

107TH CONGRESS
2D SESSION

S. 2040

To provide emergency agricultural assistance to producers of the 2002 crop.

IN THE SENATE OF THE UNITED STATES

MARCH 21, 2002

Mr. ROBERTS (for himself, Mr. CRAIG, and Mr. BURNS) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To provide emergency agricultural assistance to producers
of the 2002 crop.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Emergency Agricultural Assistance Act of 2002”.

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

Sec. 1. Short title; table of contents.

TITLE I—MARKET LOSS ASSISTANCE

Sec. 101. Market loss assistance.

Sec. 102. Oilseeds.

Sec. 103. Peanuts.

Sec. 104. Honey.
 Sec. 105. Wool and mohair.
 Sec. 106. Cottonseed.
 Sec. 107. Commodity purchases.
 Sec. 108. Loan deficiency payments.
 Sec. 109. Payments in lieu of loan deficiency payments for grazed acreage.
 Sec. 110. Milk.
 Sec. 111. Pulse crops.
 Sec. 112. Tobacco.
 Sec. 113. Livestock feed assistance program.

TITLE II—CONSERVATION

Sec. 201. Conservation reserve program.
 Sec. 202. Wetlands reserve program.
 Sec. 203. Environmental quality incentives program.
 Sec. 204. Farmland protection program.

TITLE III—ADMINISTRATION

Sec. 301. Obligation period.
 Sec. 302. Commodity Credit Corporation.
 Sec. 303. Regulations.

1 **TITLE I—MARKET LOSS** 2 **ASSISTANCE**

3 **SEC. 101. MARKET LOSS ASSISTANCE.**

4 (a) IN GENERAL.—The Secretary of Agriculture (re-
 5 ferred to in this Act as the “Secretary”) shall use funds
 6 of the Commodity Credit Corporation to provide assist-
 7 ance in the form of a market loss assistance payment to
 8 owners and producers on a farm that are eligible for a
 9 final payment for fiscal year 2002 under a production
 10 flexibility contract for the farm under the Agricultural
 11 Market Transition Act (7 U.S.C. 7201 et seq.).

12 (b) PAYMENT RATE.—In providing payments under
 13 this section, the Secretary shall use the payment rate for
 14 a contract commodity for fiscal year 2000 that applied

1 under section 114(c) of the Agricultural Market Transi-
 2 tion Act (7 U.S.C. 7214(c)).

3 (c) PROTECTION OF TENANTS AND SHARECROPPERS;
 4 SHARING OF PAYMENTS.—Sections 111(c) and 114(g) of
 5 the Agricultural Market Transition Act (7 U.S.C. 7211(c),
 6 7214(g)) shall apply to the payments made under sub-
 7 section (a).

8 **SEC. 102. OILSEEDS.**

9 (a) IN GENERAL.—The Secretary shall use
 10 \$466,000,000 of funds of the Commodity Credit Corpora-
 11 tion to make payments to producers that planted a 2002
 12 crop of oilseeds (as defined in section 102 of the Agricul-
 13 tural Market Transition Act (7 U.S.C. 7202)).

14 (b) COMPUTATION.—A payment to producers on a
 15 farm under this section for an oilseed shall be equal to
 16 the product obtained by multiplying—

17 (1) a payment rate determined by the Sec-
 18 retary;

19 (2) the acreage determined under subsection
 20 (c); and

21 (3) the yield determined under subsection (d).

22 (c) ACREAGE.—

23 (1) IN GENERAL.—Except as provided in para-
 24 graph (2), the acreage of the producers on the farm
 25 for an oilseed under subsection (b)(2) shall be equal

1 to the number of acres planted to the oilseed by the
2 producers on the farm during the 1999, 2000, or
3 2001 crop year, whichever is greatest, as determined
4 by the Secretary.

5 (2) NEW PRODUCERS.—In the case of pro-
6 ducers on a farm that planted acreage to a type of
7 oilseed during the 2002 crop year but not the 1999,
8 2000, or 2001 crop year, the acreage of the pro-
9 ducers for the type of oilseed under subsection
10 (b)(2) shall be equal to the number of acres planted
11 to the type of oilseed by the producers on the farm
12 during the 2002 crop year, as determined by the
13 Secretary.

14 (d) YIELD.—

15 (1) SOYBEANS.—Except as provided in para-
16 graph (3), in the case of soybeans, the yield of the
17 producers on a farm under subsection (b)(3) shall be
18 equal to the greater of—

19 (A) the average county yield per harvested
20 acre for each of the 1997 through 2001 crop
21 years, excluding the crop year with the greatest
22 yield per harvested acre and the crop year with
23 the lowest yield per harvested acre; or

1 (B) the actual yield of the producers on
 2 the farm for the 1999, 2000, or 2001 crop
 3 year, as determined by the Secretary.

4 (2) OTHER OILSEEDS.—Except as provided in
 5 paragraph (3), in the case of oilseeds other than soy-
 6 beans, the yield of the producers on a farm under
 7 subsection (b)(3) shall be equal to the greater of—

8 (A) the average national yield per har-
 9 vested acre for each of the 1997 through 2001
 10 crop years, excluding the crop year with the
 11 greatest yield per harvested acre and the crop
 12 year with the lowest yield per harvested acre; or

13 (B) the actual yield of the producers on
 14 the farm for the 1999, 2000, or 2001 crop
 15 year, as determined by the Secretary.

16 (3) NEW PRODUCERS.—In the case of pro-
 17 ducers on a farm that planted acreage to a type of
 18 an oilseed during the 2002 crop year but not the
 19 1999, 2000, or 2001 crop year, the yield of the pro-
 20 ducers on a farm under subsection (b)(3) shall be
 21 equal to the greater of—

22 (A) the average county yield per harvested
 23 acre for each of the 1997 through 2001 crop
 24 years, excluding the crop year with the greatest

1 yield per harvested acre and the crop year with
 2 the lowest yield per harvested acre; or

3 (B) the actual yield of the producers on
 4 the farm for the 2002 crop.

5 (4) DATA SOURCE.—To the maximum extent
 6 available, the Secretary shall use data provided by
 7 the National Agricultural Statistics Service to carry
 8 out this subsection.

9 **SEC. 103. PEANUTS.**

10 The Secretary shall use \$55,210,000 of funds of the
 11 Commodity Credit Corporation to provide a supplemental
 12 payment under section 204(a) of the Agricultural Risk
 13 Protection Act of 2000 (7 U.S.C. 1421 note; Public Law
 14 106–224) to producers of quota peanuts or additional pea-
 15 nuts for the 2002 crop year that received a payment under
 16 that section.

17 **SEC. 104. HONEY.**

18 (a) IN GENERAL.—The Secretary shall use
 19 \$93,000,000 of funds of the Commodity Credit Corpora-
 20 tion to make available recourse loans to producers of the
 21 2002 crop of honey on fair and reasonable terms and con-
 22 ditions, as determined by the Secretary.

23 (b) LOAN RATE.—The loan rate for a loan under sub-
 24 section (a) shall be equal to 85 percent of the average
 25 price of honey during the 5-crop year period preceding the

1 2002 crop year, excluding the crop year in which the aver-
 2 age price of honey was the highest and the crop year in
 3 which the average price of honey was the lowest in the
 4 period.

5 (c) TERM OF LOAN.—A loan under this section shall
 6 have a term of 9 months beginning on the first day of
 7 the first month after the month in which the loan is made.

8 **SEC. 105. WOOL AND MOHAIR.**

9 (a) IN GENERAL.—The Secretary shall use
 10 \$16,940,000 of funds of the Commodity Credit Corpora-
 11 tion to provide a supplemental payment under section 814
 12 of the Agriculture, Rural Development, Food and Drug
 13 Administration, and Related Agencies Appropriations Act,
 14 2001 (114 Stat. 1549, 1549A–55), to producers of wool,
 15 and producers of mohair, for the 2002 marketing year
 16 that received a payment under that section.

17 (b) PAYMENT RATE.—The Secretary shall adjust the
 18 payment rate specified in that section to reflect the
 19 amount made available for payments under this section.

20 **SEC. 106. COTTONSEED.**

21 The Secretary shall use \$93,000,000 of funds of the
 22 Commodity Credit Corporation to provide assistance to
 23 producers and first-handlers of the 2002 crop of cotton-
 24 seed.

1 **SEC. 107. COMMODITY PURCHASES.**

2 (a) IN GENERAL.—The Secretary shall use
3 \$186,000,000 of funds of the Commodity Credit Corpora-
4 tion to purchase agricultural commodities, especially agri-
5 cultural commodities that have experienced low prices dur-
6 ing the 2002 crop year.

7 (b) GEOGRAPHIC DIVERSITY.—The Secretary is en-
8 couraged to purchase agricultural commodities under this
9 section in a manner that reflects the geographic diversity
10 of agricultural production in the United States.

11 (c) OTHER PURCHASES.—The Secretary shall ensure
12 that purchases of agricultural commodities under this sec-
13 tion are in addition to purchases by the Secretary under
14 any other law.

15 (d) TRANSPORTATION AND DISTRIBUTION COSTS.—
16 The Secretary may use not more than \$20,000,000 of the
17 funds made available under subsection (a) to provide as-
18 sistance to States to cover costs incurred by the States
19 in transporting and distributing agricultural commodities
20 purchased under this section.

21 (e) PURCHASES FOR SCHOOL NUTRITION PRO-
22 GRAMS.—The Secretary shall use not less than
23 \$55,000,000 of the funds made available under subsection
24 (a) to purchase agricultural commodities of the type dis-
25 tributed under section 6(a) of the Richard B. Russell Na-
26 tional School Lunch Act (42 U.S.C. 1755(a)) for distribu-

1 tion to schools and service institutions in accordance with
 2 section 6(a) of that Act.

3 **SEC. 108. LOAN DEFICIENCY PAYMENTS.**

4 Section 135 of the Federal Agriculture Improvement
 5 and Reform Act of 1996 (7 U.S.C. 7235) is amended—

6 (1) in subsection (a)(2), by striking “the 2000
 7 crop year” and inserting “each of the 2000 and
 8 2002 crop years”; and

9 (2) by striking subsections (e) and (f) and in-
 10 serting the following:

11 “(e) BENEFICIAL INTEREST.—

12 “(1) IN GENERAL.—A producer shall be eligible
 13 for a payment for a loan commodity under this sec-
 14 tion only if the producer has a beneficial interest in
 15 the loan commodity, as determined by the Secretary.

16 “(2) APPLICATION.—The Secretary shall make
 17 a payment under this section to the producers on a
 18 farm with respect to a quantity of a loan commodity
 19 as of the earlier of—

20 “(A) the date on which the producers on
 21 the farm marketed or otherwise lost beneficial
 22 interest in the loan commodity, as determined
 23 by the Secretary; or

24 “(B) the date the producers on the farm
 25 request the payment.

1 “(3) 2001 CROP.—Notwithstanding paragraphs
 2 (1) and (2), effective for the 2001 crop only, if a
 3 producer eligible for a payment under this section
 4 loses beneficial interest in the covered commodity,
 5 the producer shall be eligible for the payment deter-
 6 mined as of the date the producer lost beneficial in-
 7 terest in the covered commodity, as determined by
 8 the Secretary.”.

9 **SEC. 109. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAY-**
 10 **MENTS FOR GRAZED ACREAGE.**

11 (a) IN GENERAL.—Subtitle C of title I of the Federal
 12 Agriculture Improvement and Reform Act of 1996 (7
 13 U.S.C. 7231 et seq.) is amended by adding at the end
 14 the following:

15 **“SEC. 138. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAY-**
 16 **MENTS FOR GRAZED ACREAGE.**

17 “(a) IN GENERAL.—For the 2002 crop of wheat,
 18 grain sorghum, barley, and oats, in the case of the pro-
 19 ducers on a farm that would be eligible for a loan defi-
 20 ciency payment under section 135 for wheat, grain sor-
 21 ghum, barley, or oats, but that elects to use acreage plant-
 22 ed to the wheat, grain sorghum, barley, or oats for the
 23 grazing of livestock, the Secretary shall make a payment
 24 to the producers on the farm under this section if the pro-
 25 ducers on the farm enter into an agreement with the Sec-

1 retary to forgo any other harvesting of the wheat, grain
2 sorghum, barley, or oats on the acreage.

3 “(b) PAYMENT AMOUNT.—The amount of a payment
4 made to the producers on a farm under this section shall
5 be equal to the amount obtained by multiplying—

6 “(1) the loan deficiency payment rate deter-
7 mined under section 135(c) in effect, as of the date
8 of the agreement, for the county in which the farm
9 is located; by

10 “(2) the payment quantity obtained by
11 multiplying—

12 “(A) the quantity of the grazed acreage on
13 the farm with respect to which the producers on
14 the farm elect to forgo harvesting of wheat,
15 grain sorghum, barley, or oats; and

16 “(B) the payment yield for that contract
17 commodity on the farm.

18 “(c) TIME, MANNER, AND AVAILABILITY OF PAY-
19 MENT.—

20 “(1) TIME AND MANNER.—A payment under
21 this section shall be made at the same time and in
22 the same manner as loan deficiency payments are
23 made under section 135.

24 “(2) AVAILABILITY.—The Secretary shall estab-
25 lish an availability period for the payment author-

1 ized by this section that is consistent with the avail-
 2 ability period for wheat, grain sorghum, barley, and
 3 oats established by the Secretary for marketing as-
 4 sistance loans authorized by this subtitle.

5 “(d) PROHIBITION ON CROP INSURANCE OR NON-
 6 INSURED CROP ASSISTANCE.—The producers on a farm
 7 shall not be eligible for insurance under the Federal Crop
 8 Insurance Act (7 U.S.C. 1501 et seq.) or noninsured crop
 9 assistance under section 196 with respect to a crop of
 10 wheat, grain sorghum, barley, or oats planted on acreage
 11 that the producers on the farm elect, in the agreement
 12 required by subsection (a), to use for the grazing of live-
 13 stock in lieu of any other harvesting of the crop.”.

14 **SEC. 110. MILK.**

15 Section 141 of the Agricultural Market Transition
 16 Act (7 U.S.C. 7251) is amended by striking “May 31,
 17 2002” each place it appears and inserting “December 31,
 18 2002”.

19 **SEC. 111. PULSE CROPS.**

20 (a) IN GENERAL.—The Secretary shall use
 21 \$20,000,000 of funds of the Commodity Credit Corpora-
 22 tion to provide assistance in the form of a market loss
 23 assistance payment to owners and producers on a farm
 24 that grow a 2002 crop of dry peas, lentils, or chickpeas
 25 (collectively referred to in this section as a “pulse crop”).

1 (b) COMPUTATION.—A payment to owners and pro-
 2 ducers on a farm under this section for a pulse crop shall
 3 be equal to the product obtained by multiplying—

4 (1) a payment rate determined by the Sec-
 5 retary; by

6 (2) the acreage of the producers on the farm
 7 for the pulse crop determined under subsection (c).

8 (c) ACREAGE.—

9 (1) IN GENERAL.—The acreage of the pro-
 10 ducers on the farm for a pulse crop under subsection
 11 (b)(2) shall be equal to the number of acres planted
 12 to the pulse crop by the owners and producers on
 13 the farm during the 1999, 2000, or 2001 crop year,
 14 whichever is greatest.

15 (2) BASIS.—For the purpose of paragraph (1),
 16 the number of acres planted to a pulse crop by the
 17 owners and producers on the farm for a crop year
 18 shall be based on (as determined by the Sec-
 19 retary)—

20 (A) the number of acres planted to the
 21 pulse crop for the crop year by the owners and
 22 producers on the farm, including any acreage
 23 that is included in reports that are filed late; or

24 (B) the number of acres planted to the
 25 pulse crop for the crop year for the purpose of

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

4 **SEC. 112. TOBACCO.**

5 (a) PAYMENTS.—The Secretary shall use
6 \$100,000,000 of funds of the Commodity Credit Corpora-
7 tion to provide supplemental payments to owners, control-
8 lers, and growers of tobacco for which a basic quota or
9 allotment is established for the 2002 crop year under part
10 I of subtitle B of title III of the Agricultural Adjustment
11 Act of 1938 (7 U.S.C. 1311 et seq.), as determined by
12 the Secretary.

13 (b) LOAN FORFEITURES.—Notwithstanding sections
14 106 through 106B of the Agricultural Act of 1949 (7
15 U.S.C. 1445 through 1445–2)—

16 (1) a producer-owned cooperative marketing as-
17 sociation may fully settle (without further cost to the
18 Association) a loan made for each of the 2000 and
19 2001 crops of types 21, 22, 23, 35, 36, and 37 of
20 an agricultural commodity under sections 106
21 through 106B of that Act by forfeiting to the Com-
22 modity Credit Corporation the agricultural com-
23 modity covered by the loan regardless of the condi-
24 tion of the commodity;

1 (2) any losses to the Commodity Credit Cor-
2 poration as a result of paragraph (1)—

3 (A) shall not be charged to the Account (as
4 defined in section 106B(a) of that Act); and

5 (B) shall not affect the amount of any as-
6 sessment imposed against the commodity under
7 sections 106 through 106B of that Act; and

8 (3) the commodity forfeited pursuant to this
9 subsection—

10 (A) shall not be counted for the purposes
11 of any determination for any year pursuant to
12 section 319 of the Agricultural Adjustment Act
13 of 1938 (7 U.S.C. 1314e); and

14 (B) may be disposed of in a manner deter-
15 mined by the Secretary of Agriculture, except
16 that the commodity may not be sold for use in
17 the United States for human consumption.

18 **SEC. 113. LIVESTOCK FEED ASSISTANCE PROGRAM.**

19 The Secretary shall use \$500,000,000 of funds of the
20 Commodity Credit Corporation to provide livestock feed
21 assistance to livestock producers affected by disasters dur-
22 ing calendar year 2001 or 2002.

1 **TITLE II—CONSERVATION**

2 **SEC. 201. CONSERVATION RESERVE PROGRAM.**

3 Notwithstanding section 11 of the Commodity Credit
 4 Corporation Charter Act (15 U.S.C. 714i), in addition to
 5 amounts made available under other provisions of law, the
 6 Secretary shall use \$44,000,000 of funds of the Com-
 7 modity Credit Corporation to provide technical assistance
 8 under the conservation reserve program established under
 9 subchapter B of chapter 1 of subtitle D of title XII of
 10 the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

11 **SEC. 202. WETLANDS RESERVE PROGRAM.**

12 (a) **MAXIMUM ENROLLMENT.**—Notwithstanding sec-
 13 tion 1237(b)(1) of the Food Security Act of 1985 (16
 14 U.S.C. 3837(b)(1)) and section 808 of the Agriculture,
 15 Rural Development, Food and Drug Administration, and
 16 Related Agencies Appropriations Act, 2001 (114 Stat.
 17 1549, 1549A–52), subject to subsection (b), the Secretary
 18 shall use \$200,000,000 of funds of the Commodity Credit
 19 Corporation for enrollment of additional acres beginning
 20 in fiscal year 2002 in the wetlands reserve program estab-
 21 lished under subchapter C of chapter 1 of subtitle D of
 22 title XII of the Food Security Act of 1985 (16 U.S.C.
 23 3837 et seq.).

24 (b) **TECHNICAL ASSISTANCE; MONITORING AND**
 25 **MAINTENANCE EXPENSES.**—Notwithstanding section 11

1 of the Commodity Credit Corporation Charter Act (15
 2 U.S.C. 714i), of the funds made available under sub-
 3 section (a), the Secretary shall use—

4 (1) not less than \$12,000,000, but not more
 5 than \$15,000,000, to provide technical assistance
 6 under the wetlands reserve program; and

7 (2) not less than \$8,000,000, but not more
 8 than \$10,000,000, for monitoring and maintenance
 9 expenses incurred by the Secretary for land enrolled
 10 in the wetlands reserve program as of the date of
 11 enactment of this Act.

12 **SEC. 203. ENVIRONMENTAL QUALITY INCENTIVES PRO-**
 13 **GRAM.**

14 In addition to amounts made available under section
 15 1241 of the Food Security Act of 1985 (16 U.S.C. 3841),
 16 the Secretary shall use \$300,000,000 of funds of the Com-
 17 modity Credit Corporation to carry out the environmental
 18 quality incentives program established under chapter 4 of
 19 subtitle D of title XII of the Food Security Act of 1985
 20 (16 U.S.C. 3839aa et seq.).

21 **SEC. 204. FARMLAND PROTECTION PROGRAM.**

22 (a) IN GENERAL.—In addition to amounts made
 23 available under section 388(c) of the Federal Agriculture
 24 Improvement and Reform Act of 1996 (16 U.S.C. 3830
 25 note; Public Law 104–127) or any other provision of law,

1 the Secretary shall use \$161,000,000 of funds of the Com-
2 modity Credit Corporation to make payments under the
3 farmland protection program established under section
4 388 of the Federal Agriculture Improvement and Reform
5 Act of 1996 to—

6 (1) any agency of any State or local govern-
7 ment, or federally recognized Indian tribe, including
8 farmland protection boards and land resource coun-
9 cils established under State law; and

10 (2) any organization that—

11 (A) is organized for, and at all times since
12 the formation of the organization has been op-
13 erated principally for, 1 or more of the con-
14 servation purposes specified in clauses (i), (ii),
15 and (iii) of section 170(h)(4)(A) of the Internal
16 Revenue Code of 1986;

17 (B) is an organization described in section
18 501(c)(3) of that Code that is exempt from tax-
19 ation under section 501(a) of that Code;

20 (C) is described in section 509(a)(2) of
21 that Code; or

22 (D) is described in section 509(a)(3) of
23 that Code and is controlled by an organization
24 described in section 509(a)(2) of that Code.

1 (b) TECHNICAL ASSISTANCE.—Notwithstanding sec-
 2 tion 11 of the Commodity Credit Corporation Charter Act
 3 (15 U.S.C. 714i), of the funds made available under sub-
 4 section (a), the Secretary may use not more than
 5 \$13,000,000 to provide technical assistance under the
 6 farmland protection program.

7 **TITLE III—ADMINISTRATION**

8 **SEC. 301. OBLIGATION PERIOD.**

9 The Secretary and the Commodity Credit Corpora-
 10 tion shall obligate and expend funds only during fiscal
 11 year 2002 to carry out this Act and the amendments made
 12 by this Act (other than sections 106, 107, and 110).

13 **SEC. 302. COMMODITY CREDIT CORPORATION.**

14 Except as otherwise provided in this Act, the Sec-
 15 retary shall use the funds, facilities, and authorities of the
 16 Commodity Credit Corporation to carry out this Act.

17 **SEC. 303. REGULATIONS.**

18 (a) IN GENERAL.—The Secretary may promulgate
 19 such regulations as are necessary to implement this Act
 20 and the amendments made by this Act.

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

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

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

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

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

○