserting “whether—  
14                             “(aa) the products so identi-  
15     fied; and”; and

16                 (2) by adding at the end the following:  
17                             “(bb) any fruits or vegeta-  
18     bles so identified are subject to  
19     or likely to be subject to unjusti-  
20     fied sanitary or phytosanitary re-  
21     strictions, including restrictions  
22     not based on scientific principles  
23     in contravention of the Uruguay  
24     Round Agreements, as deter-  
25     mined by the United States

5 (c) EFFECTIVE DATE.—The amendments made by  
6 subsection (b) apply with respect to the initiation of nego-  
7 tiations to enter into any trade agreement that is subject  
8 to section 2103(b) of the Bipartisan Trade Promotion Au-  
9 thority Act of 2002 (19 U.S.C. 3803(b)) on or after the  
10 date of the enactment of this Act.

## 11 SEC. 405. CLEAN PLANT NETWORK.

12 (a) IN GENERAL.—The Secretary shall establish a  
13 program to be known as the “National Clean Plant Net-  
14 work” (referred to in this section as the “Program”).

15 (b) REQUIREMENTS.—Under the Program, the Sec-  
16 retary shall establish a network of clean plant centers for  
17 diagnostic and pathogen elimination services to—

18 (1) produce clean propagative plant material;  
19 and

20 (2) maintain blocks of pathogen-tested plant  
21 material in sites located throughout the United  
22 States

23 (c) AVAILABILITY OF CLEAN PLANT SOURCE MATE-  
24 RIAL.—Clean plant source material may be made available  
25 to—

3 (2) private nurseries and growers.

4 (d) CONSULTATION AND COLLABORATION.—In car-  
5 rying out the Program, the Secretary shall—

12 (e) FUNDING.—The Secretary shall use \$5,000,000  
13 each year of funds of the Commodity Credit Corporation  
14 to carry out the Program.

15 **TITLE V—PERMANENT DIS-**  
16 **ASTER RELIEF AUTHORITY**  
17 **FOR SPECIALTY CROPS**

18 SEC. 501. PERMANENT AUTHORITY TO PROVIDE EMER-  
19 GENCY AGRICULTURAL ASSISTANCE FOR  
20 SPECIALTY CROPS.

21 The Specialty Crops Competitiveness Act of 2004  
22 (Public Law 108-465; 118 Stat. 3882) is amended by  
23 adding at the end the following:

1                   **“TITLE V—PERMANENT**  
2                   **DISASTER RELIEF AUTHORITY**

3   **“SEC. 501. PERMANENT AUTHORITY TO PROVIDE EMER-**  
4                   **GENCY AGRICULTURAL ASSISTANCE FOR**  
5                   **SPECIALTY CROPS.**

6   “(a) DEFINITIONS.—In this section:

7                   “(1) FEDERALLY DECLARED DISASTER AREA.—

8   The term ‘federally declared disaster area’ means—

9                   “(A) a county covered by—

10                   “(i) a Presidential declaration of  
11                   major disaster issued under section 401 of  
12                   the Robert T. Stafford Disaster Relief and  
13                   Emergency Assistance Act (42 U.S.C.  
14                   5170); or

15                   “(ii) a declaration by the Secretary of  
16                   a disaster area under subpart A of part  
17                   1945 of title 7, Code of Federal Regula-  
18                   tions (or successor regulations); and

19                   “(B) each county contiguous to a county  
20                   described in subparagraph (A).

21                   “(2) FIRST HANDLER.—The term ‘first han-  
22                   dler’ means a person that prepares for marketing  
23                   and markets specialty crops produced by the person.

24                   “(3) SECRETARY.—The term ‘Secretary’ means  
25                   the Secretary of Agriculture.

1        “(b) EQUITABLE TREATMENT OF SPECIALTY CROP  
2 PRODUCERS IN DISTRIBUTION OF DISASTER ASSIST-  
3 ANCE.—Subject to subsection (c), in providing disaster as-  
4 sistance to specialty crop producers that have suffered  
5 losses due to natural disasters, the Secretary shall ensure,  
6 to the maximum extent practicable, that—

7            “(1) specialty crop producers crops receive as-  
8 sistance through programs that are designed to meet  
9 the specific needs of the specialty crop producers  
10 and reflect the production practices of the specialty  
11 crop producers; and

12            “(2) eligibility for assistance and the provision  
13 of assistance shall be without regard to eligibility for  
14 or provision of assistance under other programs of  
15 the Department of Agriculture, including—

16            “(A) direct payments under section 1103  
17 or 1303 of the Farm Security and Rural Invest-  
18 ment Act of 2002 (7 U.S.C. 7913, 7953);

19            “(B) crop insurance under the Federal  
20 Crop Insurance Act (7 U.S.C. 1501 et seq.);  
21 and

22            “(C) the noninsured crop assistance pro-  
23 gram under section 196 of the Federal Agri-  
24 culture Improvement and Reform Act of 1996  
25 (7 U.S.C. 7333).

## 1       “(c) SPECIALTY CROP DISASTER ASSISTANCE.—

2           “(1) AUTHORITY TO PROVIDE EMERGENCY AS-  
3           SISTANCE.—The Secretary shall use the funds of the  
4           Commodity Credit Corporation to make emergency  
5           financial assistance available to producers on a farm  
6           that incur qualifying crop losses for a specialty crop  
7           due to damaging weather or related condition, as de-  
8           termined by the Secretary, that results in the des-  
9           ignation of the county in which the farm is located  
10           as a federally declared disaster area.11           “(2) ADMINISTRATION.—In administering any  
12           disaster assistance program for specialty crops, the  
13           Secretary shall, to the maximum extent practicable,  
14           ensure that quality loss determinations adequately  
15           address losses that result from the inability of pro-  
16           ducers on a farm to market the specialty crop for  
17           the originally intended use in order to ensure that  
18           the producers on a farm are adequately compensated  
19           for the difference in values based upon actual, rather  
20           than intended, market use.21           “(3) FLEXIBLE PAYMENT LIMITATIONS FOR  
22           DISASTER PAYMENTS.—23           “(A) FLEXIBLE PAYMENT LIMITATIONS.—  
24           In lieu of using a single, specific dollar amount  
25           limitation on the total amount of disaster as-

6                     “(B) USE OF DATA.—In developing pay-  
7                     ment limitations under subparagraph (A), the  
8                     Secretary may use the most relevant undated  
9                     data relating to cost of production and crop  
10                    value that is maintained by any federally-fund-  
11                    ed institution, including an agency of the De-  
12                    partment of Agriculture or a college or univer-  
13                    sity eligible to receive funds under the Act of  
14                    July 2, 1862 (7 U.S.C. 301 et seq.), in the  
15                    State or region in which the disaster occurred.

16                             “(C) APPLICABILITY.—The flexible pay-  
17                             ment limitations required by subparagraph (A)  
18                             shall apply to any natural disaster occurring on  
19                             or after the date of the enactment of this sec-  
20                             tion for which disaster assistance is provided by  
21                             the Secretary under this section or any other  
22                             provision of law to producers on a farm for a  
23                             specialty crop.

24                   “(4) ADJUSTED GROSS INCOME LIMITATIONS  
25                   ON RECEIPT OF DISASTER ASSISTANCE BY FIRST

1       HANDLERS OF SPECIALTY CROPS.—In applying any  
2       gross income limitations to a first handler of a spe-  
3       cialty crop, the Secretary shall treat income derived  
4       by the first handler from the initial preparation of  
5       the specialty crop for marketing, and the marketing  
6       of the specialty crop, as income derived from a farm-  
7       ing operation.

8       “(d) AUTHORIZATION OF APPROPRIATIONS.—There  
9       is authorized to be appropriated such amounts as are nec-  
10      essary to reimburse the Commodity Credit Corporation for  
11      funds expended by the Secretary under this section.

12       “(e) EFFECTIVE DATE.—This section applies to the  
13      2007 and subsequent crop years.”.

14 **SEC. 502. TREE ASSISTANCE PROGRAM.**

15       (a) INCLUSION OF NURSERY TREE GROWERS.—

16           (1) DEFINITION OF NURSERY TREE GROWER.—  
17       Section 10201 of the Farm Security and Rural In-  
18       vestment Act of 2002 (7 U.S.C. 8201) is amended—

19               (A) by redesignating paragraphs (3) and  
20               (4) as paragraphs (4) and (5), respectively; and

21               (B) by inserting after paragraph (2) the  
22       following:

23       “(3) NURSERY TREE GROWER.—The term  
24       ‘nursery tree grower’ means a person that produces

1       nursery, ornamental, fruit, nut, or Christmas trees  
2       for commercial sale.”.

3                   (2) ELIGIBILITY.—Section 10202 of the Farm  
4       Security and Rural Investment Act of 2002 (7  
5       U.S.C. 8202) is amended—

6                   (A) in subsection (a), by inserting “and  
7       nursery tree growers” after “eligible orchard-  
8       ists”; and

9                   (B) in subsection (b), by inserting “or  
10      nursery tree grower” after “eligible orchardist”  
11      each place it appears.

12                  (3) ASSISTANCE.—Section 10203 of the Farm  
13       Security and Rural Investment Act of 2002 (7  
14       U.S.C. 8203) is amended by inserting “and nursery  
15       tree growers” after “eligible orchardists”.

16                  (b) INCREASE IN AUTHORIZED AMOUNT OF ASSIST-  
17       ANCE.—Section 10204(a) of the Farm Security and Rural  
18       Investment Act of 2002 (7 U.S.C. 8204(a)) is amended  
19       by striking “\$75,000” and inserting “\$150,000 per year”.

20                  (c) APPLICABILITY.—The amendments made by this  
21       section shall apply with respect to any natural disaster oc-  
22       curring after the date of the enactment of this Act for  
23       which assistance is provided by the Secretary under the  
24       tree assistance program.

## 1                   **TITLE VI—NUTRITION**

### 2    **SEC. 601. INCREASED PURCHASES OF FRUITS AND VEGETA- 3                    BLES.**

4                   Section 10603 of the Farm Security and Rural In-  
5                   vestment Act of 2002 (7 U.S.C. 612c-4) is amended—

6                   (1) in subsection (a)—

7                   (A) by striking “Of the funds” and insert-  
8                   ing the following:

9                   “(1) IN GENERAL.—Of the funds”;

10                   (B) in paragraph (1) (as designated by  
11                   paragraph (1)), by striking “shall use not” and  
12                   inserting “shall use, in addition to an amount  
13                   equal to the amount used for fiscal year 2001,  
14                   not”; and

15                   (C) by adding at the end the following:

16                   “(2) NO EFFECT ON OTHER PURCHASES.—The  
17                   purchase of additional fruits, vegetables, and other  
18                   specialty food crops under paragraph (1) shall not  
19                   decrease, displace, or otherwise affect any purchase  
20                   by the Secretary.

21                   “(3) SURPLUS REMOVAL WAIVER.—Notwith-  
22                   standing any other provision of law, the Secretary  
23                   may waive the application of any provision of section  
24                   32 of the Act of August 24, 1935 (7 U.S.C. 612c),  
25                   in order to comply with this subsection.”; and

1 (2) by striking subsection (b) and inserting the  
2 following:

3       “(b) EXPANSION OF DoD FRESH FRUIT AND VEGE-  
4 TABLE DISTRIBUTION PROGRAM.—Of the funds set aside  
5 under subsection (a)(1), the Secretary shall use to pur-  
6 chase fresh fruits and vegetables for distribution to schools  
7 and service institutions in accordance with section 6(a) of  
8 the Richard B. Russell National School Lunch Act (42  
9 U.S.C. 1755(a)), not less than—

10                   “(1) \$50,000,000 for fiscal year 2008;

11               “(2) \$70,000,000 for the period of fiscal years  
12               2009 through 2010;

13                   “(3) \$100,000,000 for fiscal year 2011; and

14                   “(4) \$125,000,000 for fiscal year 2012.”.

15 SEC. 602. EXPANSION OF FRESH FRUIT AND VEGETABLE  
16 PROGRAM.

17 Section 18(g) of the Richard B. Russell National  
18 School Lunch (42 U.S.C. 1769(g)) is amended—

19 (1) in paragraph (1)—

20 (A) by redesignating subparagraphs (A),  
21 (B), and (C) as clauses (i), (ii), and (iii), re-  
22 spectively, and indenting appropriately;

(B) by striking “(1)” and all that follows through “each subsequent school year,” and inserting the following:

1           “(1) PROGRAM.—

2           “(A) INITIAL PROGRAM.—For the school  
3           year beginning July 2007 and each subsequent  
4           school year through the school year beginning  
5           July 2009,”;

6           (C) by striking clauses (i) and (ii) (as re-  
7           designed by subparagraph (A)) and inserting  
8           the following:

9           “(i) 25 elementary or secondary  
10           schools in each State; and”;

11           (D) by adding at the end the following:

12           “(B) EXPANSION.—

13           “(i) IN GENERAL.—For the school  
14           year beginning July 2010 and each subse-  
15           quent school year, the Secretary shall ex-  
16           pand the program described in subpara-  
17           graph (A)(i) to make free fresh fruit and  
18           vegetables available to the maximum num-  
19           ber of elementary and secondary schools  
20           possible, if the Secretary determines that,  
21           as compared to the preceding fiscal year,  
22           there is no decrease in—

23           “(I) the total number of children  
24           served by the program; or

1                             “(II) the nutritional value of the  
2                             meals served accordance with the pro-  
3                             gram.

4                             “(ii) INDIAN RESERVATIONS.—For  
5                             the school year beginning July 2010 and  
6                             each subsequent school year, the Secretary  
7                             shall carry out the program described in  
8                             subparagraph (A)(ii) on an additional 12  
9                             Indian reservations, chosen by the Sec-  
10                             retary on a competitive basis.”;

11                             (2) in paragraph (3)(A), by striking “paragraph  
12                             (1)(B)” and inserting “paragraph (1)”;

13                             (3) in paragraph (5), by striking “2008” each  
14                             place it appears and inserting “2011”;

15                             (4) in paragraph (6)—

16                             (A) by striking subparagraph (B);

17                             (B) by redesignating subparagraphs (C)  
18                             and (D) as subparagraphs (B) and (C), respec-  
19                             tively; and

20                             (C) in subparagraph (B) (as redesignated  
21                             by subparagraph (B)), by striking “subpara-  
22                             graphs (A) and (B)” and inserting “subpara-  
23                             graph (A) and paragraph (7)”;

24                             (5) by adding at the end the following:

25                             “(7) MANDATORY FUNDS.—

1                     “(A) IN GENERAL.—On October 1, 2007,  
2                     and on each October 1 thereafter through Octo-  
3                     ber 1, 2009, out of any funds in the Treasury  
4                     not otherwise appropriated, the Secretary of the  
5                     Treasury shall transfer to the Secretary to  
6                     carry out this subsection \$50,000,000, to re-  
7                     main available until expended.

8                     “(B) SUBSEQUENT FUNDING.—

9                     “(i) IN GENERAL.—Subject to clause  
10                     (ii), on October 1, 2010 and October 1,  
11                     2011, out of any funds in the Treasury not  
12                     otherwise appropriated, the Secretary of  
13                     the Treasury shall transfer to the Sec-  
14                     retary to carry out this subsection  
15                     \$100,000,000, to remain available until ex-  
16                     pended.

17                     “(ii) ALLOCATION.—Except as pro-  
18                     vided in clause (iii), in carrying out the  
19                     program under this subsection for each of  
20                     fiscal years 2011 and 2012, the Secretary  
21                     shall allocate amounts made available pur-  
22                     suant to clause (i) to eligible programs in  
23                     each State based on the ratio that—

24                     “(I) the number of students in  
25                     the State that receive free or reduced

1 price school lunches under this Act;  
2 bears to

19                   “(C) RECEIPT AND ACCEPTANCE.—The  
20                   Secretary shall be entitled to receive, shall ac-  
21                   cept, and shall use to carry out this section the  
22                   funds transferred under subparagraphs (A) and  
23                   (B)(i), without further appropriation.

1 year, the Secretary may reserve not more than  
2 1 percent of the amounts made available to  
3 carry out this subsection to use for administra-  
4 tive expenses in carrying out this subsection.

5 “(E) STATE ADMINISTRATIVE COSTS.—

6 “(i) IN GENERAL.—Subject to clause  
7 (ii), for fiscal year 2008 and each suc-  
8 ceeding fiscal year, a State may use not  
9 more than 5 percent of the amount re-  
10 ceived by a State to carry out this sub-  
11 section for administrative expenses in car-  
12 rying out this subsection.

13 “(ii) PLAN.—To be eligible to use  
14 funds in accordance with clause (i), a State  
15 shall submit to the Secretary, and obtain  
16 approval of the Secretary for, a plan that  
17 describes how the State intends to use the  
18 funds.

19 “(F) FEDERAL REQUIREMENTS.—Not  
20 later than 1 year after the date of enactment of  
21 this paragraph, the Secretary shall establish re-  
22 quirements to be followed by States in admin-  
23 istering this subsection.”.

1 **SEC. 603. FOOD STAMP NUTRITION EDUCATION.**

2 (a) DEFINITION OF FOOD STAMP NUTRITION EDUCATION.—Section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012) is amended by adding at the end the following:

6 “(v) FOOD STAMP NUTRITION EDUCATION.—The term ‘food stamp nutrition education’ means direct education, group activities, community health promotion, and comprehensive public health approaches (including social marketing, mass media, public-private partnerships, policy, systems and environmental changes, and evaluation) that—

13 “(1) promote healthy eating;

14 “(2) make healthy food and physical activity choices more desired, affordable, and accessible;

16 “(3) are designed to reach large numbers of low-income individuals; and

18 “(4) support behavior change consistent with the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341), including promotion of a diet rich in fruits and vegetables, whole grains, and low-fat milk products.”.

25 (b) ADMINISTRATION.—Section 11(e)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(1)(A)) is

1 amended by inserting “, and provide food stamp nutrition  
2 education” after “program”.

3 **SEC. 604. FOOD STAMP FRUIT AND VEGETABLE ELEC-**  
4 **TRONIC BENEFIT TRANSFER PILOT PROJECT.**

5 (a) PILOT PROJECT.—The Secretary shall establish  
6 and carry out a pilot project to provide to each participant  
7 in the food stamp program established under the Food  
8 Stamp Act of 1977 (7 U.S.C. 2011 et seq.) who receives  
9 benefits in the form of an electronic benefit transfer finan-  
10 cial incentives for each dollar of the benefits expended by  
11 the participant to facilitate the purchase of fresh fruits  
12 and vegetables.

13 (b) AUTHORIZATION OF APPROPRIATIONS.—There is  
14 authorized to be appropriated \$10,000,000 for each of fis-  
15 cal years 2008 through 2012 to carry out this section.

16 **SEC. 605. NUTRITIONAL EDUCATION PROGRAM REVIEW**  
17 **COMMITTEE.**

18 (a) ESTABLISHMENT.—The Secretary, in coordina-  
19 tion with the Secretary of Health and Human Services  
20 and the Secretary of Education, shall establish a com-  
21 mittee to be known as the “Nutritional Education Pro-  
22 gram Review Committee” (referred to in this section as  
23 the “Committee”).

24 (b) MEMBERSHIP.—The Secretary, in coordination  
25 with the Secretary of Health and Human Services and the

1 Secretary of Education, shall appoint to the Committee  
2 such members as the Secretary determines to be appro-  
3 priate.

4 (c) DUTIES.—

5 (1) IN GENERAL.—Not later than 1 year after  
6 the date on which the Committee is established, the  
7 Committee shall establish and maintain a catalogue  
8 of federally-funded nutritional education programs.

9 (2) REPORT.—Not later than 2 years after the  
10 date on which the Committee is established, the  
11 Committee shall prepare and submit to Congress a  
12 report describing methods of—

13 (A) evaluating the effectiveness of Federal  
14 efforts to inform schools and other interested  
15 parties of federally-funded nutritional education  
16 programs;

17 (B) improving the programs described in  
18 subparagraph (A); and

19 (C) making Federal funds more widely  
20 available to—

21 (i) schools;

22 (ii) programs that satisfy applicable  
23 local wellness policy requirements under  
24 section 204 of the Child Nutrition and

1 WIC Reauthorization Act of 2004 (42  
2 U.S.C. 1751 note; 118 Stat. 780);  
3 (iii) day care centers; and  
4 (iv) other eligible entities.

5 SEC. 606. SENSE OF THE SENATE ON FEDERAL NUTRITION  
6 PROGRAMS.

7 It is the sense of the Senate that—

11 (2) all Federal nutrition programs should—

12 (A) follow the latest nutritional science;  
13 and

14 (B) be sensitive to the diverse cultures of  
15 the people served by the programs.

16 **TITLE VII—MISCELLANEOUS**

17 SEC. 701. ELIMINATION OF LIMITATION ON ADJUSTED  
18 GROSS INCOME FROM ELIGIBILITY REQUIRE-  
19 MENTS FOR ENVIRONMENTAL QUALITY IN-  
20 CENTIVES PROGRAM.

21       Section 1001D(b)(2)(C) of the Food Security Act of  
22 1985 (7 U.S.C. 1308–3a(b)(2)(C)) is amended by insert-  
23 ing “(other than the program under chapter 4 of subtitle  
24 D of that title)” after “of this Act”.

1 **SEC. 702. TECHNICAL ASSISTANCE UNDER CONSERVATION**2 **PROGRAMS.**3 (a) USE OF THIRD-PARTY PROVIDERS.—Section  
4 1242 of the Food Security Act of 1985 (16 U.S.C. 3842)  
5 is amended—6 (1) in subsection (a), by striking paragraph (2)  
7 and inserting the following:8 “(2) at the option of the producer, through an  
9 approved third party, if available.”; and

10 (2) in subsection (b)—

11 (A) by striking paragraph (1) and insert-  
12 ing the following:13 (1) SYSTEM FOR EVALUATION OF PRO-  
14 VIDERS.—The Secretary shall establish, by regula-  
15 tion, a system for approving individuals and entities  
16 to provide technical assistance to carry out programs  
17 under this title, including criteria for the evaluation  
18 of providers or potential providers of technical as-  
19 sistance.”;20 (B) by striking paragraph (3) and insert-  
21 ing the following:22 (3) COMPETITIVE BIDDING.—The Secretary  
23 may accept bids from approved third parties to pro-  
24 vide technical assistance to producers eligible for the  
25 assistance.”; and

(C) in paragraph (4), by striking “may request” and inserting “shall request, to the maximum extent practicable.”.

4 (b) COOPERATIVE CONSERVATION EDUCATIONAL AS-  
5 SISTANCE PROGRAM.—Section 1242 of the Food Security  
6 Act of 1985 (16 U.S.C. 3842) is amended by adding at  
7 the end the following:

8        "(c) COOPERATIVE CONSERVATION EDUCATIONAL  
9 ASSISTANCE PROGRAM.—Not later than 180 days after  
10 the date of enactment of this subsection, the Secretary  
11 shall promulgate a final rule to establish a cooperative  
12 conservation educational assistance program under which  
13 a student at an institution of higher education, in a field  
14 of study such as agronomy, conservation biology, engineer-  
15 ing, or other subject relevant to the provision of technical  
16 assistance under this section, may receive educational as-  
17 sistance in exchange for a commitment of service to the  
18 Natural Resources Conservation Service or other agency  
19 in of the Department of Agriculture involved in providing  
20 the assistance.”.

21 (c) REVIEW AND EXPEDITED APPROVAL OF TECH-  
22 NICAL ASSISTANCE SPECIFICATIONS.—

23 (1) ACTION BY SECRETARY.—

(A) IN GENERAL.—The Secretary shall direct each State to assess and ensure, to the maximum extent practicable—

(i) the completeness and relevance of existing technical assistance specifications; and

(ii) that the State fully incorporates and provides for the appropriate range of conservation practices and resource mitigation measures available to specialty crop producers.

(B) CONSULTATION.—In completing the assessment under subparagraph (A), each State shall consult with specialty crop producers, crop consultants, Cooperative Extension and land grant universities, nongovernmental organizations, and other qualified entities.

(C) REVISIONS.—If a State determines under subparagraph (A)(i) that revisions to technical assistance specifications are necessary, the State shall establish an administrative process for expediting the revisions.

(2) TECHNICAL ASSISTANCE.—

(A) IN GENERAL.—The Secretary shall ensure that adequate technical assistance is avail-

1           able for the implementation of conservation  
2           practices by specialty crop producers through  
3           Federal conservation programs.

4           (B) REQUIREMENTS.—In carrying out sub-  
5           paragraph (A), the Secretary shall develop—

6                   (i) programs that meet specific needs  
7                   of specialty crop producers through cooperative  
8                   agreements with other agencies and  
9                   nongovernmental organizations; and

10                   (ii) program specifications that allow  
11                   for innovative approaches that engage local  
12                   resources in providing technical assistance  
13                   for planning and implementation of con-  
14                   servation practices.

15 **SEC. 703. INTEGRATED PEST MANAGEMENT INITIATIVE.**

16           (a) IN GENERAL.—The Secretary shall carry out an  
17           integrated pest management initiative to assist specialty  
18           crop producers in accordance with this section.

19           (b) EXPEDITED APPROVAL OF MANAGEMENT PRAC-  
20           TICES.—

21                   (1) IN GENERAL.—To be eligible to obtain as-  
22                   sistance under this section, a State shall ensure, to  
23                   the maximum extent practicable—

24                           (A) the completeness and relevance of ex-  
25                           isting financial assistance specifications; and

10 (c) TECHNICAL ASSISTANCE.—The Secretary shall  
11 offer to enter into cooperative agreements, memoranda of  
12 understanding, and contracts for services with other Fed-  
13 eral agencies and non-Federal organizations, as the Sec-  
14 retary determines to be necessary, to ensure that adequate  
15 technical assistance regarding integrated pest manage-  
16 ment planning and implementation is available to specialty  
17 crop producers.

18 (d) OUTREACH.—The Secretary shall conduct out-  
19 reach to agricultural producers on integrated pest man-  
20 agement cost share options, with an emphasis on agricul-  
21 tural producers that have not previously participated in  
22 conservation programs.

23 (e) PROGRAM INTEGRATION.—The Secretary shall, to  
24 the maximum extent practicable, integrate the integrated  
25 pest management initiative under this section with the en-

1 environmental quality incentives program established under  
2 chapter 4 of subtitle D of title XII of the Food Security  
3 Act of 1985 (16 U.S.C. 3839aa et seq.) and other applica-  
4 ble conservation programs, to ensure that opportunities  
5 for the implementation of integrated pest management  
6 practices are fully incorporated into conservation pro-  
7 grams.

8 (f) AUTHORIZATION OF APPROPRIATIONS.—There is  
9 authorized to be appropriated such sums as are necessary  
10 to carry out this section.

11 **SEC. 704. SUSTAINABILITY PRACTICES.**

12 (a) ENCOURAGEMENT OF VOLUNTARY SUSTAIN-  
13 ABILITY PRACTICES GUIDELINES.—In administering this  
14 Act and the amendments made by this Act, the Secretary  
15 may encourage the development of voluntary sustainable  
16 practices guidelines for producers and processors of spe-  
17 cialty crops.

18 (b) PRIORITY IN ELIGIBILITY FOR CONSERVATION  
19 PROGRAMS.—In establishing eligibility for participation in  
20 conservation programs administered by the Secretary, the  
21 Secretary may give priority to specialty crop producers  
22 that follow the sustainability guidelines.

1 **SEC. 705. EXEMPTION OF STATE AGENCIES FROM THE FED-  
2 ERAL INSECTICIDE, FUNGICIDE, AND  
3 RODENTICIDE ACT.**

4 (a) IN GENERAL.—Section 18 of the Federal Insecti-  
5 cide, Fungicide, and Rodenticide Act (7 U.S.C. 136p) is  
6 amended—

7 (1) by striking “The Administrator may,” and  
8 inserting the following:

9 “(a) IN GENERAL.—The Administrator may,”;

10 (2) by striking “The Administrator, in” and in-  
11 serting the following:

12 “(b) CONSULTATION.—The Administrator, in”; and

13 (3) by adding at the end the following:

14 “(c) REPORT TO CONGRESS.—If a State agency re-  
15 quests an exemption under subsection (a) and the Admin-  
16 istrator does not approve or deny the request during the  
17 50-day period beginning on the date on which the request  
18 is submitted to the Administrator, the Administrator shall  
19 submit to the Committee on Agriculture of the House of  
20 Representatives, and the Committee on Agriculture, Nu-  
21 trition, and Forestry of the Senate, a report that in-  
22 cludes—

23 (1) notice of the delay; and

24 (2) an explanation of the reasons for the fail-  
25 ure of the Administrator to approve or deny the re-  
26 quest within that period.”.

1       (b) CONFORMING AMENDMENT.—The table of con-  
2 tents in section 1(b) of the Federal Insecticide, Fungicide,  
3 and Rodenticide Act (7 U.S.C. prec 121) is amended by  
4 inserting at the end of the item relating to section 18 the  
5 following:

“(a) In general.  
“(b) Consultation.  
“(c) Report to Congress.”.

6 **SEC. 706. TRANSPORTATION INFRASTRUCTURE COST RE-**  
7 **DUCTION GRANT PROGRAM.**

8       (a) IN GENERAL.—The Secretary, acting through the  
9 Transportation Services Branch of the Agricultural Mar-  
10 keting Service, may make grants under this section to an  
11 eligible entity described in subsection (b)—

12           (1) to expand and improve transportation infra-  
13 structure to improve the cost-effective movement of  
14 specialty crops to markets inside or outside the  
15 United States; and

16           (2) to address regional intermodal transpor-  
17 tation deficiencies that adversely affect the move-  
18 ment of specialty crops to markets inside or outside  
19 the United States.

20       (b) ELIGIBLE GRANT RECIPIENTS.—Grants may be  
21 made under this section to—

22           (1) State and local governments;  
23           (2) grower cooperatives;

(3) individual specialty crop producers or groups of producers;

3 (4) individual shippers; and

4 (5) State and regional producer and shipper or-  
5 ganizations.

6 (c) MATCHING FUNDS.—To be eligible for a grant  
7 under this section, the recipient of a grant under this sec-  
8 tion shall contribute an amount of non-Federal funds to  
9 carry out the project for which the grant is provided that  
10 is at least equal to the amount of grant funds received  
11 by the recipient under this section.

12 (d) FUNDING.—For each of fiscal years 2008  
13 through 2012, the Secretary shall use \$75,000,000 of  
14 funds of the Commodity Credit Corporation to make  
15 grants under this section.

16 SEC. 707. OFFICE OF PEST MANAGEMENT POLICY.

17 (a) PURPOSE.—The purpose of this section is to es-  
18 tablish an Office of Pest Management Policy in the De-  
19 partment to provide for the effective coordination of agri-  
20 cultural policies and activities related to pesticides and the  
21 development and use of pest management tools, taking  
22 into account the effects of regulatory actions of govern-  
23 ment agencies.

24 (b) ESTABLISHMENT OF OFFICE.—

10 (c) DUTIES.—The Director shall—

11 (1) develop and coordinate Department policy  
12 on pest management and pesticides;

19 (3) assist other agencies of the Department in  
20 fulfilling the responsibilities of the agencies related  
21 to pest management or pesticides under—

22 (A) the Food Quality Protection Act of  
23 1996 (7 U.S.C. 136 note; Public Law 104–  
24 170);

(B) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

(C) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.); and

5 (D) other applicable laws; and

6 (4) carry out such other functions as may be  
7 required by law or prescribed by the Secretary.

8 (d) INTERAGENCY COORDINATION.—In carrying out  
9 the responsibilities of the Office, the Director shall provide  
10 leadership, to the maximum extent practicable, to ensure  
11 coordination of interagency activities with—

12 (1) the Environmental Protection Agency;

13 (2) the Food and Drug Administration; and

14 (3) other applicable Federal and State agencies.

15 (e) OUTREACH.—As necessary to carry out the re-  
16 sponsibilities of the Office, the Director shall consult with  
17 agricultural producers that may be affected by pest man-  
18 agement or pesticide-related activities or actions of the  
19 Department or other agencies.

20 (f) FUNDING.—For each of fiscal years 2008 through  
21 2012, the Secretary shall use \$5,000,000 of funds of the  
22 Commodity Credit Corporation to carry out this section.

1 **SEC. 708. FOOD SAFETY INITIATIVES.**

2 (a) INITIATIVE AUTHORIZED.—The Secretary may  
3 carry out a food safety education program to educate the  
4 public and persons in the fresh produce industry about—  
5 (1) scientifically proven practices for reducing  
6 microbial pathogens on fresh produce; and  
7 (2) methods of reducing the threat of cross-con-  
8 tamination of fresh produce through unsanitary han-  
9 dling practices.

10 (b) COOPERATION.—The Secretary may carry out the  
11 education program in cooperation with public and private  
12 partners.

13 (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
14 authorized to be appropriated to the Secretary to carry  
15 out this section \$1,000,000.

16 **SEC. 709. CENSUS OF SPECIALTY CROPS.**

17 (a) ESTABLISHMENT.—Not later than September 30,  
18 2008, and each 5 years thereafter, the Secretary shall con-  
19 duct a census of specialty crops to assist in the regularly  
20 development and dissemination of information relative to  
21 specialty crops.

22 (b) RELATION TO OTHER CENSUS.—The Secretary  
23 may include the census of specialty crops in the census  
24 on agriculture.

1 **SEC. 710. FARM WORKER HOUSING.**

2 (a) LOANS AND GRANTS FOR HOUSING FARM LA-  
3 BORERS ADMITTED FOR TEMPORARY RESIDENCE.—Sec-  
4 tion 514(f)(3)(A) of the Housing Act of 1949 (42 U.S.C.  
5 1484(f)(3)(A)) is amended by inserting “or a non-  
6 immigrant described in section 101(a)(15)(H)(ii)(a) of the  
7 Immigration and Nationality Act (8 U.S.C.  
8 1101(a)(15)(H)(ii)(a))” after “permanent residence”.

9 (b) EFFECTIVE DATE.—Subsection (a) shall apply  
10 with respect to loans and grants made on, before, or after  
11 the date of the enactment of this Act.

○