

107TH CONGRESS
1ST SESSION

S. 20

To enhance fair and open competition in the production and sale of
agricultural commodities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 22, 2001

Mr. DASCHLE (for himself, Mr. HARKIN, Mr. LEAHY, Mr. JOHNSON, Mr. BAUCUS, Mr. ROCKEFELLER, Mr. KOHL, Mr. WELLSTONE, Mr. DORGAN, Mr. DURBIN, Mr. CONRAD, Mr. KERRY, Mrs. CARNAHAN, Mr. DAYTON, Mr. KENNEDY, and Mr. AKAKA) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To enhance fair and open competition in the production
and sale of agricultural commodities, 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 “Securing a Future for Independent Agriculture Act of
6 2001”.

7 (b) **TABLE OF CONTENTS.**—The table of contents is
8 as follows:

Sec. 1. Short title; table of contents.

TITLE I—PROTECTION FROM ANTICOMPETITIVE PRACTICES;
CONTRACT FAIRNESS

Subtitle A—Definitions

Sec. 101. Definitions.

Subtitle B—Protection from Anticompetitive Practices

Sec. 111. Prohibitions against unfair practices in transactions involving agricultural commodities.

Sec. 112. Reports of the Secretary on potential unfair practices.

Sec. 113. Report on corporate structure.

Sec. 114. Mandatory funding for staff.

Sec. 115. General Accounting Office study.

Subtitle C—Contract Fairness

Sec. 121. Obligation of good faith.

Sec. 122. Disclosure of risks and readability requirements under agricultural contracts.

Sec. 123. Right of contract producers to cancel production contracts.

Sec. 124. Prohibition of confidentiality provisions.

Sec. 125. Production contract liens.

Sec. 126. Production contracts involving investment requirements.

Sec. 127. Producer rights.

Sec. 128. Mediation.

Subtitle D—Agricultural Fair Practices

Sec. 131. Agricultural fair practices.

Subtitle E—Implementation

Sec. 141. Relationship to State law.

Sec. 142. Regulations.

Sec. 143. Implementation plan.

Sec. 144. Effective date.

TITLE II—NATIONAL RURAL COOPERATIVE AND BUSINESS
EQUITY FUND

Sec. 201. National Rural Cooperative and Business Equity Fund.

TITLE III—COUNTRY OF ORIGIN LABELING

Sec. 301. Country of origin labeling.

TITLE IV—MARKETING ASSISTANCE LOAN RATE EQUALIZATION

Sec. 401. Loan rates for marketing assistance loans.

Sec. 402. Term of loans.

Sec. 403. Application.

TITLE V—FARMLAND PROTECTION

Sec. 501. Farmland protection program.

TITLE VI—CIVIL RIGHTS

Sec. 601. Sense of Congress on participation of socially disadvantaged groups
in Department of Agriculture programs.

1 **TITLE I—PROTECTION FROM**
2 **ANTICOMPETITIVE PRAC-**
3 **TICES; CONTRACT FAIRNESS**
4 **Subtitle A—Definitions**

5 **SEC. 101. DEFINITIONS.**

6 In this title:

7 (1) **ACTIVE CONTRACTOR.**—The term “active
8 contractor” means a person (including a processor)
9 that (in accordance with a production contract)
10 owns, or will own, an agricultural commodity that is
11 produced by a contract producer.

12 (2) **AGRICULTURAL COMMODITY.**—The term
13 “agricultural commodity” has the meaning given the
14 term in section 102 of the Agricultural Trade Act of
15 1978 (7 U.S.C. 5602).

16 (3) **AGRICULTURAL CONTRACT.**—The term “ag-
17 ricultural contract” means a marketing contract or
18 a production contract.

19 (4) **AGRICULTURAL COOPERATIVE.**—The term
20 “agricultural cooperative” means an association of
21 persons engaged in the production, marketing, or
22 processing of an agricultural commodity that meets
23 the requirements of the Act entitled “An Act to au-

1 thorize association of producers of agricultural prod-
2 ucts” (commonly known as the “Capper-Volstead
3 Act”) (7 U.S.C. 291 et seq).

4 (5) BROKER.—The term “broker” means any
5 person engaged in the business of negotiating sales
6 and purchases of any agricultural commodity in
7 interstate or foreign commerce for or on behalf of
8 the vendor or the purchaser, except that no person
9 shall be considered a broker if the person’s sales of
10 such agricultural commodities are not in excess of
11 \$1,000,000 per year.

12 (6) CAPITAL INVESTMENT.—The term “capital
13 investment” means an investment in—

14 (A) a structure, such as a building or ma-
15 nure storage structure; or

16 (B) machinery or equipment associated
17 with producing an agricultural commodity that
18 has a useful life of more than 1 year.

19 (7) COMMISSION MERCHANT.—The term “com-
20 mission merchant” means any person engaged in the
21 business of receiving in interstate or foreign com-
22 merce any agricultural commodity for sale, on com-
23 mission, or for or on behalf of another person, ex-
24 cept that no person shall be considered a commission
25 merchant if the person’s sales of such agricultural

1 commodities are not in excess of \$1,000,000 per
2 year.

3 (8) CONTRACT INPUT.—

4 (A) IN GENERAL.—The term “contract
5 input” means an agricultural commodity or an
6 organic or synthetic substance or compound
7 that is used to produce an agricultural com-
8 modity.

9 (B) INCLUSIONS.—The term “contract
10 input” includes livestock, plants, agricultural
11 seeds, semen or eggs for breeding stock, fer-
12 tilizers, soil conditioners, and pesticides.

13 (9) CONTRACT LIVESTOCK FACILITY.—The
14 term “contract livestock facility” means a facility in
15 which livestock or a product of live livestock is pro-
16 duced under a production contract by a contract
17 producer.

18 (10) CONTRACT PRODUCER.—The term “con-
19 tract producer” means a producer that produces an
20 agricultural commodity under a production contract.

21 (11) CONTRACTOR.—The term “contractor”
22 means a person that is an active contractor or a pas-
23 sive contractor.

1 (12) COVERED PERSON.—The term “covered
2 person” means a dealer, processor, commission mer-
3 chant, and broker.

4 (13) CROP.—The term “crop” means an agri-
5 cultural commodity produced from a plant.

6 (14) DEALER.—The term “dealer” means—

7 (A) any person (except an agricultural co-
8 operative) engaged in the business of buying,
9 selling, or marketing agricultural commodities
10 in wholesale or jobbing quantities, as deter-
11 mined by the Secretary, in interstate or foreign
12 commerce, except that—

13 (i) no person shall be considered a
14 dealer with respect to sales or marketing of
15 any agricultural commodity of that per-
16 son’s own production if the sales or mar-
17 keting of such agricultural commodities do
18 not exceed \$10,000,000 per year; and

19 (ii) no person shall be considered a
20 dealer who buys, sells, or markets less than
21 \$1,000,000 per year of such agricultural
22 commodities; and

23 (B) an agricultural cooperative that sells
24 or markets agricultural commodities of its
25 members’ own production if the agricultural co-

1 operative sells or markets more than
2 \$1,000,000 of its members' production per year
3 of such agricultural commodities.

4 (15) INVESTMENT REQUIREMENT.—The term
5 “investment requirement” means a provision in a
6 production contract that requires a contract pro-
7 ducer to make a capital investment associated with
8 producing an agricultural commodity subject to the
9 production contract.

10 (16) LIVESTOCK.—The term “livestock” means
11 beef cattle, dairy cattle, swine, sheep, or poultry.

12 (17) MARKETING CONTRACT.—The term “mar-
13 keting contract” means a written agreement between
14 a processor and a producer for the purchase of an
15 agricultural commodity grown or raised by the pro-
16 ducer.

17 (18) PASSIVE CONTRACTOR.—The term “pas-
18 sive contractor” means a person that—

19 (A) provides a management service to a
20 contract producer; and

21 (B) does not own an agricultural com-
22 modity that is produced by the contract pro-
23 ducer under a production contract.

24 (19) PROCESSOR.—

1 (A) IN GENERAL.—The term “processor”
2 means—

3 (i) any person (other than an agricul-
4 tural cooperative) engaged in the business
5 of handling, preparing, or manufacturing
6 (including slaughtering) an agricultural
7 commodity or the products of an agricul-
8 tural commodity for sale or marketing in
9 interstate or foreign commerce for human
10 consumption; and

11 (ii) an agricultural cooperative that
12 handles, prepares, or manufactures (in-
13 cluding slaughtering) agricultural commod-
14 ities of its members’ own production.

15 (B) EXCLUSIONS.—The term “processor”
16 does not include—

17 (i) any person (other than an agricul-
18 tural cooperative) with respect to the han-
19 dling, preparing, or manufacturing (includ-
20 ing slaughtering) of an agricultural com-
21 modity that was produced by the person if
22 the gross revenue derived by the person
23 from the sales or marketing of the agricul-
24 tural commodity is less than \$10,000,000
25 per year; and

1 (ii) any agricultural cooperative that
2 handles, prepares, or manufactures (in-
3 cluding slaughtering) an agricultural com-
4 modity if the gross revenue derived by the
5 person from the sales or marketing of the
6 agricultural commodity is less than
7 \$1,000,000 per year.

8 (20) PRODUCE.—The term “produce” means—

9 (A) to provide feed or services relating to
10 the care and feeding of livestock, including
11 milking dairy cattle and storing raw milk; and

12 (B) to provide for planting, raising, har-
13 vesting, and storing a crop, including preparing
14 soil for planting and applying a fertilizer, soil
15 conditioner, or pesticide to a crop.

16 (21) PRODUCER.—

17 (A) IN GENERAL.—The term “producer”
18 means a person that produces an agricultural
19 commodity.

20 (B) EXCLUSIONS.—The term “producer”
21 does not include—

22 (i) a commercial fertilizer or pesticide
23 applicator;

24 (ii) a feed supplier; or

25 (iii) a veterinarian.

1 (22) PRODUCTION CONTRACT.—

2 (A) IN GENERAL.—The term “production
3 contract” means a written agreement that pro-
4 vides for—

5 (i) the production of an agricultural
6 commodity by a contract producer; or

7 (ii) the provision of a management
8 service relating to the production of an ag-
9 ricultural commodity by a contract pro-
10 ducer.

11 (B) INCLUSIONS.—The term “production
12 contract” includes—

13 (i) a contract between an active con-
14 tractor and a contract producer for the
15 production of an agricultural commodity;

16 (ii) a contract between an active con-
17 tractor and a passive contractor for the
18 provision of a management service to a
19 contract producer in the production of an
20 agricultural commodity; and

21 (iii) a contract between a passive con-
22 tractor and a contract producer if—

23 (I) the production contract pro-
24 vides for a management service fur-
25 nished by the passive contractor to

1 the contract producer in the produc-
 2 tion of an agricultural commodity;
 3 and

4 (II) the passive contractor has a
 5 contractual relationship with the ac-
 6 tive contractor involving the produc-
 7 tion of the agricultural commodity.

8 (23) SECRETARY.—The term “Secretary”
 9 means the Secretary of Agriculture.

10 **Subtitle B—Protection from** 11 **Anticompetitive Practices**

12 **SEC. 111. PROHIBITIONS AGAINST UNFAIR PRACTICES IN** 13 **TRANSACTIONS INVOLVING AGRICULTURAL** 14 **COMMODITIES.**

15 (a) PROHIBITIONS.—It shall be unlawful in, or in
 16 connection with, any transaction in interstate or foreign
 17 commerce for any covered person or contractor—

18 (1) to engage in or use any unfair, unreason-
 19 able, unjustly discriminatory, or deceptive practice
 20 or device in the marketing, receiving, purchasing,
 21 sale, or contracting for the production of any agri-
 22 cultural commodity;

23 (2) to make or give any undue or unreasonable
 24 preference or advantage to any particular person or
 25 locality or subject any particular person or locality

1 to any undue or unreasonable disadvantage in con-
2 nection with any transaction involving any agricul-
3 tural commodity;

4 (3) to make any false or misleading statement
5 in connection with any transaction involving any ag-
6 ricultural commodity that is purchased or received in
7 interstate or foreign commerce, or involving any pro-
8 duction contract, or to fail, without reasonable
9 cause, to perform any specification or duty, express
10 or implied, arising out of any undertaking in connec-
11 tion with any such transaction or production con-
12 tract;

13 (4) to retaliate against or disadvantage, or to
14 conspire to retaliate against or disadvantage, any
15 person because of statements or information lawfully
16 provided by the person to any person (including to
17 the Secretary or to a law enforcement agency) re-
18 garding alleged improper actions or violations of law
19 by the covered person or contractor (unless the
20 statements or information are determined to be libel-
21 ous or slanderous under applicable State law) involv-
22 ing any agricultural commodity;

23 (5) to include as part of any new or renewed
24 agreement or contract a right of first refusal, or to
25 make any sale or transaction contingent on the

1 granting of a right of first refusal, involving any ag-
2 ricultural commodity, before the date that is 180
3 days after the study required under section 115 is
4 complete; or

5 (6) to offer different prices contemporaneously
6 for agricultural commodities of like grade and qual-
7 ity (except agricultural commodities covered by the
8 Perishable Agricultural Commodities Act, 1930 (7
9 U.S.C. 499a et seq.)), unless—

10 (A) the agricultural commodity is pur-
11 chased in a public market through a competi-
12 tive bidding process or under similar conditions
13 that provide opportunities for multiple competi-
14 tors to seek to acquire the agricultural com-
15 modity;

16 (B) the premium or discount reflects the
17 actual cost of acquiring an agricultural com-
18 modity prior to processing; or

19 (C) the Secretary has determined that
20 such types of offers do not have a discrimina-
21 tory impact against small volume producers of
22 agricultural commodities.

23 (b) VIOLATIONS.—

24 (1) COMPLAINTS.—Whenever the Secretary has
25 reason to believe that any covered person or con-

1 tractor has violated subsection (a), the Secretary
2 shall cause a complaint in writing to be served on
3 the covered person or contractor, stating the charges
4 in that respect, and requiring the covered person or
5 contractor to attend and testify at a hearing to be
6 held not earlier than 30 days after the service of the
7 complaint.

8 (2) HEARING.—

9 (A) IN GENERAL.—The Secretary may
10 hold hearings, sign and issue subpoenas, admin-
11 ister oaths, examine witnesses, receive evidence,
12 and require the attendance and testimony of
13 witnesses and the production of such accounts,
14 records, and memoranda, as the Secretary con-
15 sidered necessary, for the determination of the
16 existence of any violation of this section.

17 (B) RIGHT TO HEARING.—A covered per-
18 son or contractor may request a hearing if the
19 covered person or contractor is subject to pen-
20 alty for unfair conduct under this section.

21 (C) RESPONDENTS' RIGHTS.—During a
22 hearing, the covered person or contractor shall
23 be given, pursuant to regulations promulgated
24 by the Secretary, the opportunity—

- 1 (i) to be informed of the evidence
2 against the covered person or contractor;
3 (ii) to cross-examine witnesses; and
4 (iii) to present evidence.

5 (D) HEARING LIMITATION.—The issues of
6 any hearing held or requested under this sec-
7 tion shall be limited in scope to matters directly
8 related to the purpose for which the hearing
9 was held or requested.

10 (3) REPORT OF FINDING AND PENALTIES.—

11 (A) IN GENERAL.—If, after a hearing, the
12 Secretary finds that the covered person or con-
13 tractor has violated subsection (a), the Sec-
14 retary shall make a report in writing that states
15 the findings of fact and includes an order re-
16 quiring the covered person or contractor to
17 cease and desist from continuing the violation.

18 (B) CIVIL PENALTY.—The Secretary may
19 assess a civil penalty in an amount not to ex-
20 ceed \$100,000 for each violation of subsection
21 (a).

22 (4) TEMPORARY INJUNCTION AND FINALITY
23 AND APPEALABILITY OF AN ORDER.—

24 (A) TEMPORARY INJUNCTION.—At any
25 time after a complaint is filed under paragraph

1 (1), the court, on application of the Secretary,
2 may issue a temporary injunction, restraining
3 to the extent the court considers proper, the
4 covered person or contractor and the officers,
5 directors, agents, and employees of the covered
6 person or contractor from violating subsection
7 (a).

8 (B) APPEALABILITY OF AN ORDER.—An
9 order issued pursuant to this subsection shall
10 be final and conclusive unless within 30 days
11 after service of the order, the covered person or
12 contractor petitions to appeal the order to the
13 court of appeals for the circuit in which the cov-
14 ered person or contractor resides or has its
15 principal place of business or the District of Co-
16 lumbia Circuit Court of Appeals.

17 (C) DELIVERY OF PETITION.—

18 (i) IN GENERAL.—The clerk of the
19 court shall immediately cause a copy of the
20 petition filed under subparagraph (B) to
21 be delivered to the Secretary.

22 (ii) RECORD.—On receipt of the peti-
23 tion, the Secretary shall file in the court
24 the record of the proceedings under this
25 subsection.

1 (D) PENALTY FOR FAILURE TO OBEY AN
2 ORDER.—

3 (i) IN GENERAL.—Any covered person
4 or contractor that fails to obey any order
5 of the Secretary issued under this section
6 after the order, or the order as modified,
7 has been sustained by the court or has oth-
8 erwise become final, shall be fined not less
9 than \$5,000 and not more than \$100,000
10 for each offense.

11 (ii) SEPARATE OFFENSES.—Each day
12 during which the failure continues shall be
13 considered a separate offense.

14 (5) RECORDS.—

15 (A) IN GENERAL.—Each covered person or
16 contractor shall maintain for a period of not
17 less than 5 years accounts, records, and memo-
18 randa (including marketing agreements, for-
19 ward contracts, and formula pricing arrange-
20 ments) that fully and correctly disclose all
21 transactions involved in the business of the cov-
22 ered person or contractor, including the true
23 ownership of the business.

24 (B) FAILURE TO KEEP RECORDS OR
25 ALLOW THE SECRETARY TO INSPECT

1 RECORDS.—Failure to keep, or allow the Sec-
2 retary to inspect records as required by this
3 paragraph shall constitute an unfair practice in
4 violation of subsection (a)(1).

5 (C) INSPECTION OF RECORDS.—The Sec-
6 retary shall have the right to inspect such ac-
7 counts, records, and memoranda (including
8 marketing agreements, forward contracts, and
9 formula pricing arrangements) of any covered
10 person or contractor as may be material to the
11 investigation of any alleged violation of this sec-
12 tion or for the purpose of investigating the
13 business conduct or practices of an organization
14 with respect to the covered person or con-
15 tractor.

16 (c) COMPENSATION FOR INJURY.—

17 (1) ESTABLISHMENT OF THE FAMILY FARMER
18 AND RANCHER CLAIMS COMMISSION.—

19 (A) IN GENERAL.—The Secretary shall ap-
20 point 3 individuals to a commission to be
21 known as the “Family Farmer and Rancher
22 Claims Commission” (referred to in this sub-
23 section as the “Commission”) to review claims
24 of family farmers and ranchers that have suf-
25 fered financial damages as a result of any viola-

1 tion of this section as determined by the Sec-
2 retary pursuant to subsection (b)(3).

3 (B) TERM OF SERVICE.—

4 (i) IN GENERAL.—Each member of
5 the Commission shall serve 3-year terms
6 which may be renewed.

7 (ii) INITIAL MEMBERS.—The initial
8 members of the Commission may be ap-
9 pointed for a period of less than 3 years,
10 as determined by the Secretary.

11 (2) REVIEW OF CLAIMS.—

12 (A) SUBMISSION OF CLAIMS.—A family
13 farmer or rancher damaged as a result of a vio-
14 lation of this section, as determined by the Sec-
15 retary pursuant to subsection (b)(3), may pre-
16 serve the right to claim financial damages
17 under this section by filing a claim pursuant to
18 regulations promulgated by the Secretary.

19 (B) DETERMINATION.—Based on a review
20 of the claim, the Commission shall determine
21 the amount of damages to be paid, if any, as
22 a result of the violation.

23 (C) REVIEW.—The decisions of the Com-
24 mission under this paragraph shall not be sub-
25 ject to judicial review except to determine that

1 the amount of damages to be paid is consistent
2 with the published regulations of the Secretary
3 that establish the criteria for implementing this
4 subsection.

5 (3) FUNDING.—

6 (A) IN GENERAL.—Funds collected from
7 civil penalties pursuant to this section shall—

8 (i) be transferred to a special fund in
9 the Treasury;

10 (ii) be made available to the Secretary
11 without further Act of appropriation; and

12 (iii) remain available until expended
13 to pay the expenses of the Commission and
14 claims described in this subsection.

15 (B) AUTHORIZATION OF APPROPRIA-
16 TION.—In addition to the funds described in
17 subparagraph (A), there are authorized to be
18 appropriated such sums as may be necessary to
19 carry out this section.

20 **SEC. 112. REPORTS OF THE SECRETARY ON POTENTIAL UN-**
21 **FAIR PRACTICES.**

22 (a) FILING PREMERGER NOTICES WITH THE SEC-
23 RETARY.—No covered person, operator of a warehouse
24 used to store agricultural commodities, or other agri-
25 culture-related business shall merge or acquire, directly or

1 indirectly, any voting securities or assets of any other cov-
2 ered person, operator of a warehouse used to store agricul-
3 tural commodities, or other agriculture-related business
4 unless both persons (or in the case of a tender offer, the
5 acquiring person) file notification pursuant to rules pro-
6 mulgated by the Secretary, if—

7 (1) any voting securities or assets of the cov-
8 ered person, operator of a warehouse used to store
9 agricultural commodities, or other agriculture-re-
10 lated business with annual net sales or total assets
11 of \$10,000,000 or more are being acquired by a cov-
12 ered person, operator of a warehouse used to store
13 agricultural commodities, or other agriculture-re-
14 lated business that has total assets or annual net
15 sales of \$100,000,000 or more; or

16 (2) any voting securities or assets of a covered
17 person, operator of a warehouse used to store agri-
18 cultural commodities, or other agriculture-related
19 business with annual net sales, or total assets, of
20 \$100,000,000 or more are being acquired by any
21 covered person, operator of a warehouse used to
22 store agricultural commodities, or agriculture-related
23 business with annual net sales or total assets of
24 \$10,000,000 or more, if, as a result of the acquisi-
25 tion, the acquiring person would hold an aggregate

1 total amount of the voting securities and assets of
2 the acquired person in excess of \$50,000,000.

3 (b) REVIEW BY THE SECRETARY.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), the Secretary may conduct a review of
6 any merger or acquisition described in subsection
7 (a).

8 (2) EXCEPTION.—The Secretary shall conduct
9 a review of any merger or acquisition described in
10 subsection (a) on a request from a member of Con-
11 gress.

12 (c) ACCESS TO RECORDS.—The Secretary may re-
13 quest any information, including any testimony, documen-
14 tary material, or related information, from a covered per-
15 son, operator of a warehouse used to store agricultural
16 commodities, or other agriculture-related business, per-
17 taining to any merger or acquisition of any covered person,
18 operator of a warehouse used to store agricultural com-
19 modities, or other agriculture-related business.

20 (d) PURPOSE OF REVIEW.—

21 (1) FINDINGS.—In conducting the review under
22 subsection (a), the Secretary shall make findings
23 concerning whether the merger or acquisition
24 could—

1 (A) be significantly detrimental to the
2 present or future viability of family farms or
3 ranches or rural communities in the areas af-
4 fected by the merger or acquisition, pursuant to
5 standards established by the Secretary; or

6 (B) lead to a violation of section 111(a).

7 (2) REMEDIES.—The review may include a de-
8 termination of possible remedies regarding how the
9 parties of the merger or acquisition may take steps
10 to modify their operations to address the findings
11 described in paragraph (1).

12 (e) REPORT OF REVIEW.—

13 (1) PRELIMINARY REPORT.—After conducting
14 the review required under subsection (b), the Sec-
15 retary shall issue a preliminary report to the parties
16 of the merger or acquisition and the Attorney Gen-
17 eral or the Federal Trade Commission, as appro-
18 priate, which shall include findings and a description
19 of any remedies described in subsection (d)(2).

20 (2) FINAL REPORT.—After affording the par-
21 ties described in paragraph (1) an opportunity for a
22 hearing regarding the findings and any proposed
23 remedies in the preliminary report, the Secretary
24 shall issue a final report to the President and the
25 Attorney General or the Federal Trade Commission,

1 as appropriate, with respect to the merger or acqui-
2 sition.

3 (f) IMPLEMENTATION OF THE REPORT.—Not later
4 than 120 days after the issuance of a final report de-
5 scribed in subsection (e)(2), the parties to the merger or
6 acquisition affected by the report shall—

7 (1) make changes to their operations or struc-
8 ture to comply with the findings and implement any
9 suggested remedy or any agreed-on alternative rem-
10 edy; and

11 (2) file a response demonstrating the compli-
12 ance or implementation.

13 (g) CONFIDENTIALITY OF INFORMATION.—

14 (1) IN GENERAL.—Subject to paragraph (2),
15 information used by the Secretary to conduct the re-
16 view required under this section provided by a party
17 to the merger or acquisition under review or by a
18 government agency shall be treated by the Secretary
19 as confidential information pursuant to section 1770
20 of the Food Security Act of 1985 (7 U.S.C. 2276).

21 (2) PARTY TO HEARING.—The Secretary may
22 share any such information with the Attorney Gen-
23 eral, the Federal Trade Commission, and a party
24 seeking a hearing pursuant to subsection (e)(2) with
25 respect to information relating to the party.

1 (3) REPORT.—Subject to paragraph (1), the re-
2 report issued under subsection (e) shall be available to
3 the public.

4 (h) CIVIL PENALTIES.—

5 (1) ORIGINAL PENALTY.—

6 (A) IN GENERAL.—After affording the par-
7 ties an opportunity for a hearing, the Secretary
8 may assess a civil penalty in an amount not to
9 exceed \$300,000 for the failure of a person to
10 comply with the requirements of subsection (a)
11 or (f).

12 (B) ISSUE.—Any such hearing shall be
13 limited to the issue of the amount of the civil
14 penalty.

15 (2) ADDITIONAL PENALTY.—

16 (A) IN GENERAL.—If after being assessed
17 a civil penalty under paragraph (1) a person
18 continues to fail to meet the requirements of
19 subsection (a) or (f), the Secretary may, after
20 affording the parties an opportunity for a hear-
21 ing, assess a further civil penalty in an amount
22 not to exceed \$100,000 for each day the person
23 continues the violation.

1 (B) ISSUE.—Any such hearing shall be
2 limited to the issue of the additional civil pen-
3 alty assessed under this paragraph.

4 **SEC. 113. REPORT ON CORPORATE STRUCTURE.**

5 (a) IN GENERAL.—

6 (1) REPORT.—A covered person with annual
7 sales in excess of \$100,000,000 shall annually file
8 with the Secretary a report that describes, with re-
9 spect to both domestic and foreign activities, the
10 strategic alliances, ownership in other agribusiness
11 firms or agribusiness-related firms, joint ventures,
12 subsidiaries, brand names, and interlocking boards
13 of directors with other corporations, representatives,
14 and agents that lobby Congress on behalf of the cov-
15 ered person, as determined by the Secretary.

16 (2) CONTRACTS.—Paragraph (1) shall not
17 apply to a contract.

18 (b) CIVIL PENALTIES.—

19 (1) ORIGINAL PENALTY.—

20 (A) IN GENERAL.—After affording the par-
21 ties an opportunity for a hearing, the Secretary
22 may assess a civil penalty in an amount not to
23 exceed \$100,000 for the failure of a person to
24 comply with this section.

1 (B) ISSUE.—Any such hearing shall be
2 limited to the issue of the amount of the civil
3 penalty

4 (2) ADDITIONAL PENALTY.—

5 (A) IN GENERAL.—If after being assessed
6 a civil penalty in accordance with paragraph (1)
7 a person continues to fail to meet the require-
8 ments of this section, the Secretary may, after
9 affording the parties an opportunity for a hear-
10 ing, assess a further civil penalty in an amount
11 not to exceed \$100,000 for each day the person
12 continues the violation.

13 (B) ISSUE.—Any such hearing shall be
14 limited to the amount of the additional civil
15 penalty assessed under this paragraph.

16 **SEC. 114. MANDATORY FUNDING FOR STAFF.**

17 (a) IN GENERAL.—Out of the funds in the Treasury
18 not otherwise appropriated, the Secretary of Treasury
19 shall provide to the Secretary of Agriculture \$7,000,000
20 for each of fiscal years 2002 through 2006, to hire, train,
21 and provide for additional staff to carry out additional re-
22 sponsibilities under this subtitle, including a Special Coun-
23 sel on Fair Markets and Rural Opportunity, additional at-
24 torneys for the Office of General Counsel, investigators,
25 economists, and support staff.

1 (b) AVAILABILITY.—The sums shall be—

2 (1) made available to the Secretary without fur-
3 ther Act of appropriation; and

4 (2) in addition to funds otherwise made avail-
5 able to the Secretary for the purposes described in
6 subsection (a).

7 **SEC. 115. GENERAL ACCOUNTING OFFICE STUDY.**

8 Not later than 1 year after the date of enactment
9 of this Act, the Comptroller General of the United States,
10 in consultation with the Attorney General, the Secretary,
11 the Federal Trade Commission, the National Association
12 of Attorney's General, and other persons, shall—

13 (1) study competition in the domestic farm
14 economy with a special focus on—

15 (A) protecting family farms and ranches
16 and rural communities; and

17 (B) the potential for monopsony and oli-
18 gopsony nationally and regionally; and

19 (2) provide a report to the appropriate commit-
20 tees of Congress on—

21 (A) the correlation between increases in
22 the gap between—

23 (i) retail consumer food prices;

24 (ii) the prices paid to farmers and
25 ranchers; and

1 (iii) any increases in concentration
2 among processors, manufacturers, or other
3 firms that buy from farmers and ranchers;

4 (B) the extent to which the use of formula
5 pricing, marketing agreements, forward con-
6 tracting, and production contracts tend to give
7 processors, agribusinesses, and other buyers of
8 agricultural commodities unreasonable market
9 power over producers or suppliers in local mar-
10 kets;

11 (C) whether the granting of process pat-
12 ents relating to biotechnology research affecting
13 agriculture during the past 20 years has tended
14 to overly restrict related biotechnology research
15 or has tended to overly limit competition in the
16 biotechnology industries that affect agriculture
17 in a manner that is contrary to the public inter-
18 est, or could do so in the future;

19 (D) whether acquisitions of companies that
20 own biotechnology patents and seed patents by
21 multinational companies have the potential for
22 reducing competition in the United States and
23 unduly increasing the market power of the mul-
24 tinational companies;

1 (E) whether existing processors or agri-
2 businesses have disproportionate market power
3 and if competition could be increased if the
4 processors or agribusinesses were required to
5 divest assets to ensure that they do not exert
6 the disproportionate market power over local
7 markets;

8 (F) the extent of increase in concentration
9 in milk processing, procurement and handling,
10 and the potential risks from that increase in
11 concentration on—

12 (i) the economic well-being of dairy
13 farmers;

14 (ii) the school lunch program; and

15 (iii) other Federal nutrition programs;

16 (G) the impact of mergers, acquisitions,
17 and joint ventures among dairy cooperatives on
18 dairy farmers, including impacts on both mem-
19 bers and nonmembers of the merging coopera-
20 tives;

21 (H) the impact of the significant increase
22 in the use of stock as the primary means of ef-
23 fectuating mergers and acquisitions by large
24 companies;

1 (I) the increase in the number and size of
 2 mergers or acquisitions in the United States
 3 and whether some of the mergers or acqui-
 4 sitions would have taken place if the merger or
 5 acquisition had to be consummated primarily
 6 with cash, other assets, or borrowing; and

7 (J) whether agricultural producers typi-
 8 cally appear to derive any benefits (such as
 9 higher prices for their products or any other ad-
 10 vantages) from right-of-first-refusal provisions
 11 contained in purchase contracts or other deals
 12 with agribusiness purchasers of the products.

13 **Subtitle C—Contract Fairness**

14 **SEC. 121. OBLIGATION OF GOOD FAITH.**

15 An agricultural contract shall carry an obligation of
 16 good faith (as defined in applicable State law provisions
 17 of the Uniform Commercial Code) on all parties to the
 18 agricultural contract with respect to the performance and
 19 enforcement of the agricultural contract.

20 **SEC. 122. DISCLOSURE OF RISKS AND READABILITY RE-** 21 **QUIREMENTS UNDER AGRICULTURAL CON-** 22 **TRACTS.**

23 (a) READABILITY AND UNDERSTANDABILITY.—

1 (1) IN GENERAL.—An agricultural contract
2 shall be readable and understandable, in that the ag-
3 ricultural contract—

4 (A) shall be printed in legible type;

5 (B) shall be appropriately divided into cap-
6 tioned sections; and

7 (C) shall be written in clear and coherent
8 language using words and grammar that are
9 understandable by a person of average intel-
10 ligence, education, and experience within the
11 agricultural industry.

12 (2) EFFECT.—Paragraph (1) does not preclude
13 the use of—

14 (A) a particular word, phrase, provision, or
15 form of agreement that is specifically required,
16 recommended, or endorsed by a Federal or
17 State law (including a regulation); or

18 (B) a technical term that is used to de-
19 scribe the service or property that is the subject
20 of the agricultural contract, if the term is cus-
21 tomarily used by producers in the ordinary
22 course of business in connection with the serv-
23 ice or property described.

24 (b) DISCLOSURE STATEMENT REQUIREMENT.—An
25 agricultural contract shall—

1 (1) be accompanied by a clear written disclo-
2 sure statement describing the material risks faced by
3 the producer if the producer enters into the agricul-
4 tural contract; and

5 (2) disclose (in a manner consistent with sub-
6 section (a)), provisions of the agricultural contract
7 relating to—

8 (A) duration;

9 (B) termination;

10 (C) renegotiation standards;

11 (D) responsibility for environmental dam-
12 age;

13 (E) factors to be used in determining pay-
14 ment;

15 (F) responsibility for obtaining and com-
16 plying with Federal, State, and local permits;

17 (G) in the case of a production contract,
18 the right of the producer to cancel the produc-
19 tion contract in accordance with section 123;
20 and

21 (H) any other terms that the Secretary de-
22 termines are appropriate for disclosure.

23 (c) COVER SHEET REQUIREMENT.—An agricultural
24 contract entered into, amended, or renewed after the date
25 of enactment of this Act shall contain as the first page,

1 or first page of text if it is preceded by a title page, a
2 cover sheet that complies with subsection (a) and contains
3 the following:

4 (1) A brief statement that the agricultural con-
5 tract is a legal contract between the parties to the
6 agricultural contract.

7 (2) The following statement: “READ YOUR
8 CONTRACT CAREFULLY. This cover sheet pro-
9 vides only a brief summary of your contract. This
10 cover sheet is not the contract, and only the terms
11 of the actual contract are legally binding. The con-
12 tract itself sets forth, in detail, the rights and obli-
13 gations of both you and the contractor or processor.
14 IT IS THEREFORE IMPORTANT THAT YOU
15 READ YOUR CONTRACT CAREFULLY.”.

16 (3) A written disclosure of risks in accordance
17 with subsection (b).

18 (4) In the case of a production contract, a
19 statement describing, in plain language, the right of
20 the producer to cancel the production contract in ac-
21 cordance with section 123.

22 (5) An index of the major provisions of the ag-
23 ricultural contract and the pages on which the provi-
24 sions appear, including—

1 (A) the name of each party to the agricul-
2 tural contract;

3 (B) the definitions section of the agricul-
4 tural contract;

5 (C) the provisions governing termination,
6 cancellation, renewal, and amendment of the
7 agricultural contract by either party;

8 (D) the duties and obligations of each
9 party; and

10 (E) provisions subject to change in the ag-
11 ricultural contract.

12 (d) REVIEW BY SECRETARY.—

13 (1) SUBMISSION TO SECRETARY.—A contractor
14 may submit an agricultural contract to the Secretary
15 for review to determine whether the agricultural con-
16 tract complies with this section.

17 (2) ACTION BY SECRETARY.—The Secretary
18 shall—

19 (A) in determining whether an agricultural
20 contract or cover sheet is readable, in accord-
21 ance with subsection (a), consider—

22 (i) the simplicity of the sentence
23 structure;

24 (ii) the extent to which commonly
25 used and understood words are employed;

1 (iii) the extent to which esoteric legal
2 terms are avoided;

3 (iv) the extent to which references to
4 other sections or provisions of the agricul-
5 tural contract are minimized;

6 (v) the extent to which clear defini-
7 tions are used; and

8 (vi) any additional factors relevant to
9 the readability or understandability of the
10 agricultural contract; and

11 (B) after reviewing the agricultural
12 contract—

13 (i) certify that the agricultural con-
14 tract complies with this section;

15 (ii) decline to certify that the agricul-
16 tural contract complies with this section
17 and provide specific reasons for declining
18 to certify the agricultural contract; or

19 (iii) decline to review the agricultural
20 contract because—

21 (I) the compliance of the agricul-
22 tural contract with this section is sub-
23 ject to pending litigation; or

24 (II) the agricultural contract is
25 not subject to this section.

1 (3) JUDICIAL REVIEW.—An action of the Sec-
2 retary under this subsection shall not be subject to
3 judicial review.

4 (4) CERTIFICATION.—

5 (A) IN GENERAL.—An agricultural con-
6 tract certified under this subsection shall be
7 considered to comply with subsections (a), (b),
8 and (c).

9 (B) NO APPROVAL OF LEGALITY OR LEGAL
10 EFFECT.—Certification of an agricultural con-
11 tract under this subsection shall not constitute
12 an approval of the legality or legal effect of the
13 agricultural contract.

14 (C) EFFECT OF APPROVAL; CONSTRUCTIVE
15 APPROVAL.—If the Secretary certifies an agri-
16 cultural contract under this subsection—

17 (i) the agricultural contract shall be
18 considered to be in compliance with sub-
19 sections (a), (b), and (c); and

20 (ii) the remedies provided under sub-
21 section (e) shall not be available.

22 (D) TIMING.—To the maximum extent
23 practicable, the Secretary shall make a decision
24 on the certification of an agricultural contract

1 not later than 30 days after receipt of the agri-
2 cultural contract.

3 (5) EFFECT OF DISAPPROVAL.—If the Sec-
4 retary disapproves the certification of an agricultural
5 contract, the agricultural contract shall be void.

6 (6) EFFECT OF FAILURE TO SUBMIT AGRICUL-
7 TURAL CONTRACT.—The failure to submit an agri-
8 cultural contract to the Secretary for review under
9 this subsection shall not be considered to be a lack
10 of good faith or to raise a presumption that the agri-
11 cultural contract violates this section.

12 (e) REMEDIES FOR VIOLATIONS.—In addition to ap-
13 plicable remedies provided under State law, a court review-
14 ing an agricultural contract that is not certified under
15 subsection (d) may change the terms of the agricultural
16 contract, or limit a provision of the agricultural contract,
17 to avoid an unfair result if—

18 (1) the court finds—

19 (A) a material provision of the agricultural
20 contract violates subsection (a), (b), or (c);

21 (B) the violation reasonably caused the
22 producer to be substantially confused about any
23 of the rights, obligations, or remedies of any
24 party to the agricultural contract; and

1 (C) the violation has caused or is likely to
2 cause financial detriment to the producer; and

3 (2) the claim is brought before the obligations
4 of any party to the agricultural contract have been
5 fully performed.

6 (f) LIMITATIONS ON PRODUCER ACTIONS.—

7 (1) IN GENERAL.—A violation of this section—

8 (A) shall not entitle a producer to withhold
9 performance of an otherwise valid contractual
10 obligation when bringing a claim for relief
11 under this section; and

12 (B) is not a defense to a claim arising
13 from the breach of an agricultural contract by
14 a producer.

15 (2) ACTUAL DAMAGES.—A producer may re-
16 cover actual damages caused by a violation of this
17 section only if the violation reasonably caused the
18 producer to fail to understand a right, obligation, or
19 remedy under the agricultural contract.

20 (g) STATUTE OF LIMITATIONS.—A claim that an ag-
21 ricultural contract violates this section shall be made not
22 later than 6 years after the date on which the agricultural
23 contract is executed by the producer.

1 **SEC. 123. RIGHT OF CONTRACT PRODUCERS TO CANCEL**
2 **PRODUCTION CONTRACTS.**

3 (a) IN GENERAL.—A contract producer may cancel
4 a production contract by mailing a cancellation notice to
5 the contractor not later than the later of—

6 (1) the date that is 3 business days after the
7 date on which the production contract is executed;
8 or

9 (2) any cancellation date specified in the pro-
10 duction contract.

11 (b) DISCLOSURE.—A production contract shall clear-
12 ly disclose—

13 (1) the right of the contract producer to cancel
14 the production contract;

15 (2) the method by which the contract producer
16 may cancel the production contract; and

17 (3) the deadline for canceling the production
18 contract.

19 **SEC. 124. PROHIBITION OF CONFIDENTIALITY PROVISIONS.**

20 (a) PROHIBITION.—Any provision of an agricultural
21 contract that provides that information contained in the
22 agricultural contract (other than a trade secret to which
23 section 552 of title 5, United States Code, applies) is con-
24 fidential shall be void.

1 (b) FORM.—A confidentiality provision described in
2 subsection (a) shall be void regardless of whether the pro-
3 vision is—

4 (1) express or implied;

5 (2) oral or written;

6 (3) required or conditional; or

7 (4) contained in the agricultural contract, an-
8 other agricultural contract, or in a related document,
9 policy, or agreement.

10 (c) OTHER PROVISIONS.—This section shall not af-
11 fect other provisions of an agricultural contract or a re-
12 lated document, policy, or agreement that can be given
13 effect without the voided provision.

14 (d) DISCLOSURE OF INFORMATION.—This subsection
15 does not require a party to an agricultural contract to dis-
16 close information in the agricultural contract to any other
17 person.

18 **SEC. 125. PRODUCTION CONTRACT LIENS.**

19 (a) DEFINITION OF LIEN STARTING DATE.—In this
20 section, the term “lien starting date” means—

21 (1) in the case of an annual crop, the date on
22 which the annual crop is planted;

23 (2) in the case of a perennial crop, the starting
24 date on which the perennial crop is subject to a pro-
25 duction contract;

1 (3) in the case of livestock, the date on which
2 the livestock arrive at the contract livestock facility;
3 and

4 (4) in the case of milk or any other product of
5 live livestock, the date on which the milk or other
6 product is produced.

7 (b) LIENS.—In the case of a production contract that
8 provides for producing an agricultural commodity by a
9 contract producer, the contract producer shall have a lien
10 in the amount owed to the contract producer under the
11 production contract on—

12 (1)(A) the agricultural commodity until the ag-
13 ricultural commodity is sold or processed (including
14 slaughtered) by the contractor; and

15 (B) the cash proceeds of the sale of the agricul-
16 tural commodity, including any cash provided as
17 part of the sale; and

18 (2) any property of the contractor that may be
19 subject to a security interest as provided in applica-
20 ble State law provisions based on Article 9 of the
21 Uniform Commercial Code.

22 (c) LIEN PERIOD.—A lien for the production of an
23 agricultural commodity under this section shall apply dur-
24 ing the period—

25 (1) beginning on the lien starting date; and

1 (2) ending 1 year after the agricultural com-
2 modity is no longer under the control of the contract
3 producer.

4 (d) CENTRAL FILING SYSTEM.—The Secretary shall
5 establish a central filing system for the purposes of per-
6 fecting liens under this section and providing notice of the
7 liens to the public.

8 (e) PERFECTING LIENS.—To perfect a lien for the
9 production of an agricultural commodity under this sec-
10 tion, a contract producer shall—

11 (1) not later than 45 days after the lien start-
12 ing date, file with the Secretary a lien statement on
13 a form prescribed by the Secretary that includes—

14 (A) an estimate of the amount owed under
15 the production contract;

16 (B) the lien starting date;

17 (C) the estimated duration of the period
18 during which the agricultural commodity will be
19 under the control of the contract producer;

20 (D) the name of the party to the produc-
21 tion contract whose agricultural commodity is
22 produced under the production contract;

23 (E) a description of the location of the
24 contract operation, by State, county, and town-
25 ship; and

1 (F) the printed name and signature of the
2 person filing the form; and

3 (2) pay a filing fee in an amount determined by
4 the Secretary, not to exceed \$10.00.

5 (f) PRIORITY OF LIEN.—A lien created under this
6 section shall be superior to, and have priority over, any
7 conflicting lien or security interest in the agricultural com-
8 modity, including a lien or security interest that was per-
9 fected prior to the creation of the lien under this section.

10 (g) ENFORCEMENT.—

11 (1) CONTROL.—Before an agricultural com-
12 modity leaves the control of a contract producer, the
13 contract producer may foreclose a lien created under
14 this section in the manner provided for the fore-
15 closure of a secured transaction under applicable
16 State law provisions based on Article 9 of the Uni-
17 form Commercial Code.

18 (2) POST-CONTROL.—After an agricultural
19 commodity leaves the control of the contract pro-
20 ducer, the contract producer may enforce the lien in
21 the manner provided under applicable State law pro-
22 visions based on Article 9 of the Uniform Commer-
23 cial Code.

24 (h) ELECTION OF OTHER REMEDIES.—In lieu of ob-
25 taining a lien under this section, a contract producer de-

1 scribed in subsection (b) may seek to collect funds due
2 under a production contract in accordance with—

3 (1) the Packers and Stockyards Act, 1921 (7
4 U.S.C. 181 et seq.); or

5 (2) the Perishable Agricultural Commodities
6 Act, 1930 (7 U.S.C. 499a et seq.).

7 **SEC. 126. PRODUCTION CONTRACTS INVOLVING INVEST-**
8 **MENT REQUIREMENTS.**

9 (a) **APPLICABILITY.**—This section applies only to a
10 production contract between a contract producer and a
11 contractor if the production contract requires the contract
12 producer, together with any other production contract be-
13 tween the same parties, to make a capital investment of
14 \$100,000 or more.

15 (b) **RESTRICTIONS ON CONTRACT TERMINATION.**—
16 Except as provided in subsection (d), a contractor shall
17 not terminate or fail to renew a production contract until
18 the contractor—

19 (1) provides the contract producer with written
20 notice of the intention of the contractor to terminate
21 or not renew the production contract at least 90
22 days before the effective date of the termination or
23 nonrenewal; and

24 (2) reimburses the contract producer for dam-
25 ages (based on the value of the remaining useful life

1 of the structures, machinery, equipment, or other
2 capital investment items) incurred due to the termi-
3 nation, cancellation, or nonrenewal of the production
4 contract.

5 (c) BREACH OF INVESTMENT REQUIREMENTS.—

6 (1) IN GENERAL.—Except as provided in sub-
7 section (d), a contractor shall not terminate or fail
8 to renew a production contract with a contract pro-
9 ducer that materially breaches a production con-
10 tract, including the investment requirements of a
11 production contract, until—

12 (A) the contractor provides the contract
13 producer with a written notice of termination or
14 nonrenewal, including a list of complaints alleg-
15 ing causes for the breach, at least 45 days be-
16 fore the effective date of the termination or
17 nonrenewal; and

18 (B) the contract producer fails to remedy
19 each cause of the breach alleged in the list of
20 complaints provided in the notice not later than
21 30 days after receipt of the notice.

22 (2) CIVIL ACTIONS.—An effort by a contract
23 producer to remedy a cause of an alleged breach
24 shall not be considered to be an admission of a
25 breach in a civil action.

1 (d) EXCEPTIONS.—A contractor may terminate or
2 decline to renew a production contract in accordance with
3 applicable law without notice or remedy as required in
4 subsections (b) and (c) if the basis for the termination
5 or nonrenewal is—

6 (1) a voluntary abandonment of the contractual
7 relationship by the contract producer, such as a
8 complete failure of the performance of a contract
9 producer under the production contract; or

10 (2) the conviction of a contract producer of an
11 offense of fraud or theft committed against the con-
12 tractor.

13 (e) PENALTY.—If a contractor terminates or fails to
14 renew a production contract other than as provided in this
15 section, the contractor shall pay the contract producer the
16 value of the remaining useful life of the structures, ma-
17 chinery, equipment, or other capital investment items.

18 **SEC. 127. PRODUCER RIGHTS.**

19 (a) IN GENERAL.—It shall be unlawful, in or in con-
20 nection with any transaction in interstate or foreign com-
21 merce, for any covered person or contractor to take an
22 action to coerce, intimidate, disadvantage, retaliate
23 against, or discriminate against any producer because the
24 producer exercises, or attempts to exercise, the right of
25 the producer—

1 (1)(A) to enter into a membership agreement or
2 marketing contract with an agricultural cooperative,
3 a processor, or another producer; and

4 (B) to exercise contractual rights under the
5 membership agreement or marketing contract;

6 (2) to lawfully provide statements or informa-
7 tion to the Secretary, a Federal or State law en-
8 forcement agency, or any other entity or person re-
9 garding improper actions or violations of law by a
10 covered person or contractor under this subtitle, un-
11 less the statements or information are determined to
12 be libelous or slanderous under applicable State law;

13 (3) to cancel a production contract in accord-
14 ance with section 123;

15 (4) to disclose the terms of an agricultural con-
16 tract under section 124;

17 (5) to file, continue, terminate, or enforce a lien
18 under section 125; and

19 (6) to enforce other protections provided by this
20 subtitle or other Federal or State law (including reg-
21 ulations).

22 (b) WAIVERS.—Any provision of an agricultural con-
23 tract that waives a producer right described in subsection
24 (a), or an obligation of a covered person or contractor es-
25 tablished by this subtitle, shall be void and unenforceable.

1 (c) VIOLATIONS.—Section 111(b) shall apply to a vio-
2 lation of this section.

3 **SEC. 128. MEDIATION.**

4 (a) MEDIATION.—

5 (1) IN GENERAL.—An agricultural contract
6 shall provide for resolution of disputes concerning
7 the agricultural contract by mediation.

8 (2) MEDIATION BY SECRETARY OR STATE ME-
9 DIATION SERVICE.—If there is a dispute involving
10 an agricultural contract, either party to the agricul-
11 tural contract may make a written request to the
12 Secretary for mediation services by the Secretary or
13 by a designated State mediation service to facilitate
14 resolution of the dispute.

15 (3) HEARING.—The parties to the agricultural
16 contract shall receive a release from the mediation
17 services described in paragraph (2) before the dis-
18 pute may be heard by a court.

19 (b) NO ARBITRATION OF FUTURE CONTROVERSY.—
20 A provision in an agricultural contract submitting to arbi-
21 tration a future controversy arising between a producer
22 and a covered person or contractor shall be void.

1 **Subtitle D—Agricultural Fair**
2 **Practices**

3 **SEC. 131. AGRICULTURAL FAIR PRACTICES.**

4 The Agricultural Fair Practices Act of 1967 (7
5 U.S.C. 2301 et seq.) is amended to read as follows:

6 **“SECTION 1. SHORT TITLE.**

7 “This Act may be cited as the ‘Agricultural Fair
8 Practices Act of 1967’.

9 **“SEC. 2. FINDINGS AND PURPOSE.**

10 “(a) FINDINGS.—Congress finds that—

11 “(1) agricultural products are produced in the
12 United States by many individual farmers and
13 ranchers scattered throughout the various States of
14 the United States;

15 “(2) agricultural products in fresh or processed
16 form move in large part in the channels of interstate
17 and foreign commerce, and agricultural products
18 that do not move in the channels directly burden or
19 affect interstate commerce;

20 “(3) the efficient production and marketing of
21 agricultural products by farmers and ranchers is of
22 vital concern to the welfare of farmers and ranchers
23 and to the general economy of the United States;

24 “(4) because agricultural products are produced
25 by numerous individual farmers and ranchers, the

1 marketing and bargaining position of individual
2 farmers and ranchers will be adversely affected un-
3 less farmers and ranchers are free to join together
4 voluntarily in cooperative organizations as author-
5 ized by law; and

6 “(5) interference with the right described in
7 paragraph (4) is contrary to the public interest and
8 adversely affects the free and orderly flow of goods
9 in interstate and foreign commerce.

10 “(b) PURPOSE.—The purpose of this Act is to estab-
11 lish standards of fair practices required of handlers for
12 dealings in agricultural products.

13 **“SEC. 3. DEFINITIONS.**

14 “In this Act:

15 “(1) ACCREDITED ASSOCIATION.—The term
16 ‘accredited association’ means an association of pro-
17 ducers accredited by the Secretary in accordance
18 with section 6.

19 “(2) ASSOCIATION OF PRODUCERS.—

20 “(A) IN GENERAL.—The term ‘association
21 of producers’ means an association of producers
22 of agricultural products that engages in the
23 marketing of agricultural products or of agri-
24 cultural services described in paragraph (6)(B).

1 “(B) INCLUSIONS.—The term ‘association
2 of producers’ includes—

3 “(i) a cooperative association (as de-
4 fined in section 15(a) of the Agricultural
5 Marketing Act (12 U.S.C. 1141j(a)); and

6 “(ii) an association described in the
7 first section of the Act entitled ‘An Act to
8 authorize association of producers of agri-
9 cultural products’ (commonly known as the
10 ‘Capper-Volstead Act’) (7 U.S.C. 291).

11 “(3) BARGAIN; BARGAINING.—The terms ‘bar-
12 gain’ and ‘bargaining’ refers to the performance of
13 the mutual obligation of a handler and an accredited
14 association to meet at reasonable times and for rea-
15 sonable periods of time for the purpose of negoti-
16 ating in good faith with respect to the price, terms
17 of sale, compensation for products produced or serv-
18 ices rendered under contract, or other provisions re-
19 lating to the products marketed, or the services ren-
20 dered, by the members of the accredited association
21 or by the accredited association as agent for the
22 members.

23 “(4) DESIGNATED HANDLER.—The term ‘des-
24 ignated handler’ means a handler that is designated
25 in accordance with section 6.

1 “(5) HANDLER.—

2 “(A) IN GENERAL.—The term ‘handler’
3 means any person engaged in the business or
4 practice of—

5 “(i) acquiring agricultural products
6 from producers or associations of pro-
7 ducers for processing or sale;

8 “(ii) grading, packaging, handling,
9 storing, or processing agricultural products
10 received from producers or associations of
11 producers;

12 “(iii) contracting or negotiating con-
13 tracts or other arrangements, written or
14 oral, with or on behalf of producers or as-
15 sociations of producers with respect to the
16 production or marketing of any agricul-
17 tural product; or

18 “(iv) acting as an agent or broker for
19 a handler in the performance of any func-
20 tion or act described in clause (i), (ii), or
21 (iii).

22 “(B) EXCLUSIONS.—The term “handler”
23 does not include—

24 “(i) any person (other than an agri-
25 cultural cooperative) engaged in a business

1 or practice described in subparagraph (A)
2 if the gross revenue derived by the person
3 from the business or activity is less than
4 \$10,000,000 per year; or

5 “(ii) any agricultural cooperative en-
6 gaged in a business or practice described
7 in subparagraph (A) if the gross revenue
8 derived by the person from the business or
9 activity is less than \$1,000,000 per year.

10 “(6) PRODUCER.—

11 “(A) IN GENERAL.—The term ‘producer’
12 means a person engaged in the production of
13 agricultural products as a farmer, planter,
14 rancher, dairyman, poultryman, or fruit, vege-
15 table, or nut grower.

16 “(B) INCLUSIONS.—The term ‘producer’
17 includes a person that contributes labor, pro-
18 duction management, facilities, or other services
19 for the production of an agricultural product.

20 “(7) PERSON.—The term ‘person’ includes an
21 individual, partnership, corporation, and association.

22 “(8) SECRETARY.—The term ‘Secretary’ means
23 the Secretary of Agriculture.

1 **“SEC. 4. PROHIBITED PRACTICES.**

2 “It shall be unlawful for any handler knowingly to,
3 or knowingly to permit any employee or agent to—

4 “(1) interfere with, restrain, or coerce any pro-
5 ducer in the exercise of the right of the producer to
6 join and belong to, or to refrain from joining or be-
7 longing to, an association of producers, or to refuse
8 to deal with any producer because of the exercise of
9 the right of the producer to join and belong to the
10 association;

11 “(2) discriminate against any producer with re-
12 spect to price, quantity, quality, or other terms of
13 purchase, acquisition, or other handling of an agri-
14 cultural product because of the membership of the
15 producer in, or the contract of the producer with, an
16 association of producers;

17 “(3) coerce or intimidate any producer to enter
18 into, maintain, breach, cancel, or terminate a mem-
19 bership agreement or marketing contract with an as-
20 sociation of producers or a contract with a handler;

21 “(4) pay or loan money, give any thing of value,
22 or offer any other inducement or reward to a pro-
23 ducer for refusing to or ceasing to belong to an asso-
24 ciation of producers;

1 “(5) make false reports about the finances,
2 management, or activities of an association of pro-
3 ducers or handlers;

4 “(6) conspire, combine, agree, or arrange with
5 any other person to do, or aid or abet the perform-
6 ance of, any act made unlawful by this Act;

7 “(7) refuse to bargain in good faith with an ac-
8 credited association, if the handler is a designated
9 handler; or

10 “(8) dominate or interfere with the formation
11 or administration of any association of producers or
12 to contribute financial or other support to an asso-
13 ciation of producers.

14 **“SEC. 5. BARGAINING IN GOOD FAITH.**

15 “(a) CLARIFICATION OF OBLIGATION.—

16 “(1) IN GENERAL.—The obligation of a des-
17 ignated handler to bargain in good faith shall apply
18 with respect to an accredited association and the
19 products or services for which the accredited associa-
20 tion is accredited to bargain.

21 “(2) AGREEMENTS OR CONCESSIONS.—The
22 good faith bargaining required between a handler
23 and an accredited association shall not require either
24 party to agree to a proposal or to make a conces-
25 sion.

1 “(b) EXTENSION OF SAME TERMS TO ACCREDITED
2 ASSOCIATION.—

3 “(1) IN GENERAL.—If a designated handler
4 purchases a product or service from producers under
5 terms more favorable to the producers than the
6 terms negotiated with an accredited association for
7 the same type of product or service, the handler
8 shall offer the same terms to the accredited associa-
9 tion.

10 “(2) VIOLATIONS.—Failure to extend the same
11 terms to the accredited association shall be consid-
12 ered to be a violation of section 4(g).

13 “(3) FACTORS.—In comparing terms, the Sec-
14 retary shall consider—

15 “(A) the stipulated purchase price;

16 “(B) any bonuses, premiums, hauling, or
17 loading allowances;

18 “(C) reimbursement of expenses;

19 “(D) payment for special services of any
20 character that may be paid by the handler; and

21 “(E) any amounts paid or agreed to be
22 paid by the handler for any designated purpose
23 other than payment of the purchase price.

24 “(c) MEDIATION.—The Secretary may provide medi-
25 ation services with respect to bargaining between an ac-

1 credited association and a designated handler at the re-
2 quest of the accredited association or designated handler.

3 **“SEC. 6. ACCREDITATION OF ASSOCIATIONS AND DESIGNA-
4 TION OF HANDLERS.**

5 “(a) ACCREDITATION PETITION.—

6 “(1) IN GENERAL.—An association of producers
7 seeking accreditation to bargain on behalf of pro-
8 ducers of an agricultural product or service shall
9 submit to the Secretary a petition for accreditation.

10 “(2) CONTENT.—The petition shall—

11 “(A) specify each agricultural product or
12 service for which the association seeks accredi-
13 tation to bargain on behalf of producers;

14 “(B) designate the handlers, individually,
15 by production or marketing area, or by some
16 other appropriate general classification, with
17 whom the association seeks to be accredited to
18 bargain; and

19 “(C) contain such other information and
20 documents as may be required by the Secretary.

21 “(b) NOTICE OF PETITION; PROCEEDINGS.—

22 “(1) IN GENERAL.—On receiving a petition
23 under subsection (a) and any supporting material,
24 the Secretary shall provide notice of the petition to

1 all handlers designated in the petition under sub-
2 section (a)(2)(B).

3 “(2) INDIVIDUAL HANDLERS.—The Secretary
4 shall provide personal notice under this subsection to
5 a handler that has been designated individually.

6 “(3) GENERAL CLASSIFICATIONS.—The Sec-
7 retary shall provide notice through the Federal Reg-
8 ister to handlers that have been designated by pro-
9 duction or marketing area or by some other general
10 classification.

11 “(4) OPPORTUNITY TO RESPOND.—The associa-
12 tion of producers seeking accreditation and the han-
13 dlers shall have an opportunity to submit written
14 evidence, views, and arguments to the Secretary.

15 “(5) PROCEEDINGS.—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B), the Secretary may conduct
18 an informal proceeding on the petition.

19 “(B) FORMAL HEARINGS.—The Secretary
20 shall hold a formal hearing for the reception of
21 testimony and evidence if the Secretary finds
22 that there are substantial unresolved issues of
23 material fact.

24 “(c) ISSUANCE OF ACCREDITATION ORDER.—On the
25 petition of an association of producers, the Secretary may

1 issue an order designating the association of producers as
2 an accredited association for the purposes of this Act if
3 the Secretary determines that—

4 “(1) under the charter documents or bylaws of
5 the association, the accredited association is owned
6 and controlled by producers;

7 “(2) the association has contracts, binding
8 under State law, with the members of the associa-
9 tion empowering the association to sell or negotiate
10 terms of sale of the products or services of the mem-
11 bers;

12 “(3) the association represents a sufficient
13 number of producers, or the members of the associa-
14 tion produce a sufficient quantity of agricultural
15 products or render a sufficient level of services, to
16 enable the association to function as an effective
17 agent for producers in bargaining with designated
18 handlers;

19 “(4) the functions of the association include
20 acting as principal or agent for the members of the
21 association in negotiations with handlers for prices
22 and other terms of trade with respect to the produc-
23 tion, sale, and marketing of products or services of
24 the members; and

1 “(5) the association is acting in good faith with
2 respect to the members of the association and is
3 complying with this Act.

4 “(d) NOTIFICATION OF ACCREDITATION ORDER.—

5 “(1) IN GENERAL.—The Secretary shall notify
6 the petitioning association of producers, and each
7 handler to be designated as part of the petition, of
8 the decision of the Secretary regarding the petition
9 and provide a concise statement of the basis for the
10 decision.

11 “(2) OTHER ASSOCIATIONS.—The Secretary
12 shall provide notice of an accreditation of an associa-
13 tion to all other associations that have been accred-
14 ited to bargain with respect to the product or service
15 with any of the designated handlers of the associa-
16 tion.

17 “(e) ANNUAL REPORT.—Each accredited association
18 shall submit to the Secretary an annual report in such
19 form and including such information as the Secretary by
20 regulation may require to enable the Secretary to deter-
21 mine whether the association is meeting the standards for
22 accreditation.

23 “(f) LOSS OF ACCREDITATION.—

24 “(1) IN GENERAL.—If the Secretary determines
25 that an accredited association has ceased to meet

1 the standards for accreditation under subsection (c),
2 the Secretary shall—

3 “(A) notify the association of the manner
4 in which the association is deficient in main-
5 taining the standards for accreditation; and

6 “(B) allow the association a reasonable pe-
7 riod of time to answer or correct the defi-
8 ciencies.

9 “(2) HEARING.—After providing notice and a
10 corrective period in accordance with paragraph (1),
11 if the Secretary is not satisfied that the association
12 is in compliance with subsection (c), the Secretary
13 shall—

14 “(A) notify the association of the contin-
15 ued deficiencies; and

16 “(B) hold a hearing to consider the revoca-
17 tion of accreditation.

18 “(3) REVOCATION.—If, based on the evidence
19 submitted at the hearing, the Secretary finds that
20 the association has ceased to maintain the standards
21 for accreditation, the Secretary shall revoke the ac-
22 creditation of the association.

23 “(g) AMENDMENT.—

24 “(1) IN GENERAL.—At the option of the Sec-
25 retary or on the petition of an accredited association

1 or a designated handler, the Secretary may amend
2 an accreditation order with respect to the product or
3 service specified in the accreditation order.

4 “(2) NOTICE.—The Secretary shall provide—

5 “(A) notice of any proposed amendment
6 and the reasons for the amendment to all ac-
7 credited associations and handlers that would
8 be directly affected by the amendment; and

9 “(B) an opportunity for a public hearing.

10 “(3) AUTHORITY.—After providing notice and
11 an opportunity for a hearing in accordance with
12 paragraph (2), the Secretary may amend the accred-
13 itation order if the Secretary finds that the amend-
14 ment will be conducive to more effective bargaining
15 and orderly marketing by the accredited association
16 of the product or services of the members of the ac-
17 credited association.

18 **“SEC. 7. ASSIGNMENT OF ASSOCIATION DUES AND FEES.**

19 “(a) IN GENERAL.—A producer of an agricultural
20 product or service may execute, as a clause in a sales con-
21 tract or in another written instrument, an assignment of
22 dues or fees to, or the deduction of a sum to be retained
23 by, an association of producers authorized by contract to
24 represent the producer, under which assignment a handler
25 shall—

1 “(1) deduct a portion of the amount to be paid
2 for products or services of the producer under a
3 growing contract; and

4 “(2) pay, on behalf of the producer, the portion
5 over to the association as dues or fees or a sum to
6 be retained by the association.

7 “(b) DUTY OF HANDLER.—After a handler receives
8 notice from a producer of an assignment under subsection
9 (a), the handler shall—

10 “(1) deduct the amount authorized by the as-
11 signment from the amount paid for any agricultural
12 product sold by the producer or for any service ren-
13 dered under any growing contract; and

14 “(2) on payment to producers for the product
15 or service, pay the amount over to the association or
16 the assignee of the association.

17 **“SEC. 8. POWERS OF SECRETARY.**

18 “(a) RECORDS AND INFORMATION.—

19 “(1) MAINTENANCE.—The Secretary may re-
20 quire any person covered by this Act to establish and
21 maintain such records, make such reports, and pro-
22 vide such other information as the Secretary may
23 reasonably require to carry out this Act.

24 “(2) ACCESS.—The Secretary and any officer
25 or employee of the Department of Agriculture, on

1 presentation of credentials and a warrant or such
2 other order of a court—

3 “(A) shall have a right of entry to, on, or
4 through any premises in which records required
5 to be maintained under paragraph (1) are lo-
6 cated; and

7 “(B) may at reasonable times have access
8 to and copy any records that any person is re-
9 quired to maintain or that relate to any matter
10 under this Act under investigation or in ques-
11 tion.

12 “(b) COMPLAINTS.—If the Secretary has reason to
13 believe (whether through investigation or petition by any
14 person) that any person has violated this Act, the Sec-
15 retary shall cause a complaint to be served on the
16 person—

17 “(1) stating the reasons for the alleged violation
18 of this Act; and

19 “(2) requiring the person to attend and testify
20 at a hearing to be held not earlier than 30 days
21 after the date of service of the complaint.

22 “(c) HEARING.—

23 “(1) IN GENERAL.—The Secretary may hold
24 hearings, sign and issue subpoenas, administer
25 oaths, examine witnesses, receive evidence, and re-

1 quire the attendance and testimony of witnesses and
2 the production of such accounts, records, and memo-
3 randa, as the Secretary considers necessary to deter-
4 mine whether a violation of this Act has occurred.

5 “(2) RIGHT TO HEARING.—A person may re-
6 quest a hearing if the person is subject to a penalty
7 under this Act.

8 “(3) RESPONDENTS’ RIGHTS.—During a hear-
9 ing, the person complained of shall be given, in ac-
10 cordance with regulations promulgated by the Sec-
11 retary, the opportunity—

12 “(A) to be informed of the evidence
13 against the person;

14 “(B) to cross-examine witnesses; and

15 “(C) to present evidence.

16 “(4) HEARING LIMITATION.—The issues at any
17 hearing held or requested under this section shall be
18 limited in scope to matters directly related to the
19 purpose for which the hearing was held or requested.

20 “(d) REPORT OF FINDING AND PENALTIES.—

21 “(1) IN GENERAL.—If, after a hearing, the Sec-
22 retary finds that a person has violated this Act, the
23 Secretary shall make, and provide to the person, a
24 written report that states the findings of fact and in-

1 includes an order requiring the person to cease and
2 desist from committing the violation.

3 “(2) CIVIL PENALTY.—The Secretary may as-
4 sess a civil penalty not to exceed \$100,000 for each
5 violation of this Act.

6 “(e) INJUNCTIONS; FINALITY AND APPEALABILITY
7 OF AN ORDER.—

8 “(1) INJUNCTIONS.—At any time after a com-
9 plaint is served on a person under subsection (b),
10 the court, on application of the Secretary, may issue
11 an injunction, restraining to the extent the court de-
12 termines to be appropriate, the person and the offi-
13 cers, directors, agents, and employees of the person
14 from violating this Act.

15 “(2) APPEALABILITY OF AN ORDER.—An order
16 issued under this section shall be final and conclu-
17 sive unless, within 30 days after service of the order,
18 the affected handler petitions to appeal the order to
19 the United States court of appeals for the circuit in
20 which the handler resides or has its principal place
21 of business or the United States Court of Appeals
22 for the District of Columbia Circuit.

23 “(3) DELIVERY OF PETITION.—

24 “(A) IN GENERAL.—The clerk of the court
25 shall immediately cause a copy of any petition

1 filed under paragraph (2) to be delivered to the
2 Secretary.

3 “(B) RECORD.—On receipt of the petition,
4 the Secretary shall file in the court the record
5 of the proceedings under this section.

6 “(4) PENALTY FOR FAILURE TO OBEY AN
7 ORDER.—

8 “(A) IN GENERAL.—Any person that fails
9 to obey an order of the Secretary issued under
10 this section after the order becomes final shall
11 be fined not less than \$5,000 and not more
12 than \$100,000 for each offense.

13 “(B) SEPARATE OFFENSES.—Each day
14 during which the failure continues shall be con-
15 sidered to be a separate offense.

16 **“SEC. 9. ENFORCEMENT.**

17 “(a) CIVIL ACTIONS BY AGGRIEVED PERSONS.—

18 “(1) PREVENTIVE RELIEF.—Whenever any
19 handler has engaged or there are reasonable grounds
20 to believe that any handler is about to engage in any
21 act or practice prohibited by this Act, a civil action
22 for preventive relief, including an application for a
23 permanent or temporary injunction, restraining
24 order, or other order, may be instituted by the per-
25 son aggrieved.

1 “(2) ATTORNEY’S FEES.—In any action com-
2 menced under paragraph (1), the court may allow
3 the prevailing party a reasonable attorney’s fee as
4 part of the costs.

5 “(3) SECURITY.—The court may provide that
6 no restraining order or preliminary injunction shall
7 issue unless security is provided by the applicant, in
8 such sum as the court determines to be appropriate,
9 for the payment of such costs and damages as may
10 be incurred or suffered by any party that is found
11 to have been wrongfully enjoined or restrained.

12 “(b) CIVIL ACTIONS BY INJURED PERSONS.—

13 “(1) IN GENERAL.—Any person injured in the
14 business or property of the person by reason of any
15 violation of, or combination or conspiracy to violate,
16 this Act may—

17 “(A) sue for the violation in the appro-
18 priate United States district court without re-
19 spect to the amount in controversy; and

20 “(B) recover damages sustained.

21 “(2) ATTORNEY’S FEES.—In any action com-
22 menced under paragraph (1), the court may allow
23 the prevailing party a reasonable attorney’s fee as
24 part of the costs.

1 “(3) LIMITATION ON ACTIONS.—Any action to
2 enforce any cause of action under this subsection
3 shall be barred unless commenced within 2 years
4 after the cause of action occurred.

5 “(c) JURISDICTION OF DISTRICT COURTS.—

6 “(1) IN GENERAL.—A United States district
7 court shall have jurisdiction over an action brought
8 under this section.

9 “(2) LIMITATIONS.—No action may be com-
10 menced under subsection (a) or (b)—

11 “(A) prior to 60 days after the plaintiff
12 has given notice of the alleged violation to the
13 Secretary through a petition under section 8(b);
14 or

15 “(B) if the Secretary has commenced and
16 is diligently prosecuting an action (administra-
17 tive or judicial) dealing with the same violation
18 to require compliance with the Act.

19 “(d) JUDICIAL REVIEW.—An order of the Secretary
20 with respect to which review could have been obtained
21 under section 8(e)(2) shall not be subject to judicial review
22 in any proceeding for enforcement under this section.

1 **“SEC. 10. PREEMPTION.**

2 “(a) IN GENERAL.—Except as expressly provided in
3 this Act, this Act does not invalidate the provisions of any
4 State law dealing with the same subject as this Act.

5 “(b) STATE COURTS.—This Act shall not deprive a
6 State court of jurisdiction under a State law dealing with
7 the same subject as this Act.”.

8 **Subtitle E—Implementation**

9 **SEC. 141. RELATIONSHIP TO STATE LAW.**

10 (a) IN GENERAL.—Except as expressly provided in
11 this title, this title does not invalidate any provision of
12 State law dealing with the same subject as this title.

13 (b) STATE COURTS.—This title does not deprive a
14 State court of jurisdiction under a State law dealing with
15 the same subject as this title.

16 **SEC. 142. REGULATIONS.**

17 The Secretary shall promulgate such regulations as
18 are appropriate to carry out this title and the amendments
19 made by this title.

20 **SEC. 143. IMPLEMENTATION PLAN.**

21 Not later than 180 days after the date of enactment
22 of this Act, the Secretary and the Attorney General shall
23 develop and implement a plan to enable the Secretary,
24 where appropriate, to file civil actions, including tem-
25 porary injunctions, to enforce orders issued by the Sec-

1 retary under this title and the Agricultural Fair Practices
2 Act of 1967 (as amended by section 131).

3 **SEC. 144. EFFECTIVE DATE.**

4 (a) IN GENERAL.—Except as provided in subsection
5 (b), this title and the amendments made by this title take
6 effect on the date of enactment of this Act.

7 (b) AGRICULTURAL CONTRACTS.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), subtitle C applies to an agricultural con-
10 tract in force on or after the date of enactment of
11 this Act, regardless of the date on which the agricul-
12 tural contract is executed.

13 (2) EXCEPTIONS.—Sections 122, 123, 126,
14 127(a)(5), and 128(a) shall apply only to an agricul-
15 tural contract that is executed or substantively
16 amended after the date of enactment of this Act.

17 **TITLE II—NATIONAL RURAL CO-**
18 **OPERATIVE AND BUSINESS**
19 **EQUITY FUND**

20 **SEC. 201. NATIONAL RURAL COOPERATIVE AND BUSINESS**
21 **EQUITY FUND.**

22 The Consolidated Farm and Rural Development Act
23 (7 U.S.C. 1921 et seq.) is amended by adding at the end
24 the following:

1 **“Subtitle F—National Rural Coop-**
2 **erative and Business Equity**
3 **Fund**

4 **“SEC. 391A. SHORT TITLE.**

5 “This subtitle may be cited as the ‘National Rural
6 Cooperative and Business Equity Fund Act’.

7 **“SEC. 391B. PURPOSE.**

8 “The purpose of this subtitle is to revitalize rural
9 communities and enhance farm income through sustain-
10 able rural business development by providing Federal
11 funds and credit enhancements to a private equity fund
12 in order to encourage investments by institutional and
13 noninstitutional investors for the benefit of rural America.

14 **“SEC. 391C. DEFINITIONS.**

15 “In this subtitle:

16 “(1) **AUTHORIZED PRIVATE INVESTOR.**—The
17 term ‘authorized private investor’ means an indi-
18 vidual, legal entity, or affiliate or subsidiary of an
19 individual or legal entity that—

20 “(A) is eligible to receive a loan guarantee
21 under this title;

22 “(B) is eligible to receive a loan guarantee
23 under the Rural Electrification Act of 1936 (7
24 U.S.C. 901 et seq.);

1 “(C) is created under the National Con-
2 sumer Cooperative Bank Act (12 U.S.C. 3011
3 et seq.);

4 “(D) is an insured depository institution;
5 or

6 “(E) is determined by the Fund to be an
7 appropriate investor in the Fund.

8 “(2) BOARD.—The term ‘Board’ means the
9 board of directors of the Fund established under
10 section 391G.

11 “(3) FUND.—The term ‘Fund’ means the Na-
12 tional Rural Cooperative and Business Equity Fund
13 established under section 391D.

14 “(4) GROUP OF SIMILAR INVESTORS.—The
15 term ‘group of similar investors’ means any 1 of the
16 following:

17 “(A) Insured depository institutions with
18 total assets of more than \$250,000,000.

19 “(B) Insured depository institutions with
20 total assets equal to or less than \$250,000,000.

21 “(C) Farm Credit System institutions
22 under the Farm Credit Act of 1971 (12 U.S.C.
23 2001 et seq.).

24 “(D) Cooperative financial institutions
25 (other than Farm Credit System institutions).

1 “(E) Authorized private investors, other
2 than those described in subparagraphs (A)
3 through (D).

4 “(F) Other nonprofit organizations, includ-
5 ing credit unions.

6 “(5) INSURED DEPOSITORY INSTITUTION.—The
7 term ‘insured depository institution’ means any bank
8 or savings association the deposits of which are in-
9 sured under the Federal Deposit Insurance Act (12
10 U.S.C. 1811 et seq.).

11 “(6) RURAL AREA.—The term ‘rural area’
12 means an area that is located—

13 “(A) outside a standard metropolitan sta-
14 tistical area; or

15 “(B) within a community that has a popu-
16 lation of 50,000 individuals or fewer.

17 “(7) RURAL BUSINESS.—The term ‘rural busi-
18 ness’ means a rural cooperative, a value-added agri-
19 cultural enterprise, or any other business located or
20 locating in a rural area.

21 **“SEC. 391D. ESTABLISHMENT OF THE FUND.**

22 “(a) IN GENERAL.—

23 “(1) AUTHORITY TO ESTABLISH.—A group of
24 authorized private investors may establish, as a non-
25 Federal entity under State law, and manage a fund

1 to be known as the ‘National Rural Cooperative and
2 Business Equity Fund’, to raise and provide equity
3 capital to rural businesses.

4 “(2) COMPOSITION OF GROUP.—The group of
5 authorized private investors referred to in paragraph
6 (1) shall be composed, to the maximum extent prac-
7 ticable, of representatives of a majority of groups of
8 similar investors.

9 “(b) PURPOSES.—The purposes of the Fund shall
10 be—

11 “(1) to strengthen the economy of rural areas;

12 “(2) to further sustainable rural business devel-
13 opment;

14 “(3) to encourage start-up rural businesses, in-
15 creased opportunities for small and minority-owned
16 rural businesses, and the formation of new rural
17 businesses;

18 “(4) to enhance rural employment opportuni-
19 ties;

20 “(5) to provide equity capital to rural busi-
21 nesses that have been unable to obtain equity cap-
22 ital; and

23 “(6) to leverage non-Federal funds for rural
24 businesses.

1 “(c) ARTICLES OF INCORPORATION AND BY-LAWS.—
2 The articles of incorporation and by-laws of the Fund shall
3 set forth purposes of the Fund that are consistent with
4 subsection (b).

5 **“SEC. 391E. INVESTMENT IN THE FUND.**

6 “(a) IN GENERAL.—The Secretary, using funds of
7 the Commodity Credit Corporation, shall—

8 “(1) subject to subsection (b)(1), make avail-
9 able to the Fund \$50,000,000 for each of fiscal
10 years 2001 through 2003;

11 “(2) subject to subsection (c), guarantee 50
12 percent of each investment made by an authorized
13 private investor in the Fund; and

14 “(3) subject to subsection (d), guarantee the re-
15 payment of principal to authorized private investors
16 in debentures issued by the Fund.

17 “(b) PRIVATE INVESTMENT.—

18 “(1) MATCHING REQUIREMENT.—Under sub-
19 section (a)(1), the Secretary shall make an amount
20 available to the Fund only after an equal amount
21 has been invested in the Fund by authorized private
22 investors in accordance with this subtitle and the
23 terms and conditions set forth in the by-laws of the
24 Fund.

1 “(2) INVESTMENTS BY INSURED DEPOSITORY
2 INSTITUTIONS.—Investments in the Fund by an in-
3 sured depository institution shall be considered part
4 of the record of the insured depository institution for
5 meeting the credit needs of its entire community for
6 the purposes of Federal law.

7 “(c) GUARANTEE OF PRIVATE INVESTMENTS.—

8 “(1) IN GENERAL.—The Secretary shall guar-
9 antee, under terms and conditions determined by the
10 Secretary, 50 percent of any loss of the principal of
11 an investment made in the Fund by an authorized
12 private investor.

13 “(2) MAXIMUM TOTAL GUARANTEE.—The ag-
14 gregate liability of the Secretary with respect to all
15 guarantees under paragraph (1) shall not apply to
16 more than \$300,000,000 in private investments.

17 “(3) REDEMPTION OF GUARANTEE.—

18 “(A) DATE.—An authorized private inves-
19 tor in the Fund may redeem a guarantee under
20 paragraph (1), with respect to the total invest-
21 ments in the Fund and the total losses of the
22 authorized private investor as of the date of
23 redemption—

24 “(i) on the date that is 5 years after
25 the date of incorporation of the Fund; or

1 “(ii) annually thereafter.

2 “(B) EFFECT OF REDEMPTION.—On re-
3 redemption of a guarantee under subparagraph
4 (A)—

5 “(i) the shares in the Fund of the au-
6 thorized private investor shall be redeemed;
7 and

8 “(ii) the authorized private investor
9 shall be prohibited from making any future
10 investment in the Fund.

11 “(d) DEBT.—

12 “(1) IN GENERAL.—The Fund may, at the dis-
13 cretion of the Board, raise additional capital through
14 the issuance of debentures and through other means
15 determined to be appropriate by the Board.

16 “(2) GUARANTEE OF DEBT BY SECRETARY.—

17 “(A) IN GENERAL.—The Secretary may
18 guarantee 100 percent of the principal of, and
19 accrued interest on, debentures issued by the
20 Fund that are approved by the Secretary.

21 “(B) MAXIMUM DEBT GUARANTEED BY
22 SECRETARY.—The outstanding value of deben-
23 tures issued by the Fund and guaranteed by
24 the Secretary shall not exceed the lesser of—

1 “(i) the amount equal to twice the
2 value of the assets held by the Fund; or

3 “(ii) \$500,000,000.

4 “(C) RECAPTURE OF GUARANTEE PAY-
5 MENTS.—If the Secretary makes a payment on
6 a debenture issued by the Fund as a result of
7 a guarantee of the Secretary under this para-
8 graph, the Secretary shall have priority over
9 other creditors for repayment of the debenture.

10 “(3) AUTHORIZED PRIVATE INVESTORS.—An
11 authorized private investor may purchase debentures
12 and other securities issued by the Fund.

13 **“SEC. 391F. INVESTMENTS AND OTHER ACTIVITIES OF THE**
14 **FUND.**

15 “(a) INVESTMENTS.—

16 “(1) IN GENERAL.—

17 “(A) TYPES.—Subject to subparagraphs
18 (B) and (C), the Fund may—

19 “(i) make equity investments in an
20 entity that meets the requirements of para-
21 graph (6) and such other requirements as
22 the Board may establish; and

23 “(ii) extend credit to such an entity
24 in—

1 “(I) the form of mezzanine debt
2 or subordinated debt; or

3 “(II) any other form of quasi-equity.
4

5 “(B) LIMITATION ON EQUITY INVEST-
6 MENTS.—After the initial equity investment in
7 an entity described in subparagraph (A)(i), the
8 Fund may not make additional equity invest-
9 ments in the entity if the additional equity in-
10 vestments would result in the Fund owning
11 more than 30 percent of the equity of the enti-
12 ty.

13 “(C) LIMITATION ON NONEQUITY INVEST-
14 MENTS.—Except in the case of a project to as-
15 sist a rural cooperative, the total amount of
16 nonequity investments described in subpara-
17 graph (A)(ii) that may be provided by the Fund
18 shall not exceed 20 percent of the total invest-
19 ments of the Fund in the project.

20 “(2) PROCEDURES.—The Fund shall implement
21 procedures to ensure that—

22 “(A) the financing arrangements of the
23 Fund meet the Fund’s primary focus of pro-
24 viding equity capital; and

1 “(B) the Fund does not compete with con-
2 ventional sources of credit.

3 “(3) DIVERSITY OF PROJECTS.—The Fund—

4 “(A) shall seek to make equity investments
5 in a variety of viable projects, with a significant
6 share of investments—

7 “(i) in smaller projects in rural com-
8 munities of diverse sizes; and

9 “(ii) in cooperative and noncoopera-
10 tive enterprises; and

11 “(B) shall be managed in such a way as to
12 diversify the risks to the Fund among a variety
13 of projects.

14 “(4) LIMITATION ON RURAL BUSINESSES AS-
15 SISTED.—The Fund shall not invest in any rural
16 business that is primarily retail in nature (as deter-
17 mined by the Board), other than a purchasing coop-
18 erative.

19 “(5) INTEREST RATE LIMITATIONS.—Returns
20 on investments in and by the Fund and returns on
21 the extension of credit by participants in projects as-
22 sisted by the Fund, shall not be subject to any State
23 or Federal law establishing a maximum allowable in-
24 terest rate.

25 “(6) REQUIREMENTS FOR RECIPIENTS.—

1 “(A) OTHER INVESTMENTS.—Any recipi-
2 ent of amounts from the Fund shall make or
3 obtain a significant investment from a source of
4 capital other than the Fund.

5 “(B) SPONSORSHIP.—Rural business in-
6 vestment projects to be considered for an equity
7 investment from the Fund shall be sponsored
8 by a regional, State, or local sponsoring or en-
9 dorsing organization such as—

10 “(i) a financial institution;

11 “(ii) a development organization; or

12 “(iii) any other established entity en-
13 gaging or assisting in rural business devel-
14 opment, including a rural cooperative.

15 “(b) TECHNICAL ASSISTANCE.—The Board shall use
16 not less than 1 percent of the net earnings of the Fund
17 to provide technical assistance to rural businesses seeking
18 an equity investment from the Fund.

19 “(c) ANNUAL AUDIT.—

20 “(1) IN GENERAL.—The Board shall authorize
21 an annual audit of the financial statements of the
22 Fund by a nationally recognized auditing firm using
23 generally accepted auditing procedures.

1 “(2) AVAILABILITY OF AUDIT RESULTS.—The
2 results of the audit required by paragraph (1) shall
3 be made available to investors in the Fund.

4 “(d) ANNUAL REPORT.—The Board shall prepare
5 and make available to the public an annual report that—

6 “(1) describes the projects funded with amounts
7 from the Fund;

8 “(2) specifies the recipients of amounts from
9 the Fund;

10 “(3) specifies the co-investors in all projects
11 that receive amounts from the Fund; and

12 “(4) meets the reporting requirements, if any,
13 of the State under the law of which the Fund is es-
14 tablished.

15 “(e) OTHER AUTHORITIES.—The Board may exercise
16 such other authorities as are necessary to carry out this
17 subtitle.

18 **“SEC. 391G. GOVERNANCE OF THE FUND.**

19 “(a) IN GENERAL.—The Fund shall be governed by
20 a board of directors that represents all of the authorized
21 private investors in the Fund and the Federal Government
22 and that consists of—

23 “(1) the Secretary or a designee;

24 “(2) 2 members who are appointed by the Sec-
25 retary and are not Federal employees, including—

1 “(1) BEEF.—The term ‘beef’ means meat pro-
2 duced from cattle (including veal).

3 “(2) COVERED COMMODITY.—The term ‘cov-
4 ered commodity’ means—

5 “(A) muscle cuts of beef, lamb, and pork;

6 “(B) ground beef, ground lamb, and
7 ground pork; and

8 “(C) a perishable agricultural commodity.

9 “(3) FOOD SERVICE ESTABLISHMENT.—The
10 term ‘food service establishment’ means a res-
11 taurant, cafeteria, lunch room, food stand, saloon,
12 tavern, bar, lounge, or other similar facility operated
13 as an enterprise engaged in the business of selling
14 food to the public.

15 “(4) LAMB.—The term ‘lamb’ means meat,
16 other than mutton, produced from sheep.

17 “(5) PACKER.—The term ‘packer’ has the
18 meaning given the term in section 201 of the Pack-
19 ers and Stockyards Act, 1921 (7 U.S.C. 191).

20 “(6) PERISHABLE AGRICULTURAL COMMODITY;
21 RETAILER.—The terms ‘perishable agricul-
22 tural commodity’ and ‘retailer’ have the meanings given the
23 terms in section 1(b) of the Perishable Agricultural
24 Commodities Act, 1930 (7 U.S.C. 499a(b)).

1 “(7) PORK.—The term ‘pork’ means meat pro-
2 duced from hogs.

3 “(8) SECRETARY.—The term ‘Secretary’ means
4 the Secretary of Agriculture, acting through the Ag-
5 ricultural Marketing Service.

6 **“SEC. 272. NOTICE OF COUNTRY OF ORIGIN.**

7 “(a) IN GENERAL.—

8 “(1) REQUIREMENT.—Except as provided in
9 subsection (b), a retailer of a covered commodity
10 shall inform consumers, at the final point of sale of
11 the covered commodity to consumers, of the country
12 of origin of the covered commodity.

13 “(2) UNITED STATES COUNTRY OF ORIGIN.—A
14 retailer of a covered commodity (other than a perish-
15 able agricultural commodity) may designate the cov-
16 ered commodity as having a United States country
17 of origin only if the covered commodity is exclusively
18 from an animal that is exclusively born, raised, and
19 slaughtered in the United States.

20 “(b) EXEMPTION FOR FOOD SERVICE ESTABLISH-
21 MENTS.—Subsection (a) shall not apply to a covered com-
22 modity if the covered commodity is—

23 “(1) prepared or served in a food service estab-
24 lishment; and

1 “(2)(A) offered for sale or sold at the food serv-
2 ice establishment in normal retail quantities; or

3 “(B) served to consumers at the food service es-
4 tablishment.

5 “(c) METHOD OF NOTIFICATION.—

6 “(1) IN GENERAL.—The information required
7 by subsection (a) may be provided to consumers by
8 means of a label, stamp, mark, placard, or other
9 clear and visible sign on the covered commodity or
10 on the package, display, holding unit, or bin con-
11 taining the commodity at the final point of sale to
12 consumers.

13 “(2) LABELED COMMODITIES.—If the covered
14 commodity is already individually labeled for retail
15 sale regarding country of origin by the packer, im-
16 porter, or another person, the retailer shall not be
17 required to provide any additional information to
18 comply with this section.

19 “(d) AUDIT VERIFICATION SYSTEM.—The Secretary
20 may require by regulation that any person that prepares,
21 stores, handles, or distributes a covered commodity for re-
22 tail sale maintain a verifiable recordkeeping audit trail
23 that will permit the Secretary to ensure compliance with
24 the regulations promulgated under section 274.

1 “(e) INFORMATION.—A packer and any other person
2 engaged in the business of supplying a covered commodity
3 to a retailer shall provide information to the retailer indi-
4 cating the country of origin of the covered commodity.

5 **“SEC. 273. ENFORCEMENT.**

6 “Section 253 shall apply to a violation of this subtitle.

7 **“SEC. 274. REGULATIONS.**

8 “(a) IN GENERAL.—The Secretary shall promulgate
9 such regulations as are necessary to carry out this subtitle.

10 “(b) PARTNERSHIPS WITH STATES.—In promul-
11 gating the regulations, the Secretary shall, to the max-
12 imum extent practicable, enter into partnerships with
13 States with enforcement infrastructure to carry out this
14 subtitle.

15 **“SEC. 275. APPLICATION.**

16 “‘This subtitle shall apply to the retail sale of a cov-
17 ered commodity beginning on the date that is 180 days
18 after the date of the enactment of this subtitle.’”.

19 **TITLE IV—MARKETING ASSIST-**
20 **ANCE LOAN RATE EQUALI-**
21 **ZATION**

22 **SEC. 401. LOAN RATES FOR MARKETING ASSISTANCE**
23 **LOANS.**

24 Section 132 of the Agricultural Market Transition
25 Act (7 U.S.C. 7232) is amended to read as follows:

1 **“SEC. 132. LOAN RATES FOR MARKETING ASSISTANCE**
2 **LOANS.**

3 “(a) WHEAT.—The loan rate for a marketing assist-
4 ance loan under section 131 for wheat shall be based on
5 80 percent of the average full economic cost of production
6 per bushel (based on yield per planted acre), as deter-
7 mined by the Secretary, for the immediately preceding 3
8 crops of wheat.

9 “(b) FEED GRAINS.—

10 “(1) CORN.—The loan rate for a marketing as-
11 sistance loan under section 131 for corn shall be
12 based on 80 percent of the average full economic
13 cost of production per bushel (based on yield per
14 planted acre), as determined by the Secretary, for
15 the immediately preceding 3 crops of corn.

16 “(2) OTHER FEED GRAINS.—

17 “(A) IN GENERAL.—Subject to subpara-
18 graph (B), the loan rate for a marketing assist-
19 ance loan under section 131 for grain sorghum,
20 barley, and oats, individually, shall be estab-
21 lished at such level as the Secretary determines
22 is fair and reasonable in relation to the rate
23 that loans are made available for corn, taking
24 into consideration the feeding value of the com-
25 modity in relation to corn.

1 “(B) BASIS.—The loan rate for a mar-
2 keting assistance loan under section 131 for
3 grain sorghum, barley, and oats, individually,
4 shall be based on 80 percent of the average full
5 economic cost of production per bushel (based
6 on yield per planted acre), as determined by the
7 Secretary, for the immediately preceding 3
8 crops of grain sorghum, barley, and oats, re-
9 spectively.

10 “(c) UPLAND COTTON.—The loan rate for a mar-
11 keting assistance loan under section 131 for upland cotton
12 shall be based on 80 percent of the average full economic
13 cost of production per bushel (based on yield per planted
14 acre), as determined by the Secretary, for the immediately
15 preceding 3 crops of upland cotton.

16 “(d) EXTRA LONG STAPLE COTTON.—The loan rate
17 for a marketing assistance loan under section 131 for
18 extra long staple cotton shall be based on 80 percent of
19 the average full economic cost of production per bushel
20 (based on yield per planted acre), as determined by the
21 Secretary, for the immediately preceding 3 crops of extra
22 long staple cotton.

23 “(e) RICE.—The loan rate for a marketing assistance
24 loan under section 131 for rice shall be based on 80 per-
25 cent of the average full economic cost of production per

1 bushel (based on yield per planted acre), as determined
2 by the Secretary, for the immediately preceding 3 crops
3 of rice.

4 “(f) OILSEEDS.—

5 “(1) SOYBEANS.—The loan rate for a mar-
6 keting assistance loan under section 131 for soy-
7 beans shall be based on 80 percent of the average
8 full economic cost of production per bushel (based
9 on yield per planted acre), as determined by the Sec-
10 retary, for the immediately preceding 3 crops of soy-
11 beans.

12 “(2) SUNFLOWER SEED, CANOLA, RAPESEED,
13 SAFFLOWER, MUSTARD SEED, AND FLAXSEED.—The
14 loan rate for a marketing assistance loan under sec-
15 tion 131 for sunflower seed, canola, rapeseed, saf-
16 flower, mustard seed, and flaxseed, individually,
17 shall be based on 80 percent of the average full eco-
18 nomic cost of production per bushel (based on yield
19 per planted acre), as determined by the Secretary,
20 for the immediately preceding 3 crops of sunflower
21 seed, canola, rapeseed, safflower, mustard seed, and
22 flaxseed, respectively.

23 “(3) OTHER OILSEEDS.—The loan rates for a
24 marketing assistance loan under section 131 for
25 other oilseeds shall be established at such level as

1 the Secretary determines is fair and reasonable in
2 relation to the loan rate available for soybeans, ex-
3 cept in no event shall the rate for the oilseeds (other
4 than cottonseed) be less than the rate established for
5 soybeans on a per-pound basis for the same crop.”.

6 **SEC. 402. TERM OF LOANS.**

7 Section 133 of the Agriculture Market Transition Act
8 (7 U.S.C. 7233) is amended to read as follows:

9 **“SEC. 133. TERM OF LOANS.**

10 “(a) **TERM OF LOAN.**—In the case of each loan com-
11 modity, a marketing assistance loan under section 131
12 shall have a term of 20 months beginning on the first day
13 of the first month after the month in which the loan is
14 made.

15 “(b) **EXTENSIONS AUTHORIZED.**—The Secretary
16 may extend the term of a marketing assistance loan for
17 any loan commodity.”.

18 **SEC. 403. APPLICATION.**

19 This title and the amendments made by this title
20 shall apply to each of the 2001 and 2002 crops of a loan
21 commodity (as defined in section 102 of the Agricultural
22 Market Transition Act (7 U.S.C. 7202)).

1 **TITLE V—FARMLAND**
2 **PROTECTION**

3 **SEC. 501. FARMLAND PROTECTION PROGRAM.**

4 Section 388 of the Federal Agriculture Improvement
5 and Reform Act of 1996 (16 U.S.C. 3830 note; Public
6 Law 104–127) is amended to read as follows:

7 **“SEC. 388. FARMLAND PROTECTION PROGRAM.**

8 “(a) **DEFINITION OF ELIGIBLE ENTITY.**—In this sec-
9 tion, the term ‘eligible entity’ means—

10 “(1) any agency of any State or local govern-
11 ment, or federally recognized Indian tribe; and

12 “(2) any organization that—

13 “(A) is organized for, and at all times
14 since its formation has been operated prin-
15 cipally for, 1 or more of the conservation pur-
16 poses specified in clause (i), (ii), or (iii) of sec-
17 tion 170(h)(4)(A) of the Internal Revenue Code
18 of 1986;

19 “(B) is an organization described in sec-
20 tion 501(c)(3) of the Code that is exempt from
21 taxation under section 501(a) of the Code; and

22 “(C)(i) is described in section 509(a)(2) of
23 the Code of; or

1 “(ii) is described in section 509(a)(3) of
2 the Code and is controlled by an organization
3 described in section 509(a)(2) of the Code.

4 “(b) AUTHORITY.—The Secretary of Agriculture
5 shall establish and carry out a farmland protection pro-
6 gram under which the Secretary shall provide grants to
7 eligible entities, to provide the Federal share of the cost
8 of purchasing conservation easements or other interests
9 in land with prime, unique, or other productive soil for
10 the purpose of protecting topsoil by limiting non-
11 agricultural uses of the land.

12 “(c) FEDERAL SHARE.—The Federal share of the
13 cost of purchasing a conservation easement or other inter-
14 est described in subsection (b) shall be not more than 50
15 percent.

16 “(d) TITLE; ENFORCEMENT.—Title to a conservation
17 easement or other interest described in subsection (b) may
18 be held, and the conservation requirements of the ease-
19 ment or interest enforced, by any eligible entity.

20 “(e) STATE CERTIFICATION.—The attorney general
21 of the State in which land is located shall take such ac-
22 tions as are necessary to ensure that a conservation ease-
23 ment or other interest under this section is in a form that
24 is sufficient to achieve the conservation purpose of the
25 farmland protection program established under this sec-

1 tion, the law of the State, and the terms and conditions
2 of any grant made by the Secretary under this section.

3 “(f) CONSERVATION PLAN.—Any land for which a
4 conservation easement or other interest is purchased
5 under this section shall be subject to the requirements of
6 a conservation plan to the extent that the plan does not
7 negate or adversely affect the restrictions contained in any
8 easement.

9 “(g) TECHNICAL ASSISTANCE.—The Secretary may
10 use not more than 10 percent of the amount that is made
11 available for a fiscal year under subsection (h) to provide
12 technical assistance to carry out this section.

13 “(h) FUNDING.—For each fiscal year, the Secretary
14 shall use not more than \$250,000,000 of the funds of the
15 Commodity Credit Corporation to carry out this section.”.

16 **TITLE VI—CIVIL RIGHTS**

17 **SEC. 601. SENSE OF CONGRESS ON PARTICIPATION OF SO-** 18 **CIALLY DISADVANTAGED GROUPS IN DE-** 19 **PARTMENT OF AGRICULTURE PROGRAMS.**

20 It is the sense of Congress that the Secretary of Agri-
21 culture should take such actions as are necessary to en-
22 sure, to the maximum extent practicable, that members
23 of socially disadvantaged groups (as defined in section
24 355(e) of the Consolidated Farm and Rural Development
25 Act (7 U.S.C. 2003(e))—

1 (1) are informed of the eligibility requirements
2 to participate in programs of the Department of Ag-
3 riculture; and

4 (2) receive technical support and assistance
5 from the Department to participate in the programs.

○