

COHEN, Mr. CONRAD, Mr. CRAIG, Mr. D'AMATO, Mr. DASCHLE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. EXON, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GORTON, Mr. GRAHAM, Mr. HATCH, Mr. INHOFE, Mr. INOUE, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KEMPTHORNE, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mr. NICKLES, Mr. PELL, Mr. PRESSLER, Mr. REID, Mr. SARBANES, Mr. SIMON, Mr. SIMPSON, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THURMOND, and Mr. WELLSTONE):

S. Res. 191. A resolution designating the month of November 1995 as "National American Indian Heritage Month," and for other purposes; considered and agreed to.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. LUGAR, Mr. CRAIG, and Mr. GRASSLEY):

S. 1373. A bill to amend the Food Security Act of 1985 to minimize the regulatory burden on agricultural producers in the conservation of highly erodible land, wetland, and retired cropland, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE AGRICULTURAL RESOURCES ENHANCEMENT ACT OF 1995

Mr. LUGAR. Mr. President, I am very pleased to join Senators DOLE, GRASSLEY, and CRAIG today in introducing the Agricultural Resources Enhancement Act of 1995, which is our blueprint for the conservation title of the new farm bill. This legislation builds on agriculture's environmental successes over the past decade while also adding new flexibility for our farmers and ranchers as they enter the 21st century.

In May I advanced several concepts to improve the Conservation Reserve Program, our conservation land retirement initiative. I also introduced the new Environmental Quality Incentives Program, which I am proud to note was included in the budget reconciliation bill approved by the Senate last week. Meanwhile, Senators DOLE, GRASSLEY, and CRAIG developed several concepts for the CRP and for the conservation compliance and swampbuster programs. The bill we are introducing today combines the best of our recommendations into a single strategy that will protect both the environment and the property rights of our Nation's agricultural producers.

Our proposal improves the CRP by adding a new water quality emphasis and by targeting the program to the highly erodible land most in need of protection. There is land now in the CRP that can be brought back into production without harming the environment. At the same time, there is also valuable acreage not now in the reserve that deserves long-term protection. This legislation accomplishes both goals.

This bill also makes much needed changes to the swampbuster compli-

ance program, including an exemption for frequently cropped farmland. In the conservation compliance program, farmers would gain significant new flexibility to adopt soil-saving techniques. Our goal is to make both programs effective in preserving valuable resources and workable in the field.

Finally, our legislation includes unprecedented provisions to improve wildlife habitat on agricultural lands. Frequently cropped wetlands would be eligible for the CRP. Habitat potential will be considered in evaluating offers to enroll land in the CRP and the Wetlands Reserve Program. Expiring water bank acres would be eligible for the WRP. And the Secretary is encouraged to maximize wildlife habitat benefits from all our conservation programs.

My cosponsors and I represent a broad range of agricultural interests and have diverse regional backgrounds. As such, I am optimistic the provisions we have included in our bill will be embraced by a majority in the the Agriculture Committee and in the Senate as a whole. I look forward to working with all my colleagues in developing a new farm bill with provisions as meaningful for the environment as those in the landmark farm bill we passed a decade ago.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agricultural Resources Enhancement Act of 1995".

SEC. 2. PURPOSES.

The purposes of this Act are to—

- (1) restore respect for private property rights and the productive capacity of the agricultural sector;
- (2) reduce unnecessary regulatory burdens on farmers while maintaining basic environmental objectives; and
- (3) recognize that conservation and environmental objectives are best met with voluntary efforts.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended—

- (1) by redesignating paragraphs (2), (3), (4), (5), and (6) through (16) as paragraphs (3), (5), (6), (7), and (9) through (19), respectively;

(2) by inserting after paragraph (1) the following:

"(2) ALTERNATIVE CONSERVATION SYSTEM.—The term 'alternative conservation system' means a conservation system that achieves a substantial reduction in soil erosion from the level of erosion that existed prior to the application of the conservation measures and practices provided for under the system.";

(3) by inserting after paragraph (3) (as so redesignated) the following:

"(4) CONSERVATION SYSTEM.—The term 'conservation system' means the conservation measures and practices that are approved for application by a producer to a highly erodible field and that provide for cost effective and practical erosion reduction on the field based on local resource condi-

tions and standards contained in the Natural Resources Conservation Service field office technical guide.";

(4) by inserting after paragraph (7) (as so redesignated) the following:

"(8) FREQUENTLY CROPPED AGRICULTURAL LAND.—The term 'frequently cropped agricultural land' means agricultural land that—

"(A) exhibits wetland characteristics, as determined by the Secretary; and

"(B) has been used for 6 of the 10 years prior to January 1, 1996, for agricultural production on the field, as determined by the Secretary, or production of an annual or perennial agricultural crop (including forage production or hay), an aquaculture product, a nursery product, or a wetland crop.";

(5) in paragraph (10) (as so redesignated), by adding at the end the following:

"(C) PRODUCER-INITIATED REVIEW OF HIGHLY ERODIBLE LAND DESIGNATION.—A designation of highly erodible land on agricultural land made under this title shall be valid until an owner or operator requests a new designation. The Secretary shall provide the designation on the request of the owner or operator.

"(D) SCIENCE AND TECHNOLOGY.—A designation of highly erodible land under this title may be based on the most contemporary science, method, or technology, as determined by the Secretary, for determining soil erodibility that accurately reflects the potential for soil loss."

(b) CONFORMING AMENDMENTS.—

(1) Section 363 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006e) is amended by striking "section 1201(a)(16) of the Food Security Act of 1985 (16 U.S.C. 3801(a)(16))" and inserting "section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a))".

(2) Section 1257(c) of the Internal Revenue Code of 1986 is amended—

(A) in paragraph (1), by striking "section 1201(4) of the Food Security Act of 1985 (16 U.S.C. 3801(4))" and inserting "section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a))"; and

(B) in paragraph (2), by striking "section 1201(6) of the Food Security Act of 1985 (16 U.S.C. 3801(6))" and inserting "section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a))".

SEC. 4. HIGHLY ERODIBLE LAND CONSERVATION.

(a) PROGRAM INELIGIBILITY.—Section 1211 of the Food Security Act of 1985 (16 U.S.C. 3811) is amended to read as follows:

"SEC. 1211. PROGRAM INELIGIBILITY.

"(a) IN GENERAL.—Except as provided in section 1212 and notwithstanding any other provision of law, any person who participates in an annual program under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) after January 1, 1996, and who in any crop year after that date produces an agricultural commodity on a field on which highly erodible land is predominate, as determined by the Secretary, shall be—

- "(1) in violation of this section; and
- "(2) ineligible for loans or payments in an amount determined by the Secretary to be proportionate to the severity of the violation, taking into account the intent of the person and the frequency of the violations.

"(b) LOANS AND PAYMENTS.—If a person has been determined to have committed a violation during a crop year under subsection (a), the Secretary shall determine which, and the amount, of the following loans and payments for which the person shall be ineligible:

"(1) Any type of price support or payment made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act.

“(2) A farm storage facility loan made under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)).

“(3) A loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Consolidated Farm Service Agency, if the Secretary determines that the proceeds of the loan will be used for a purpose that will contribute to excessive erosion of highly erodible land.

“(4) A payment under section 4 or 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b and 714c) during the crop year for the storage of an agricultural commodity acquired by the Commodity Credit Corporation.

“(5) During the crop year:

“(A) A payment under section 8, 12, or 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h, 590i, and 590p(b)).

“(B) A payment under section 401 or 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2202).

“(C) A payment under subchapter B or C of chapter 1 of subtitle D.

“(D) A payment under chapter 2 of subtitle D.

“(E) A payment under chapter 3 of subtitle D.

“(F) A payment, loan, or other assistance under section 3 or 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003 and 1006a).”.

(b) EXEMPTIONS.—Section 1212 of the Act (16 U.S.C. 3812) is amended—

(1) in subsection (a)(3), by striking “shall, if” and inserting “shall—

“(A) be required to apply a conservation plan that is—

“(i)(I) based on and conforms to practices, technologies, and schedules contained in a local Natural Resources Conservation Service field office technical guide; or

“(II) based on an alternative conservation system that is not described in the technical guide but is determined by the Secretary to be an acceptable alternative;

“(ii) consistent with section 1214; and

“(iii) not based on a higher erodibility standard than other highly erodible land located within the same area, as determined by the Secretary; and

“(B) if”;

(2) by redesignating subsections (f) through (h) as subsections (g) through (i), respectively;

(3) by inserting after subsection (e) the following:

“(f) EFFECT ON LANDLORDS.—Ineligibility of a tenant or sharecropper for benefits under section 1211 shall not cause a landlord to be ineligible for the benefits for which the landlord would otherwise be eligible with respect to a commodity produced on land other than the land operated by the tenant or sharecropper.”; and

(4) in subsection (g) (as so redesignated)—

(A) by striking “(g)(1) Except to the extent provided in paragraph (2), no” and inserting the following:

“(g) GOOD FAITH EXEMPTION.—

“(1) CONTINUED ELIGIBILITY.—No”;

(B) by striking “has—” and all that follows through “(B) acted” and inserting “has acted”;

(C) in paragraph (2)—

(i) by striking “Secretary shall, in lieu” and all that follows through “crop year” and inserting “person shall not be ineligible for loans or payments under section 1211”; and

(ii) by adding at the end the following: “A person who the Secretary determines has acted in good faith and without intent to violate this subtitle shall be allowed a period of 1 year during which to implement the measures and practices necessary to be con-

sidered to be actively applying a conservation plan.”;

(D) by striking paragraph (3);

(E) by redesignating paragraph (4) as paragraph (3); and

(F) by adding at the end the following:

“(4) FAILURE TO APPLY CONSERVATION PLAN.—If a person fails to actively apply a conservation plan that documents the decisions of the person with respect to location, land use, tillage systems, and conservation treatment measures and schedules of the conservation plan by the date that is 1 year after the good faith violation, the Secretary shall make a determination concerning the ineligibility of the person under section 1211.”.

(c) DEVELOPMENT AND IMPLEMENTATION OF CONSERVATION PLANS AND SYSTEMS.—Subtitle B of title XII of the Act (16 U.S.C. 3811 et seq.) is amended by adding at the end the following:

“SEC. 1214. DEVELOPMENT AND IMPLEMENTATION OF CONSERVATION PLANS AND SYSTEMS.

“(a) TECHNICAL REQUIREMENTS.—The Secretary shall ensure that the standards and guidelines contained in a local Natural Resources Conservation Service field office technical guide applicable to a conservation plan required under this subtitle—

“(1) allow a person to use an alternative conservation system as a means of meeting the requirements, and achieving the goals, of this subtitle with respect to a highly erodible field that has been used in the production of an agricultural commodity after December 23, 1985; and

“(2) provide for conservation measures and practices that—

“(A) are technically and economically feasible;

“(B) are based on local resource conditions and available conservation technology;

“(C) are cost-effective; and

“(D) do not cause undue economic hardship to the person applying the plan or system.

“(b) EROSION MEASUREMENT.—For the purpose of determining compliance with this subtitle, the measurement of erosion reduction achieved through a conservation plan shall be based on the level of erosion at the time of the measurement compared to the level of erosion that was present prior to the implementation of the conservation measures and practices provided for in the conservation plan.

“(c) CROP RESIDUE MEASUREMENTS.—

“(1) CERTIFICATION OF COMPLIANCE.—

“(A) IN GENERAL.—For the purpose of determining the compliance of a person with the conservation plan on a farm, a third party approved by the Secretary may certify that the person is in compliance if the person is actively applying an approved conservation system or alternative conservation system at the time application for the loans or payments specified in section 1211 is made.

“(B) STATUS REVIEWS.—If a person obtains a variance, the Secretary shall not be required to carry out a review of the status of compliance of the person with the conservation plan under which the conservation system is being applied if the sole reason for the review is the fact that the person received the variance.

“(2) RESIDUE MEASUREMENTS PROVIDED BY PERSONS.—If a status review is carried out, annual crop residue measurements supplied by a person and certified by a third party approved by the Secretary shall be taken into consideration by the Secretary for the purpose of determining compliance if the measurements demonstrate that, on the basis of a 5-year average of the residue level on the field (as determined by the Secretary), the crop residue level for a field meets the level required under the conservation plan.

“(d) REVISIONS.—

“(1) CONSERVATION PLANS.—

“(A) REVISIONS BY PERSON OBTAINING CERTIFICATION.—A person that obtains a conservation plan under section 1212(a)(2) may revise the plan by substituting practices described in the local Natural Resources Conservation Service technical guide, if the revised plan achieves an equivalent amount of soil erosion reduction as the original plan, as determined by the Secretary.

“(B) NO REVISION BY THE SECRETARY.—The conservation plan of a person who obtains a certification under subsection (c) shall not be subject to revision by the Secretary, unless—

“(i) the person concurs with the revision; or

“(ii) the person has been determined by the Secretary, within the most recent 1-year period, to be ineligible under section 1211 for program loans and payments.

“(C) APPROVAL OF ALTERNATIVE CONSERVATION SYSTEM.—The Secretary shall approve or disapprove an alternative conservation system proposed by a producer not later than 30 days after the date the system is proposed.

“(D) LOCAL FIELD OFFICE TECHNICAL GUIDE.—If the alternative conservation system is approved by the Secretary and is appropriate to an area, the Secretary shall add the approved alternative conservation system to the local Natural Resources Conservation Service field office technical guide for the area.

“(2) CONSERVATION SYSTEMS.—The Secretary may revise under paragraph (1) the conservation system of a person who obtains a certification, subject to subsection (a), if there is substantial evidence as determined by the Secretary that a revision is necessary to carry out this subtitle.

“(3) UPDATING LOCAL FIELD OFFICE TECHNICAL GUIDES.—The Secretary shall regularly revise local Natural Resources Conservation Service field office technical guides to include new conservation systems that the Secretary determines will reduce soil erosion in a cost-effective manner.

“(e) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to a person throughout the development, revision, and application of a conservation plan or conservation system.

“(f) VIOLATIONS.—

“(1) NOTIFICATION.—An employee of the Natural Resources Conservation Service who observes a possible compliance deficiency or other violation of this subtitle while providing on-site technical assistance to a person shall—

“(A) not later than 45 days after making the observation, notify the person of any actions that are necessary to correct the deficiency or violation; and

“(B) permit the person to correct the deficiency or violation within the 1-year period beginning on the date of the notification.

“(2) CORRECTION OF COMPLIANCE DEFICIENCIES.—A person that receives a notification under paragraph (1) shall attempt to correct the deficiency as soon as practicable.

“(3) STATUS REVIEW.—Not later than 1 year after the date of a notification under paragraph (1), the Secretary shall carry out a review of the status of compliance of the person with the conservation plan under which the conservation system is being applied.

“(4) FAILURE TO CORRECT COMPLIANCE DEFICIENCY.—If a person fails to correct a deficiency or violation by the date that is 1 year after the date of a notification under paragraph (1), the Secretary shall make a determination concerning the ineligibility of the person under section 1211.

“(g) EXPEDITED VARIANCES.—

“(1) PROCEDURES.—The Secretary shall establish expedited procedures, in consultation with local conservation districts, for the consideration and granting of temporary variances to allow for the use of practices and measures to address problems related to pests, disease, nutrient management, and weather conditions (including drought, hail, and excessive moisture) or for such other purposes as the Secretary considers appropriate.

“(2) RESPONSE WITHIN 15 DAYS.—The Secretary shall grant or deny a request for a variance described in paragraph (1) not later than 15 days after receiving the request.”

(d) AFFILIATED PERSONS.—Subtitle B of title XII of the Act (16 U.S.C. 3811 et seq.) (as amended by subsection (c)) is further amended by adding at the end the following:

“SEC. 1215. AFFILIATED PERSONS.

“If a person is affected by a reduction in benefits under section 1211 and the affected person is affiliated with other persons for the purpose of receiving the benefits, the benefits of each affiliated person shall be reduced under section 1211 in proportion to the interest held by the affiliated person.”

(e) APPLICABILITY.—Subtitle B of title XII of the Act (16 U.S.C. 3811 et seq.) (as amended by subsection (d)) is further amended by adding at the end the following:

“SEC. 1216. APPLICABILITY.

“This subtitle shall be effective during the period beginning January 1, 1996, and ending December 31, 2002.”

SEC. 5. WETLANDS REFORM.

(a) PROGRAM INELIGIBILITY.—Section 1221 of the Food Security Act of 1985 (16 U.S.C. 3821) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by striking the section heading and all that follows through the end of subsection (a) and inserting the following:

“SEC. 1221. PROGRAM INELIGIBILITY.

“(a) IN GENERAL.—Except as provided in section 1222 and notwithstanding any other provision of law, any person who participates in an annual program under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) after January 1, 1996, and who in any crop year after that date produces an agricultural commodity on converted wetland, as determined by the Secretary, shall be—

“(1) in violation of this section; and

“(2) ineligible for loans or payments in an amount determined by the Secretary to be proportionate to the severity of the violation.

“(b) LOANS AND PAYMENTS.—If a person has been determined to have committed a violation during a crop year under subsection (a), the Secretary shall determine which, and the amount, of the following loans and payments for which the person shall be ineligible:

“(1) Any type of price support or payment made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act.

“(2) A farm storage facility loan made under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)).

“(3) A loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Consolidated Farm Service Agency, if the Secretary determines that the proceeds of the loan will be used for a purpose that will contribute to conversion of a wetland (other than as provided in this subtitle) to produce an agricultural commodity.

“(4) A payment under section 4 or 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b and 714c) during the crop year for the storage of an agricultural commodity

acquired by the Commodity Credit Corporation.

“(5) During the crop year:

“(A) A payment under section 8, 12, or 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h, 590l, and 590p(b)).

“(B) A payment under section 401 or 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2202).

“(C) A payment under subchapter B or C of chapter 1 of subtitle D.

“(D) A payment under chapter 2 of subtitle D.

“(E) A payment under chapter 3 of subtitle D.

“(F) A payment, loan, or other assistance under section 3 or 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003 and 1006a); and

(3) in subsection (c) (as so redesignated)—

(A) by striking “Except” and inserting “WETLAND CONVERSION.—Except”; and

(B) by striking “subsections (a) (1) through (3)” and inserting “subsection (b)”.

(b) DELINEATION OF WETLAND; EXEMPTIONS.—Section 1222 of the Act (16 U.S.C. 3822) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) DELINEATION BY THE SECRETARY.—

“(1) IN GENERAL.—The Secretary shall, subject to subsection (b), delineate, determine, and certify all wetlands located on subject land on a farm.

“(2) WETLAND DELINEATION MAPS.—The Secretary shall delineate wetlands on wetland delineation maps. On the request of an owner or operator, the Secretary shall make a reasonable effort to make an on-site wetland determination prior to delineation.

“(3) CERTIFICATION.—

“(A) IN GENERAL.—On providing notice to affected owners or operators, the Secretary shall—

“(i) certify whether a map is sufficient for the purpose of making a determination of ineligibility for program benefits under section 1221; and

“(ii) provide an opportunity to appeal the certification prior to the certification becoming final.

“(B) REVIEW OF MAPPING.—In the case of an appeal, the Secretary shall review and certify the accuracy of the mapping of all land subject to the appeal to ensure that the subject land has been accurately delineated.

“(C) INSPECTION OF LAND.—Prior to rendering a decision on the appeal, the Secretary shall conduct an on-site inspection of the subject land on a farm.”;

(2) by redesignating subsections (b) through (j) as subsections (c) through (k), respectively;

(3) by inserting after subsection (a) the following:

“(b) REQUESTS FOR DELINEATION.—

“(1) IN GENERAL.—Any delineation or determination of the presence of wetland on subject land on a farm made under this subtitle shall be valid until such time as the owner or operator of the land requests a new delineation or determination.

“(2) CHANGE IN DELINEATION.—In the case of a change in a delineation or determination, the Secretary shall promptly notify the owner or operator of the subject land on a farm that is affected by the change.

“(3) RELIANCE ON PRIOR DELINEATION.—Any action taken with respect to subject land on a farm by an owner or operator in reliance on a prior wetland delineation or determination by the Secretary shall not be subject to a subsequent wetland delineation or determination by the Secretary.”;

(4) by striking subsection (c) (as so redesignated) and inserting the following:

“(c) EXEMPTIONS.—No person shall become ineligible under section 1221 for program loans or payments—

“(1) as the result of the production of an agricultural commodity on land that—

“(A) was manipulated prior to December 23, 1985;

“(B) is a wetland that is less than 1 acre in size;

“(C) is a nontidal drainage or irrigation ditch excavated in upland;

“(D) is an artificially irrigated area that would revert to upland if the irrigation ceased;

“(E) is land in Alaska identified as having a high potential for agricultural development and with a predominance of permafrost soils;

“(F) is an artificial lake or pond created by excavating or diking land that is not a wetland to collect and retain water and is used primarily for livestock watering, fish production, irrigation, wildlife, fire control, flood control, cranberry growing, or rice production, or as a settling pond;

“(G) is a wetland that is temporarily or incidentally created as a result of adjacent development activity; or

“(H) is frequently cropped agricultural land; or

“(2) for the conversion of—

“(A) an artificial lake or pond created by excavating or diking land that is not a wetland to collect and retain water and that is used primarily for livestock watering, fish production, irrigation, wildlife, fire control, flood control, cranberry growing, rice production, or as a settling pond; or

“(B) a wetland that is temporarily or incidentally created as a result of adjacent development activity.”;

(5) in subsection (g)(2) (as so redesignated)—

(A) by striking “where such restoration” and inserting “through the enhancement of an existing wetland or through the creation of a new wetland, and the restoration, enhancement, or creation”;

(B) in subparagraph (A), by inserting “, enhancement, or creation” after “restoration”;

(C) in subparagraph (D), by inserting “in the case of enhancement and restoration of wetlands,” after “(D)”;

(D) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively;

(E) by inserting after subparagraph (D) the following:

“(E) in the case of creation of wetlands, on greater than a 1-for-1 acreage basis if more acreage is needed to provide equivalent functions and values that will be lost as a result of the wetland conversion that is mitigated.”; and

(F) in subparagraph (F)—

(i) by striking “restored” each place it appears and inserting “restored, enhanced, or created”; and

(ii) by striking “restoration” and inserting “restoration, enhancement, or creation”;

(6) in subsection (i) (as so redesignated)—

(A) in paragraph (1), by striking “December 23, 1985,” and all that follows through the period at the end of the paragraph and inserting “January 1, 1996, shall be waived by the Secretary if the Secretary determines that the person has acted in good faith and without intent to violate this subtitle.”; and

(B) by striking paragraphs (2) and (3) and inserting the following:

“(2) PERIOD FOR COMPLIANCE.—A person who the Secretary determines has acted in good faith and without intent to violate this subtitle shall be allowed a period of 1 year during which to implement the measures and practices necessary to be considered to actively restoring the subject wetland.”;

(7) in subsection (k) (as so redesignated)—

(A) in paragraph (1)—

(i) in the first sentence, by striking “and a representative of the Fish and Wildlife Service”; and

(ii) in the second sentence, by striking “, who in” and all that follows through “Service”; and

(B) in paragraph (2), by striking “and a representative” and all that follows through “national offices” and inserting “shall report to the Natural Resources Conservation Service”; and

(8) by adding at the end the following:

“(1) MITIGATION BANKING.—

“(1) IN GENERAL.—The Secretary shall establish a pilot program (to be carried out during a 1-year period) for mitigation banking of wetlands to assist owners and operators in complying with the wetland conservation requirements of this subtitle.

“(2) REPORT.—Not later than 1 year after the effective date of this paragraph, the Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the progress in carrying out the pilot program established under paragraph (1).”

(c) CONSULTATION WITH THE SECRETARY OF THE INTERIOR.—Subtitle C of title XII of the Act is amended—

(1) by striking section 1223 (16 U.S.C. 3823); and

(2) by redesignating section 1224 (16 U.S.C. 3824) as section 1223.

(d) AFFILIATED PERSONS.—Subtitle C of title XII of the Act (as amended by subsection (c)) is further amended by adding at the end the following:

“SEC. 1224. AFFILIATED PERSONS.

“If a person is affected by a reduction in benefits under section 1221 and the affected person is affiliated with other persons for the purpose of receiving the benefits, the benefits of each affiliated person shall be reduced under section 1221 in proportion to the interest held by the affiliated person.”

(e) APPLICABILITY.—Subtitle C of title XII of the Act (as amended by subsection (d)) is further amended by adding at the end the following:

“SEC. 1225. APPLICABILITY.

“This subtitle shall be effective during the period beginning January 1, 1996, and ending December 31, 2002.”

(f) EASEMENTS ON INVENTORY PROPERTY.—Section 335 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985) is amended by striking subsection (g) and inserting the following:

“(g) EASEMENTS ON INVENTORY PROPERTY.—The Secretary may not place a permanent wetland conservation or floodplain easement on any farm property after January 1, 1996.”

(g) AGRICULTURAL LAND.—Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is amended—

(1) in subsection (d), by striking “The term” and inserting “Except as otherwise provided in this section, the term”; and

(2) by adding at the end the following:

“(u) AGRICULTURAL LAND.—

“(1) DEFINITION OF AGRICULTURAL LAND.—In this subsection, the term ‘agricultural land’ means cropland, pastureland, native pasture, rangeland, an orchard, a vineyard, an area that supports a wetland crop (including cranberries, taro, watercress, or rice), and any other land that is used to produce or support the production of an annual or perennial agricultural crop (including forage production or hay), an aquaculture product, a nursery product, or a wetland crop.

“(2) DETERMINATIONS ON AGRICULTURAL LAND.—The Secretary of Agriculture shall make all determinations concerning the presence of a wetland on agricultural land

under this section and determinations regarding the discharge or dredge of fill material from normal farming and ranching activities, as provided in subsection (f)(1)(A). Determinations concerning the presence of a wetland, and normal farming and ranching practices, on agricultural land shall be made pursuant to this section.”

SEC. 6. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM.

Section 1230 of the Food Security Act of 1985 (16 U.S.C. 3830) is amended as follows:

“SEC. 1230. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—During the 1996 through 2002 calendar years, the Secretary shall establish an environmental conservation acreage reserve program (referred to in this section as ‘ECARP’) to be implemented through contracts and the acquisition of easements to assist owners and operators of farms and ranches to conserve and enhance soil, water, and related natural resources, including grazing land, wetland, and wildlife habitat.

“(2) MEANS.—The Secretary shall carry out the ECARP by—

“(A) providing for the long-term protection of environmentally sensitive land; and

“(B) providing technical and financial assistance to farmers and ranchers to—

“(i) improve the management and operation of the farms and ranches; and

“(ii) reconcile productivity and profitability with protection and enhancement of the environment.

“(3) PROGRAMS.—The ECARP shall consist of—

“(A) the conservation reserve program established under subchapter B;

“(B) the wetlands reserve program established under subchapter C; and

“(C) the environmental quality incentive program established under chapter 2.

“(b) ADMINISTRATION.—

“(1) IN GENERAL.—In carrying out the ECARP, the Secretary shall enter into contracts with owners and operators and acquire interests in land through easements from owners, as provided in this chapter and chapter 2.

“(2) PRIOR ENROLLMENTS.—Acreage enrolled in the conservation reserve or wetlands reserve program prior to the effective date of this paragraph shall be considered to be placed into the ECARP.

“(c) CONSERVATION PRIORITY AREAS.—

“(1) DESIGNATION.—

“(A) IN GENERAL.—The Secretary shall designate watersheds or regions of special environmental sensitivity, including the Chesapeake Bay Region (consisting of Pennsylvania, Maryland, and Virginia), the Great Lakes Region, and the Long Island Sound Region, as conservation priority areas that are eligible for enhanced assistance through the programs established under this chapter and chapter 2.

“(B) APPLICATION.—A designation shall be made under this paragraph if agricultural practices on land within the watershed or region pose a significant threat to soil, water, and related natural resources, as determined by the Secretary, and an application is made by—

“(i) a State agency in consultation with the State technical committee established under section 1261; or

“(ii) State agencies from several States that agree to form an interstate conservation priority area.

“(C) ASSISTANCE.—The Secretary shall designate a watershed or region of special environmental sensitivity as a conservation priority area to assist, to the maximum extent practicable, agricultural producers within

the watershed or region to comply with nonpoint source pollution requirements under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and other Federal and State environmental laws.

“(2) APPLICABILITY.—The Secretary shall designate a watershed or region of special environmental sensitivity as a conservation priority area in a manner that conforms, to the maximum extent practicable, to the functions and purposes of the conservation reserve, wetlands reserve, and environmental quality incentives programs, as applicable, if participation in the program or programs is likely to result in the resolution or amelioration of significant soil, water, and related natural resource problems related to agricultural production activities within the watershed or region.

“(3) TERMINATION.—A conservation priority area designation shall terminate on the date that is 5 years after the date of the designation, except that the Secretary may—

“(A) redesignate the area as a conservation priority area; or

“(B) withdraw the designation of a watershed or region if the Secretary determines the area is no longer affected by significant soil, water, and related natural resource impacts related to agricultural production activities.”

SEC. 7. CONSERVATION RESERVE PROGRAM.

(a) PURPOSE AND GOALS.—Section 1231(a) of the Food Security Act of 1985 (16 U.S.C. 3831(a)) is amended—

(1) by striking “(a) IN GENERAL.—Through” and inserting the following:

“(a) IN GENERAL.—

“(1) PURPOSE.—Through”;

(2) by striking “1995” and inserting “2002”; and

(3) by adding at the end the following:

“(2) GOALS.—The goals of the conservation reserve program shall be to—

“(A) idle land only on a voluntary basis;

“(B) conserve the environment, including soil, water, and air;

“(C) ensure respect for private property rights; and

“(D) enhance wildlife and wildlife habitat.”

(b) ELIGIBLE LANDS.—Section 1231 of the Act (16 U.S.C. 3831) is amended by striking subsection (b) and inserting the following:

“(b) ELIGIBLE LANDS.—The Secretary may include in the program established under this subchapter—

“(1) highly erodible cropland that—

“(A) if permitted to remain untreated could substantially impair soil, water, or related natural resources;

“(B) cannot be farmed in accordance with a conservation plan established under section 1212; and

“(C) meets or exceeds an erodibility index of 8;

“(2) marginal pasture land converted to wetland;

“(3) cropland or pasture land in or near riparian areas that could enhance water quality;

“(4) frequently cropped agricultural land; and

“(5) cropland or pasture land to be devoted to windbreaks, shelterbelts, or wildlife corridors.”

(c) ENROLLMENT PRIORITIES.—Section 1231 of the Act (16 U.S.C. 3831) is amended by striking subsection (d) and inserting the following:

“(d) ENROLLMENT.—

“(1) LIMITATIONS.—Enrollments in the conservation reserve (including acreage subject to contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990

(Public Law 101-624; 16 U.S.C. 3831 note)) during the 1986 through 2002 calendar years may not exceed 36,400,000 acres.

“(2) SPENDING LIMITATION.—Total spending for enrollments under paragraph (1) may not exceed the spending limitations established under section 1241(e).

“(3) PRIORITIES.—The Secretary shall, to the maximum extent practicable, with each periodic enrollment (including acreage subject to contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990), enroll acreage in the conservation reserve that meets the priority criteria for water quality, wetland, soil erosion, and wildlife habitat as provided in subsection (e) and, to the maximum extent practicable, maximize multiple environmental benefits.”.

(d) PRIORITY FUNCTIONS.—Section 1231 of the Act (7 U.S.C. 3831) is amended—

(1) by redesignating subsections (e) through (g) as subsections (f) through (h); respectively; and

(2) by inserting after subsection (d) the following:

“(e) PRIORITY FUNCTIONS.—

“(1) IN GENERAL.—During all periodic enrollments of acreage (including acreage subject to contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 16 U.S.C. 3831 note)), the Secretary shall evaluate all offers to enter into contracts under this subchapter in light of the priority criteria specified in paragraphs (2), (3), (4), and (5), and accept only the offers that meet the criteria specified in paragraph (2), (3), or (4), maximize the benefits specified in paragraph (5), and maximize environmental benefits per dollar expended. If an offer meets the criteria specified in paragraph (5) and paragraph (2), (3), or (4), the offer shall receive higher priority, as determined by the Secretary.

“(2) WATER QUALITY.—

“(A) TARGETED LAND.—Not later than December 31, 2000, the Secretary shall enroll in the conservation reserve program at least 1,500,000 acres of cropland or pasture land that are contiguous or proximate to—

“(i) permanent bodies of water;

“(ii) tributaries or smaller streams; or

“(iii) intermittent streams that the Secretary determines significantly contribute to downstream water quality degradation.

“(B) PURPOSES.—The land may be enrolled by the Secretary in the conservation reserve to establish—

“(i) filterstrips;

“(ii) contour grass strips;

“(iii) grassed waterways; and

“(iv) other equivalent conservation measures that have a high potential to ameliorate pollution from crop and livestock production.

“(C) PARTIAL AND WHOLE FIELDS.—Enrollments under this paragraph may include partial and whole fields, except that the Secretary shall provide a higher priority to partial field enrollments.

“(3) WETLANDS.—

“(A) IN GENERAL.—The Secretary shall accept offers to enroll up to 1,500,000 acres of frequently cropped agricultural land, including such land enrolled (as of the effective date of this subparagraph) in the conservation reserve and subsequently subject to a contract extension under section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 16 U.S.C. 3831 note), as determined by the Secretary.

“(B) FUNCTIONS AND VALUES.—In enrolling land under subparagraph (A), the Secretary shall give a priority to enrolling frequently cropped agricultural land that the Secretary determines maximizes preservation of wetland functions and values.

“(4) SOIL EROSION.—

“(A) IN GENERAL.—The Secretary shall accept offers to enroll a field containing highly erodible land if—

“(i) a predominance of land on the field is qualifying highly erodible land that has an erodibility index of at least 8;

“(ii) a predominance of at least 80 percent of the field consists of qualifying highly erodible land; and

“(iii) the part of the field that does not have an erodibility index of at least 8 cannot be cultivated in a cost-effective manner if separated from the qualifying highly erodible land, as determined by the Secretary.

“(B) PARTIAL FIELD ENROLLMENTS.—A portion of a field containing qualifying highly erodible land under this paragraph shall be eligible for enrollment if the partial field segment would provide a significant reduction in soil erosion.

“(5) WILDLIFE HABITAT BENEFITS.—

“(A) IN GENERAL.—The Secretary shall, to the maximum extent practicable, ensure that offers to enroll acreage under paragraph (2), (3), or (4) are accepted so as to maximize wildlife habitat benefits.

“(B) MAXIMIZING BENEFITS.—For purposes of this paragraph, the Secretary shall, to the maximum extent practicable, maximize wildlife habitat benefits by—

“(i) consulting with State technical committees established under section 1261 as to the relative habitat benefits of each offer, and accepting offers that maximize benefits; and

“(ii) providing higher priority to offers that would be contiguous to—

“(I) other enrolled acreage;

“(II) designated wildlife habitat; or

“(III) a wetland.

“(C) COVER CROP INFORMATION.—The Secretary shall provide information to owners or operators about cover crops that are best suited for area wildlife.”.

(e) DURATION OF CONTRACT.—Section 1231(f) of the Act (as so redesignated) is amended—

(1) in paragraph (1)—

(A) by inserting before the period at the end the following: “, as determined by the owner or operator of the land”; and

(B) by adding at the end the following: “A contract extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 16 U.S.C. 3831 note) may have a term of 5, 10, or 15 years, as determined by the owner or operator of the land.”; and

(2) by adding at the end the following:

“(3) EARLY OUT.—The Secretary shall allow an owner or operator who (on the effective date of this paragraph) is covered by a contract entered into under this subchapter to terminate the contract not later than April 15, 1996. Land subject to an early termination of a contract under this paragraph may not include filterstrips, waterways, strips adjacent to riparian areas, windbreaks, shelterbelts, and other areas of high environmental value as determined by the Secretary.”.

(f) CONFORMING AMENDMENTS.—Section 1231 of the Act (as amended by subsection (d)(1)) is further amended—

(1) by striking subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

(g) INCIDENTAL GRAZING.—Section 1232(a)(7) of the Act (16 U.S.C. 3832(a)(7)) is amended—

(1) by striking “except that the Secretary may” and inserting “except that the Secretary—

“(A) may”; and

(2) by striking “emergency, and the Secretary may” and inserting the following:

“emergency;

“(B) may”;

(3) by adding “and” after the semicolon at the end; and

(4) by adding at the end the following:

“(C) shall allow incidental grazing during the nongrowing season on filter strips and other partial field enrollments within the borders of an active field.”.

(h) ANNUAL RENTAL PAYMENTS.—Section 1234 of the Act (16 U.S.C. 3834) is amended by striking subsection (c) and inserting the following:

“(c) ANNUAL RENTAL PAYMENTS.—

“(1) IN GENERAL.—In determining the amount of annual rental payments to be paid to owners and operators for converting eligible cropland normally devoted to the production of an agricultural commodity to a less intensive use, the Secretary may consider, among other factors, the amount necessary to encourage owners or operators of eligible cropland to participate in the program established by this subchapter.

“(2) AMOUNT.—

“(A) IN GENERAL.—The amounts payable to owners or operators as rental payments under contracts entered into under this subchapter shall be determined by the Secretary through—

“(i) the submission of offers for the contracts by owners and operators in such manner as the Secretary may prescribe; and

“(ii) determination of the rental value for the land through a productivity adjustment formula established by the Secretary.

“(B) MAXIMUM RENTAL RATES.—

“(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), rental rates may not exceed the productivity adjusted rental rate, as determined by the Secretary.

“(ii) PARTIAL FIELD ENROLLMENTS.—Rental rates for partial field enrollments for water quality, soil erosion, or wetland priority functions under section 1231(e) may not exceed 125 percent of the rental rate for the land, as determined by the Secretary based on a productivity adjustment formula.

“(iii) CONSERVATION PRIORITY AREAS.—Rental rates for partial field enrollments in conservation priority areas under section 1230(c) may not exceed 150 percent of the rental rate for the land, as determined by the Secretary based on a productivity adjustment formula.

“(C) MINIMUM RENTAL RATES.—Rental rates for land subject to a contract extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 16 U.S.C. 3831 note) may not be less than 80 percent of the average rental rate for all contracts in force in the county at the time of the extension.

“(3) TREES.—In the case of acreage enrolled in the conservation reserve that is to be devoted to trees, the Secretary may consider offers for contracts under this subsection on a continuous basis.”.

(i) OWNERSHIP AND OPERATION REQUIREMENTS.—Section 1235(a) of the Act (16 U.S.C. 3835(a)) is amended—

(1) in paragraph (1)(B), by striking “1985” and inserting “1996”; and

(2) in paragraph (2)(B)(i), by striking “1985” and inserting “1996”.

(j) CONFORMING AMENDMENT.—Section 1235A(b)(2) of the Act (16 U.S.C. 3835A(b)(2)) is amended by striking “or permanent”.

SEC. 8. WETLANDS RESERVE PROGRAM.

(a) PURPOSES.—Section 1237(a) of the Food Security Act of 1985 (16 U.S.C. 3837(a)) is amended by striking “to assist owners of eligible lands in restoring and protecting wetlands” and inserting “to protect wetlands for purposes of enhancing water quality and providing wildlife benefits while recognizing landowner rights”.

(b) MINIMUM ENROLLMENT.—Section 1237(b) of the Act (16 U.S.C. 3837(b)) is amended by

striking "program" and all that follows through "2000" and inserting "program a total of not more than 975,000 acres during the 1991 through 2002".

(c) ELIGIBILITY.—Section 1237(c) of the Act (16 U.S.C. 3837(c)) is amended—

(1) by striking "2000" and inserting "2002";

(2) by striking "Secretary of the Interior at the local level" and inserting "State technical committee";

(3) by inserting "the land maximizes wildlife benefits and wetland values and functions and" after "determines that";

(4) in paragraph (1)—

(A) by striking "December 23, 1985" and inserting "January 1, 1996"; and

(B) by striking "and" at the end;

(5) by redesignating paragraph (2) as paragraph (3);

(6) by inserting after paragraph (1) the following:

"(2) enrollment of the land meets water quality goals through—

"(A) creation of tailwater pits or settlement ponds; or

"(B) enrollment of land that was enrolled (on the day before the effective date of this subparagraph) in the water bank program established under the Water Bank Act (16 U.S.C. 1301 et seq.) at a rate not to exceed the rates in effect under the program;";

(7) in paragraph (3) (as so redesignated), by striking the period at the end and inserting "; and"; and

(8) by adding at the end the following:

"(4) enrollment of the land maintains or improves wildlife habitat."

(d) OTHER ELIGIBLE LANDS.—Section 1237(d) (16 U.S.C. 3837(d)) is amended by inserting after "subsection (c)" the following "land that maximizes wildlife benefits and that is".

(e) EASEMENTS.—Section 1237A of the Act (16 U.S.C. 3837a) is amended—

(1) by striking subsection (c) and inserting the following:

"(c) RESTORATION PLANS.—The development of a restoration plan, including any compatible use, under this section shall be made through the local Natural Resources Conservation Service representative, in consultation with the State technical committee."

(2) by striking subsection (e) and inserting the following:

"(e) TYPE AND LENGTH OF EASEMENT.—A conservation easement granted under this section—

"(1) shall be in a recordable form;

"(2) shall be for 20 or 30 years; and

"(3) shall not exceed the maximum duration allowed under applicable State law."; and

(3) in subsection (f), by striking the third sentence and inserting the following: "Compensation may be provided in not less than 5, nor more than 30, annual payments of equal or unequal size, as agreed to by the owner and the Secretary."

(f) DUTIES OF THE SECRETARY.—Section 1237C(d) of the Act (16 U.S.C. 3837c(d)) is amended by striking "in consultation" and all that follows through "Interior."

SEC. 9. CONSERVATION FUNDING.

(a) IN GENERAL.—Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended to read as follows:

"Subtitle E—Funding

"SEC. 1241. FUNDING.

"(a) MANDATORY EXPENSES.—For each of fiscal years 1996 through 2002, the Secretary shall use the funds of the Commodity Credit Corporation to carry out the programs authorized by—

"(1) subchapter B of chapter 1 of subtitle D (including contracts extended by the Secretary pursuant to section 1437 of the Food,

Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 16 U.S.C. 3831 note));

"(2) subchapter C of chapter 1 of subtitle D; and

"(3) chapter 2 of subtitle D for practices related to livestock production.

"(b) ADVANCE APPROPRIATIONS TO CCC.—The Secretary may use the funds of the Commodity Credit Corporation to carry out chapter 3 of subtitle D, except that the Secretary may not use the funds of the Corporation unless the Corporation has received funds to cover the expenditures from appropriations made available to carry out chapter 3 of subtitle D.

"(c) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—For each of fiscal years 1996 through 2002, \$100,000,000 of the funds of the Commodity Credit Corporation shall be available for providing technical assistance, cost-sharing payments, and incentive payments for practices relating to livestock production under the environmental quality incentives program.

"(d) WETLANDS RESERVE PROGRAM.—Spending to carry out the wetlands reserve program under subchapter C of chapter 1 of subtitle D shall be not greater than \$614,000,000 for fiscal years 1996 through 2002.

"(e) CONSERVATION RESERVE PROGRAM.—Spending for the conservation reserve program (including contracts extended by the Secretary pursuant to section 1437 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 16 U.S.C. 3831 note)) shall be not greater than—

"(1) \$1,787,000,000 for fiscal year 1996;

"(2) \$1,784,000,000 for fiscal year 1997;

"(3) \$1,445,000,000 for fiscal year 1998;

"(4) \$1,246,000,000 for fiscal year 1999;

"(5) \$1,101,000,000 for fiscal year 2000;

"(6) \$999,000,000 for fiscal year 2001; and

"(7) \$974,000,000 for fiscal year 2002.

"SEC. 1242. ADMINISTRATION.

"(a) PLANS.—The Secretary shall, to the extent practicable, avoid duplication in—

"(1) the conservation plans required for—

"(A) highly erodible land conservation under subtitle B;

"(B) the conservation reserve program established under subchapter B of chapter 1 of subtitle D; and

"(C) the wetlands reserve program established under subchapter C of chapter 1 of subtitle D; and

"(2) the environmental quality incentives program plan established under chapter 2 of subtitle D.

"(b) ACREAGE LIMITATION.—

"(1) IN GENERAL.—The Secretary shall not enroll more than 25 percent of the cropland in any county in the programs administered under the conservation reserve and wetlands reserve programs established under subchapters B and C, respectively, of chapter 1 of subtitle D. Not more than 10 percent of the cropland in a county may be subject to an easement acquired under the subchapters.

"(2) EXCEPTION.—The Secretary may exceed the limitations in paragraph (1) if the Secretary determines that—

"(A) the action would not adversely affect the local economy of a county; and

"(B) operators in the county are having difficulties complying with conservation plans implemented under section 1212.

"(3) SHELTERBELTS AND WINDBREAKS.—The limitations established under this subsection shall not apply to cropland that is subject to an easement under chapter 1 or 3 of subtitle D that is used for the establishment of shelterbelts and windbreaks.

"(c) TENANT PROTECTION.—Except for a person who is a tenant on land that is subject to a conservation reserve contract that has been extended by the Secretary, the Secretary shall provide adequate safeguards to protect the interests of tenants and share-

croppers, including provision for sharing, on a fair and equitable basis, in payments under the programs established under subtitles B through D.

"(d) REGULATIONS.—Not later than 90 days after the effective date of this subsection, the Secretary shall issue regulations to implement the conservation reserve and wetlands reserve programs established under chapter 1 of subtitle D."

(b) CONFORMING AMENDMENTS.—

(1) The first sentence of the matter under the heading "COMMODITY CREDIT CORPORATION" of Public Law 99-263 (100 Stat. 59; 16 U.S.C. 3841 note) is amended by striking "Provided further," and all that follows through "Acts".

(2) Section 1232(a)(11) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(11)) is amended by striking "in a county that has not reached the limitation established by section 1243(f)".

SEC. 10. CONFORMING AMENDMENTS.

(a) RURAL ENVIRONMENTAL CONSERVATION PROGRAM.—

(1) ELIMINATION.—Title X of the Agricultural Act of 1970 (16 U.S.C. 1501 et seq.) is repealed.

(2) CONFORMING AMENDMENTS.—Section 246(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (8) as paragraphs (1) through (7), respectively.

(b) OTHER CONSERVATION PROVISIONS.—Subtitle F of title XII of the Food Security Act of 1985 (16 U.S.C. 2005a and 2101 note) is repealed.

(c) COMMODITY CREDIT CORPORATION CHARTER ACT.—Section 5(g) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(g)) is amended to read as follows:

"(g) Carry out conservation functions and programs."

(d) RESOURCE CONSERVATION.—

(1) ELIMINATION.—Subtitles A, B, D, E, F, G, and J of title XV of the Agriculture and Food Act of 1981 (95 Stat. 1328; 16 U.S.C. 3401 et seq.) are repealed.

(2) CONFORMING AMENDMENT.—Section 739 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1982 (7 U.S.C. 2272a), is repealed.

(e) ENVIRONMENTAL EASEMENT PROGRAM.—Section 1239(a) of the Food Security Act of 1985 (16 U.S.C. 3839(a)) is amended by striking "1991 through 1995" and inserting "1996 through 2002".

(f) RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.—Section 1538 of the Agriculture and Food Act of 1981 (16 U.S.C. 3461) is amended by striking "1991 through 1995" and inserting "1996 through 2002".

SEC. 11. WILDLIFE BENEFITS.

In carrying out conservation programs, the Secretary of Agriculture is encouraged to promote wildlife benefits to the extent practicable and to the extent that the action does not conflict with the requirements or purposes of the programs.

SEC. 12. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall become effective on the later of—

(1) the date of enactment of this Act; or

(2) January 1, 1996.

(b) TRANSITION PROVISIONS.—Notwithstanding any other provision of law, this Act and the amendments made by this Act shall not affect the authority of the Secretary of Agriculture to carry out a program for any of the 1991 through 1995 calendar years under a provision of law in effect immediately before

the effective date required under subsection (a).

Mr. DOLE. Mr. President, when Republicans took control of Congress in January, we promised the American people that we would rein in the Federal Government, and shift power back where it belongs—to the States and to the people. The Senate has worked hard to fulfill that promise. We are tackling regulatory reform, tax reform, and private property rights—and we are just getting started.

Today, I am joined by Senator LUGAR, Senator CRAIG, and Senator GRASSLEY, to introduce the Resource Enhancement Act of 1995. This bill outlines practical and necessary reforms to the environmental provisions of the 1995 farm bill.

Mr. President, the 1985 farm bill included three environmental provisions which revolutionized farm policy. Swampbuster, sodbuster, and the Conservation Reserve Program provided the first link between the preservation of soil and wetlands, and farm program participation.

No doubt about it, these programs have been successful. But over the past decade, we have learned many valuable lessons. Now it is clear that substantive reform is needed. These provisions were not intended to put high-quality land in the CRP. They were not intended to allow the U.S. Fish and Wildlife Service or the Army Corps of Engineers to usurp the authority of the USDA.

In 1985, no one anticipated that a blanket "highly erodible land" designation—based on 1930's wind data—would reduce property values in 13 western Kansas counties. In 1985, no one expected that existing drainage ditches or tiles in farmed fields would be labeled "abandoned" and thus be prevented from repair.

In my view, this legislation achieves balanced reform by building on the intent of the original legislation. The primary focus of the 1985 farm bill was preventing soil erosion. We have made good progress toward that goal, but much remains to be done. Now we must expand our focus to include water quality and wildlife habitat improvements. Soil conservation and the Conservation Reserve Program are crucial to achieving those goals.

In the past, farm program participation was tied to conservation compliance. However, the trend in farm spending is clear. Since 1985, Commodity Credit Corporation spending on wheat has declined over 40 percent. Spending on milo has declined a staggering 69 percent. At this pace, any linkage will soon vanish. If we aim to fulfill the intent of conservation and wetlands laws—and we should—we must adjust to today's conditions.

Earlier this year, I spoke to the American Farm Bureau Federation's annual meeting. Farmers there told me that they are willing to accept less Government support—if the Government will stop interfering in their businesses.

Our bill is a prescription for judicious reform. In my view, it is a remedy desperately needed to save farmers from a terminal case of overregulation.

This legislation will accomplish three basic goals:

First, reduce unnecessary regulatory burdens, while maintaining basic environmental objectives;

Second, restore respect for basic private property rights;

Third, promote voluntary compliance of conservation and environmental objectives.

Further, this bill adds flexibility and uniformity to conservation and wetlands compliance.

Flexibility will be the guiding principle of conservation compliance. The current system of measuring erosion and regulating compliance will be clarified and codified.

The Conservation Reserve Program will be reauthorized and modified. In addition to protecting highly erodible land, the program will incorporate water quality goals, wetlands protection, and wildlife preservation.

Many farmers tell me that the current swampbuster regulations allow the Government to infringe on their property rights. However, the conservation community tells me that swampbuster is one of the most important wetlands protection laws ever enacted. In our bill, we address the need for deregulation by exempting frequently cropped and nuisance wetlands. At the same time, we aim to further wetlands protection by directing USDA to enroll wetlands in the CRP.

Mr. President, this bill is the result of months of hard work and cooperation among conservation, wildlife, and farm groups. I believe its impact will be good for the environment, good for wildlife preservation, and good for farmers. It is my hope that this legislation represents a new covenant between the environmental and farm communities. I urge my colleagues to join me in this effort to give the American people better, not bigger government.

Mr. CRAIG. Mr. President, I am very proud to introduce a bill today that I hope will serve as the framework for crafting the conservation title of the 1995 farm bill. The Resources Enhancement Act is a balanced approach to blending the successes of past policy with the changing scope of future needs.

The role of conservation programs in American agriculture are sometimes overlooked and underestimated. Farmers and ranchers are the original environmentalists and because of their dependence on the land they continue to implement voluntary practices that are in the best interests of those resources.

The Resources Enhancement Act will maximize the voluntary efforts of farmers and ranchers by extending the role of State and Federal agencies, as well as some private entities, as partners in that effort. This includes an extension of the immensely popular re-

source conservation and development districts through 2002.

However, it is of the utmost importance that Government agencies are not placed in the role of policing the actions of these farmers. This bill emphasizes technical advice and cost share of projects for our Nation's farmers, rather than enforcement and penalties.

The Conservation Reserve Program as currently implemented enjoys widespread support among Idaho farmers. CRP will be extended for at least another 10 years under the Resources Enhancement Act. The positive gains in soil conservation will be continued along with an increased focus on water quality and wildlife habitat.

Idaho farmers will now be able to enroll hill tops and filter strips, rather than entire fields of productive land. A premium of up to 125 percent of productivity adjusted rental rates will be paid for those partial field enrollments.

For those still submitting entire field bids, the enrollment criteria of an erodibility index of 8 is similar to the current program. To provide some stability to farmers and local economies, a floor will be established for reenrollments. That floor will be 80 percent of the average rental rate for other contracts in the same county.

Common sense must also prevail in other farm programs, especially those relating to compliance with conservation requirements on highly erodible lands. This bill will increase the flexibility of producers in meeting the requirements of their approved conservation plans.

For the first time, alternate conservation systems will be written into law and the use of on-farm research will be encouraged. Farmers from across the Nation will also benefit from expedited USDA decisions on requests for variances to their conservation compliance plans.

The issue of good faith and unintended violations is also addressed. From this bill forward, good-faith infractions by the farmer will be treated in good faith by the Department. Those good-faith violations will not be subject to a penalty. For any other violation, the size of the penalty will equate to the size of the violation. Currently, a small area of noncompliance on a farm can place an entire operation at risk. The commonsense provisions of the Resources Enhancement Act will rectify that situation.

Common sense also prevails in the sections of the bill that address reform of the swampbuster program. Improvements similar to the highly erodible section are made in swampbuster with regard to good faith violations and all penalties.

This bill will also place authority for ag wetlands in its natural place—the Department of Agriculture. The restoration and enhancement of existing wetlands and creation of new wetlands will be enhanced with an increased emphasis on mitigation banking.

The Resource Enhancement Act also ensures that the wetlands reserve program will be continued through 2002. This program allows for 20- or 30-year easements for wetlands or water quality to be placed on agricultural lands.

The broad scope of resource conservation needs are addressed in this bill while recognizing the ongoing voluntary efforts of farmers and ranchers and maintaining a respect for private property rights. These resource needs are best addressed by continued voluntary efforts in this time of declining Federal resources. It makes sense that the regulatory burdens on farmers and ranchers are decreasing, since the level of past farm program payments is also declining.

I commend Senators DOLE, GRASSLEY, and LUGAR for their efforts in crafting this bill and urge our other colleagues to join us in supporting the Resources Enhancement Act of 1995.

By Mr. CRAIG (for himself and Mr. KEMPTHORNE):

S. 1374. A bill to require adoption of a management plan for the Hells Canyon National Recreation Area that allows appropriate use of motorized and nonmotorized river craft in the recreation area, and for other purposes; to the Committee on Energy and Natural Resources.

HELL'S CANYON NATIONAL RECREATION AREA
BOATING AMENDMENTS LEGISLATION

Mr. CRAIG. Mr. President, public Law 94-199, designating the Hells Canyon National Recreation Area, was signed into law December 31, 1975.

Section 10 of the act instructs the Secretary to promulgate such rules and regulations as he deems necessary to accomplish the purposes of the act, including a "provision for the control of the use and number of motorized and nonmotorized river craft: *Provided*, That the use of such craft is hereby recognized as a valid use of the Snake River within the recreation area—".

This language seems clear. However, the original intent of the act, the compromises and promises that allowed its passage, seem to have been forgotten or clouded with time. Assurances 20 years ago that long-established and traditional uses, such as motorized boating, are a valid use of the river and would be continued with the support of people who would otherwise have opposed the legislation. Yet, as the original participants disappear from the scene and new players arrive, these arrangements are being callously disregarded.

Throughout the process leading to designation and the ensuing management planning efforts, the USDA—Forest Service has exhibited a bias against motorized river craft. During hearings on the act, Assistant Secretary of Agriculture Long testified on a proposed amendment that would have authorized the Forest Service to prohibit jet boats. He noted that there were "times when boating perhaps should be prohib-

ited entirely". Senator Church responded to that testimony unfavorably, explaining:

... jet boats have been found to be the preferred method of travel by a great many people who have gone into the canyon. This is a matter of such importance that Congress itself should decide what the guidelines would be with respect to regulation of traffic on the river and that the discretion ought not to be left entirely to the administrative agencies.

In a clear indication of Congress' intentions, the jet boat ban was not adopted.

Later, in its first version of a comprehensive management plan in 1981, the Forest Service attempted to bypass congressional intent by eliminating power boating from the heart of Hells Canyon for the entire primary recreation season, granting exclusive use of the river from Wild Sheep Rapid to Rush Creek Rapid to those using nonmotorized river craft. Responding to public outrage, the Chief reconsidered his decision, and issued a new plan allowing access to the entire river for a very limited number of powered craft. On appeal, Assistant Secretary Crowell overturned this decision, allowing unlimited day use by powerboats and citing failure on the part of the Forest Service to demonstrate a need for such severe restrictions.

More recently, Wallowa-Whitman National Forest Supervisor Robert Richmond initiated a review and revision of the river management portion of the comprehensive management plan. Despite the lack of any demonstrable resource problems, and in the face of overwhelming public support for motorized river craft, the agency again decided to close part of the river to powerboats. The new river management plan adopted in November 1994 would have closed the heart of the canyon to motorized river craft for 3 days a week in July and August, the peak of the recreation season. In response to the many appeals received, a stay was granted by the regional Forester, avoiding a disastrous implementation of the new plan in 1995.

However, the regional forester's eventual decision on the substance of the appeals made clear that he supports the concept of a partial closure of the river to motorized river craft. The agency's intent to pursue a closure is quite evident. Even a partial closure is objectionable, as it is contrary to the intent of the law and the history of the river.

The Snake River is different from most rivers in the Wild and Scenic System. It is a high-volume river with a long and colorful history of use by motorized river craft. The first paying passengers to travel up through its rapids on a motor boat made their journey on the 110-foot *Colonel Wright* in 1865, and a memorable journey that was. Later, the 136-foot *Shoshone* made its plunge through the canyon from Boise to Lewiston in 1870 and was followed by the 165-foot *Norma* in 1895. Gasoline-powered craft began hauling people, produce, and supplies in and out of the

canyon in 1910, and the first contract for regular mail delivery was signed in 1919, continuing today. The Corps of Engineers began blasting rocks and improving channels in 1903. They worked continuously until 1975 to make the river safer for navigation.

Today the vast majority of people—over 80 percent—who recreate in the Hells Canyon segment of the Snake River access it by motorized river craft. Some are private boaters, and others travel with commercial operators on scenic tours. This access is accomplished with a minimum of impact to the river, the land, or their resources. Most river users, motorized and nonmotorized, are willing to share the river. However, a small group of nonmotorized users objects to seeing powered craft. Those unwilling to share have a rich choice of alternatives in this geographic area, such as the Selway and Middle Fork of the Salmon rivers. Motorized users, however, don't have that luxury. The only other white water rivers open to them in the Wild and Scenic System are portions of the Rogue and Salmon rivers. Without a single doubt, the Hells Canyon portion of the Snake River is our Nation's premier white water power boating river.

Mr. President, as you can see, the use of motorized river craft is deeply interwoven in the history, traditions, and culture of Hells Canyon. That is why Congress deliberately created a nonwilderness corridor for the entire length of the river. That is why Congress tried to make it clear that use of both motorized and nonmotorized river craft are valid uses of the river within the recreation area—the entire river for the entire year. It was not the intent of Congress to allow the managing agency to decide that one valid use would prevail to the exclusive use over the other.

Quite clearly, the issue of power boating's validity will not be settled unless decided by the courts or unless Public Law 94-199 is clarified by Congress. The courts are already burdened by too many cases of this type, resulting in a waste of time, energy, and financial resources for both the United States and its citizens. The only practical and permanent resolution of this issue is to clarify congressional intent in a manner that will not allow any future misunderstanding. This is what I propose to do with this legislation.

By Mr. BURNS (for himself, Mr. CRAIG, Mr. GORTON, Mr. GRASSLEY, Mr. MCCONNELL, Mr. DASCHLE, Mr. HARKIN, Mr. KERREY, and Mr. KEMPTHORNE):

S. 1375. A bill to preserve and strengthen the Foreign Market Development Cooperator Program of the Department of Agriculture, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE FOREIGN MARKET DEVELOPMENT
COOPERATOR PROGRAM ACT OF 1995

Mr. BURNS. Mr. President, I rise today together with Senators CRAIG,

GORTON, GRASSLEY, MCCONNELL, DASCHLE, HARKIN, and KERREY of Nebraska to introduce legislation that will preserve and strengthen the Foreign Market Development Cooperator Program of the Department of Agriculture.

In an effort to balance the budget by the year 2002, Congress has had to make some very difficult decisions. Whatever the final outcome of this process in budget reconciliation the fact remains that the American farmer will be asked to move into a market-oriented farm policy. Therefore it has become crystal clear that we must open up our thinking and provide our farmers access to international markets.

Changes that have resulted from the Uruguay round of GATT and the growing privatization of importing regimes in overseas markets demand that export programs be instituted that meet current needs and futures challenges. Such programs should reflect not only the successes we have had in the past, but they must also be dynamic and flexible enough to build on these gains.

One program that has stood the test of time is the Foreign Market Development Program, also known as the Cooperator Program. Amendments to the Agricultural Trade Development and Assistance Act of 1954 and the Agriculture and Food Act of 1981 authorized market development activities and the use of Federal funds to develop, maintain, and expand foreign markets for U.S. agriculture commodities. It was determined by the USDA's Foreign Agricultural Service that this could best be accomplished by private, nonprofit agricultural organizations. These organizations have been required to share in the financial expense of the market development activities.

In 1988, Congress stated,

It is the sense of Congress that the foreign market development Cooperator Program of the Service, and the activities of the individual foreign market development cooperator organizations, have been among the most successful and cost-effective means to expand United States agricultural exports. Congress affirms its support for the program and the activities of the cooperator organizations. The Administrator and the private sector should work together to ensure that the program, and the activities of cooperator organizations, are expanded in the future.

While Congress has provided full funding through the regular appropriations process every year since the Cooperator Program's development in 1954, we have provided little statutory direction to the USDA and the Foreign Agricultural Service. Congress has simply established broad goals for market development programs. As a result, the Foreign Agricultural Service has been given wide discretion in establishing programs and funding.

Mr. President, this arrangement has been highly successful for a number of years. Unfortunately, in recent years the Cooperator Program has fallen victim to the intense competition within

FAS for fewer discretionary funds. This has led to FAS requesting cuts in the program as a means of funding other FAS activities. Due to the success of this program, Congress has decided that these funds should continue and has stated such to the Foreign Agricultural Service. This year that administration proposed a budget that would have reduced the funding for the Cooperator Program by 20 percent.

A reduction of this magnitude would have meant a U.S. retreat from international markets at a time when the Foreign Agricultural Service has testified that the resources and staff of nonprofit commodity were less than adequate. This is to say that our nonprofit agricultural organizations were not able to meet the challenges and changes in the international market place. On the more meaningful level, this would have meant fewer opportunities for the producers in the world market.

As a member of the Agricultural Appropriations Subcommittee I can tell you what we took this seriously and restored full finding for the program this year. But we grow weary of the continued assault on such a successful program. It is a practice that must stop. This bill will stop this, by establishing a separate identity for the Foreign Market Development Cooperator Program from that of FAS.

The Foreign Market Development Cooperator Program is not only one of the oldest export programs, but it is also one of the most essential and effective. In fiscal year 1994, cooperators expended \$29.8 million of FAS funds on the market development program. Cooperators reported additional contributions of \$30 million. These cooperators conducted more than 1,000 individual market development activities in over 100 countries. The private sector funding assists in reducing the deficit while maintaining our presence in overseas markets. The involvement of the private sector also creates incentives for effective programs as it is their own producer dollars at stake. This has created an incentive-based program that FAS has stated that the combined cooperator and foreign third party contributions have exceeded the FAS contribution every year.

The cooperator program has been long regarded as a model of public-private sector cooperation. FAS has recently stated that the market development cooperator program has played an important role in increasing U.S. agricultural exports to the approximately \$43.5 billion in fiscal year 1994.

According to a senior FAS official, the cooperator program is the mainstay of market development activities. Cooperators are by definition nonprofit, agricultural trade associations which represent farmers and farm-related interests. Cooperators participating include representatives from the feed grains, wheat, soybean, rice, cotton, poultry, meat, and forest products as well as many others.

High-volume commodities, like grains, rarely lend themselves to traditional consumer promotion programs, but rely instead on working directly with end-users and processors on a regular basis. Cooperator projects are suited to trade servicing activities such as the collection and dissemination of market facts; training programs; and demonstrations or technical seminars on product uses to producers, processors, manufacturers, and consumers. This focus requires a continual presence in the overseas market which is essential for the United States to remain competitive. Regular contact with the customer is necessary to follow shifts in the rapidly changing world market.

In my State of Montana, where we export up to 70 percent of the grain that we grow, programs of this nature are extremely important. In recent times when we have signed agreements with the world to place our family farmers in the world market it has become increasingly important that we provide them with tools to compete in these markets. I have stated many times that the American farmer is more than willing to compete with any and all farmers around the world. But we have placed them at a disadvantage by making them compete with the governments of other countries. This is a program that will provide them with a tool to use in the world market.

Throughout my time here in Washington I have fought for programs that will add dollars to the pockets of the small family farmers in Montana and the United States. This program in its design does this, whether it be a corn or soybean farmer in Iowa or a wheat and barley farmer in my state of Montana. Development of this type would also benefit the livestock producer in any area of our Nation. It might be a cotton producer in Mississippi or Texas, or maybe a rice farmer in Arkansas, or maybe even a small timber operator in Washington and Idaho. Whatever or wherever it is that they come from, by using their matching funds these cooperators have an investment and will see that they get a return on their funds. They will in turn see additional dollars for their products and will compete fully in the world market.

The future of this program is bright, and this legislation will make it only more of a reality. The unique resources that the nonprofit agriculture organizations bring to this cooperative program enhance the future of the exports we now have in agriculture. Recent developments in communications technologies hold promise for greatly enhancing the ability of cooperator organizations to communicate with their counterparts around the country and, for that matter, the rest of the world.

Mr. President, in light of the current trend of placing our family farmers on

the world market, and with the pressure to open the safety net which protects our food supply, I find it imperative that Congress act to give our rural families this tool to work within the world market. This one tool will send a message to the country and the world that we are working to keep our family farms strong and vital operations within our economic structure. This message will allow the Department of Agriculture to focus on the opportunities that these cooperative efforts between the public and private sector can and will produce.

Mr. President, I would like to take this opportunity to invite my colleagues to join me in this effort to provide an opportunity to the rural families in this country to meet the rest of the world on the field of grain and agriculture with the tools that will help them be successful.

Mr. CRAIG. Mr. President, the Cooperator Program Act exemplifies the export-based marketing that must occur if American agriculture is to lead the world into the 21st century. I am very proud to cosponsor this bill that will extend an extremely successful program. It is also my desire to lead the efforts on the Senate Agriculture Committee to include this bill as an important provision of the trade title of the 1995 farm bill.

The Cooperator Program is part of the Foreign Market Development Program as currently administered by the Foreign Agriculture Service of USDA. The cooperators in Foreign Market Development Program are regarded by many as a cost-effective and successful partnership that has expanded agriculture exports.

Idaho wheat producers especially rely on foreign market developments and the exports for their economic well-being. In fact, Idaho's wheat producers collectively export between 75 and 80 percent of their production every year. In 1994, the production, marketing and exportation of Idaho's wheat provided over 30,000 jobs and \$1.09 billion in economic revenue in Idaho and the rest of the Pacific Northwest.

The Cooperator Program Act of 1995 will strengthen the foreign market development efforts of the past by creating a separate line-item authorization for future annual appropriations process.

I commend Senator BURNS for his efforts to introduce this legislation and urge my colleagues to support the bill.

Mr. GORTON. Mr. President, today I am pleased to join my colleagues Senators BURNS, CRAIG, GRASSLEY, MCCONNELL, DASCHLE, HARKIN, and KERREY, as an original cosponsor of the Cooperator Program Act of 1995.

The Foreign Market Development [FMD] Cooperator Program has been administered by USDA's Foreign Agriculture Service since 1954 without specific legislative authorization. Today we are introducing legislation that will provide the necessary authorization to maintain, preserve, and strengthen the FMD Cooperator Program. The FMD

Cooperator Program has proven to be an effective, efficient, cost-shared program, providing trade service and technical assistance for U.S. agriculture commodities in overseas markets. This legislation will ensure that the FMD Cooperator Program is better able to compete for a limited number of discretionary dollars during the annual appropriations process.

Many important developments have taken place since the completion of the Uruguay Round of the General Agreement of Tariffs and Trade [GATT]. I believe that GATT will continue to open new world markets for the United States so programs like FMD are even more important to give U.S. agriculture the tools necessary to develop, maintain, and expand commercial export markets for U.S. agriculture commodities in this new post-GATT environment.

As a member of the Agriculture Appropriations Subcommittee, I have made funding for export programs my top priority. I am convinced that the Foreign Market Development Program, Market Promotion Program and the like are absolutely necessary if U.S. Agriculture is to remain competitive in the international marketplace. It is also in the best interest of the agriculture community specifically to authorize the FMD Cooperator Program. This kind of oversight will ensure that the agriculture community will continue to receive the full benefits of this program.

Since 1955, U.S. agriculture exports have increased from \$3 billion to \$43.5 billion in fiscal year 1994, and are projected to reach a record high of \$51.1 billion during fiscal year 1995. USDA has stated that for each dollar of taxpayer money spent on the FMD, 7 dollars' worth of exports are generated, and this figure continues to grow. It is now every day that we appropriate Federal dollars and get a return on our investment as large and as significant as we do with the FMD.

In lieu of the reduction or phaseout of USDA's commodity price support programs, it seems only right to provide the agriculture community with the tools necessary to compete in the international marketplace. As I travel around my State of Washington I listen closely to the comments, suggestions, and concerns from my State's agriculture community.

The message has been clear: Strengthen, maintain, and preserve the tools necessary for us to export our products. In response to these comments, I believe that this legislation is the key to maintaining export programs important to so many in Washington State and across the Nation.

I would also like to acknowledge the overwhelming support we have received from the following State's wheat commissions. Washington, Idaho, Oregon, Nebraska, Kentucky, New Mexico, North Carolina, North Dakota, South Dakota, Ohio, Arizona, Arkansas, California, Colorado, Kansas, Maryland, Minnesota, Nebraska, Okla-

homa, Texas, Virginia, and Wyoming. Among other associations we have received support from include: Washington Education Trade Economic Committee, National Association of Wheat Growers, U.S. Wheat Associates, USA Dry Pea and Lentil Council, National Barley Growers Association, National Council of Farmer Cooperatives, Western U.S. Agriculture Trade Association, National Corn Growers Association, National Dry Bean Council, American Seed Trade Association, USA Poultry and Egg Export Council, American Soybean Association, National Cotton Council, National Peanut Council of America, and National Sunflower Association. Clearly, Mr. President, this legislation has a tremendous amount of support from U.S. agriculture nationwide.

Mr. President, in closing I invite my colleagues to join me as cosponsors of this legislation and ask unanimous consent that a letter of support from the Washington State Wheat Commission be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON WHEAT COMMISSION,
Spokane, WA, October 12, 1995.

Hon. SLADE GORTON,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GORTON: Exports are the life blood of the Washington wheat industry. Approximately 85 percent of all Washington's wheat production finds its way into the export market. Wheat is the number one agricultural export commodity from our state, which results in a major contribution to our state's economy and a major supplier of employment. Due to the importance of wheat exports, I would like to ask your support for a continuation and strengthening of the Foreign Market Development Program (FMD) of the USDA.

Currently the FMD program is administered by the Foreign Agricultural Service (FAS), USDA, and as Congress has already stated, "the FMD program, and the activities of individual foreign market development Cooperator organizations, have been among the most successful and cost-effective means to expand United States' agricultural exports."

Unfortunately, in recent years the cooperator program has fallen victim to the intense competition within FAS for fewer and fewer discretionary dollars. The FAS, with direct responsibility over the operation and funding of the program, has requested cuts in the program arguing that the "savings" be used to fund certain FAS activities. For this reason, we are asking that you support a separate line item in the budget for the FMD program.

There is no question that the FMD program is one of the most successful joint government-private funded activities in existence. It is time to give FMD some sunlight and expose it to the annual budgetary process. We welcome the opportunity to tell its success stories during the budgetary debates, and, at the same time, protect it from the predatory measures FAS has employed. FAS is currently arguing against a special line item for FMD stating that it will inhibit flexibility in the program. The only flexibility that will be hurt by this measure is that FAS will no longer have access to the funds.

For the first few years on the new program, we ask that you support a minimum allocation of \$40 million to the FMD program.

Thank you, in advance, for taking this issue under consideration. If you have any questions or need clarification on any issue concerning the request, please do not hesitate to contact me.

Sincerely,

JAMES R. WALESBY,
Chairman.

By Mr. MCCAIN (for himself, Mr. THOMPSON, Mr. KERRY, Mr. FEINGOLD, Mr. KENNEDY, and Mr. COATS):

S. 1376. A bill to terminate unnecessary and inequitable Federal corporate subsidies; to the Committee on Governmental Affairs.

THE CORPORATE SUBSIDY REVIEW REFORM AND TERMINATION COMMISSION ACT OF 1995

Mr. MCCAIN. Mr. President, the Federal Government operates numerous programs which provide direct payments, services and other benefits to various sectors of private industry. Some of these may serve a valuable purpose. Others, however, have long outlived their usefulness and have no place in a budget wherein we are asking Americans across the board to sacrifice on behalf of deficit reduction. Congress can no longer delay taking action to correct this inequity.

Recently, the CATO Institute and the Progressive Policy Institute reported that the Federal Government spends as much as \$85 billion per year on programs like these. The Progressive Policy Institute has identified an additional \$30 billion per year in inequitable tax loopholes. Many here in Congress have identified still other sources of waste. Together, these programs and policies have rightfully earned the moniker "corporate pork."

Yet even when these programs have been consistently determined to provide little or no benefit to the taxpayer, Congress has found it exceedingly difficult to reduce or eliminate them.

Pressure to maintain the status quo can come in many forms: institutional pressure to maintain that which is considered consistent with the interests of one party or another; political pressure to maintain programs or policies that are favorable to particular constituencies; and special interest pressure that may come to bear in a variety of shapes and forms when a member or small group of members seeks to modify these programs.

In order to override these elusive yet firmly entrenched political obstacles, this amendment establishes a one-time, nonpartisan commission—styled along the lines of the successful Base Realignment and Closure Commission [BRAC]—charged with reforming corporate subsidies.

When all is said and done, the BRAC's work will yield billions of dollars in savings by identifying the waste in just one department. The American public will get to enjoy the fruit of BRAC's labors largely due to the fact

that the Commission was able to operate in an environment completely devoid of the pressures I have just described.

By applying similar methods to examine the programs and policies of the entire Federal Government, Congress may be able to build on this record of success, saving even more for the taxpayers of this nation.

The structure and operations of this commission may seem quite familiar to those who followed the BRAC proceedings. Commissioners will be nominated, appointed, and confirmed in the same manner. They will begin their work in January 1997 and report to the President by July. The Commission will work closely with each Federal agency to identify programs and tax provisions which are no longer necessary to serve the purpose for which they were intended. They will also identify programs which unduly benefit a narrow corporate interest rather than providing clear and convincing public benefits. And, most importantly, they will operate as a nonpartisan, apolitical body—using only the guidelines we will establish with this amendment—to guide their actions.

By the summer of 1997, the Commission will provide the President and Congress recommendations for termination or specific modification of programs that satisfy these conditions.

I would like to emphasize that this bill's goals do not include increasing revenues or creating new taxes; the Commission will simply formulate recommendations to reform those programs or policies that result in inequitable financial advantages for special interest groups. Every dollar spent on an unnecessary program or lost through in inequitable tax loophole is one more that is not available for much needed broad-based tax relief.

Congress' role in this process will, however, differ somewhat from that which it plays under BRAC. In this case, enacting the Commission's recommendations may result in changes to Federal statute. Therefore, the Congress will be required to take positive action; a vote to accept or reject proposed changes in law—unlike BRAC which was accepted as law by default through Congress' inaction. Finally, in order to ensure that this stage of the process does not present opportunities for parochial interests to influence the process, disciplined and expedited procedures, similar to those used for congressional consideration of the budget, will be utilized.

It is evident that Congress has as much difficulty closing loopholes as it does closing unnecessary military bases. I, like many of my colleagues, have come to this floor on numerous occasions to offer arguments against the type of waste generated by the programs this amendment seeks to eliminate or reform. Like many of my colleagues, I have also been unsuccessful in the vast majority of these efforts. Regrettably, time, experience, and the

lessons of history leave me highly skeptical that a spontaneous awakening is likely to occur here in Congress.

Therefore, despite my own reservations about passing along congressional responsibilities to outside commissions, I feel it is clearly time to institute alternative solutions. The taxpayers of this Nation do not deserve to wait any longer for us to get this right. For this reason, I think the most—or perhaps the least—we can expect from this body is that we collectively recognize this problem, and employ a logical and fair technique to help us solve it. The Commission proposed by this legislation provides an expedient opportunity to institute positive, meaningful change.

I am pleased and encouraged by the bipartisan cosponsorship of this bill, and am hopeful that the divergence of philosophies represented by this group is an indication of wide support within Congress for this measure.

I urge all of my colleagues to examine this legislation, consider the circumstances that have caused it to come about, and join myself and the cosponsors of this bill in giving life to a solution. I can see no rational reason to oppose this bill, and more reasons than we have time to present to support it.

Stand up for the American taxpayer, stand up for change, and stand in defiance of business as usual.

Mr. THOMPSON. Mr. President, the Corporate Subsidy Termination Commission Act which my colleagues and I are introducing today will take us one step further on the road to fairness in Government.

This Congress has done a thorough and, I believe, admirable job of examining thousands of items of Government spending. We have identified areas of spending which should be reformed because they don't work as they should. And we have identified those which should be terminated because their existence cannot be justified. Some areas, such as the Federal welfare program, have been completely transformed. In each case we have asked several questions: Does this spending promote a useful public purpose? if so, can Government afford it? Should the effort and the money for it be transferred to the State or local level, where it is closer to those it is supposed to benefit?

As part of this process we have examined some programs whose primary beneficiaries are profitmaking enterprises—businesses of all sizes. In several such cases we have made progress on incremental reforms. For instance, the Senate passed an amendment to restrict the Marketing Promotion Program through which \$110 million is spent annually to underwrite advertising by some of our largest corporations in foreign countries. In addition, the program under which the Government leases mineral rights on public lands to private companies is being reformed to

allow the Government to charge fees more in line with real values.

But these efforts and others that are ongoing are necessarily piecemeal. We can cut or restrict a corporate subsidy here, and leave another one untouched.

Last week, as part of an effort to highlight the issue of Federal subsidies to profitmaking enterprises, a bipartisan group of colleagues and I proposed ending 12 specific items of corporate pork. These items were chosen from Federal spending programs which are characterized by some element of corporate subsidization. They affected areas including public resource management, energy development, export promotion, local construction, utility loans, sale of public airwaves, tourism promotion, defense construction, and aircraft design. They were only a sampling of all such programs—the Cato Institute recently identified 129 items characterized as corporate pork. Senator MCCAIN offered this package as an amendment to the reconciliation bill, where it received the support of only a fourth of this Body.

Clearly this problem needs to be attacked in a different way.

The bill we are introducing today also has bipartisan support. It establishes a Corporate Subsidy Termination Commission which is charged with identifying programs or tax policies which provide unnecessary benefits or inequitable tax advantages to profitmaking enterprises. The Commission is fashioned after the BRAC Commission, with expedited legislation procedures similar to those provided for the Congressional Budget Resolution. I ask unanimous consent that an overview of this Corporate Subsidy Termination Commission be printed in the RECORD.

Why establish a Commission and a new process to do what we could conceivably do directly?

First, and most important, this Commission will do what we cannot do well: make an overall assessment of all programs, on both the spending and revenue sides, at one time. Over the years we have created an intricate, interwoven system of subsidies, taxes and exemptions. As a rural Tennessee utility which would be affected by the spending cuts we proposed last week pointed out to me, they are competing against other energy providers who receive subsidies in the form of tax breaks.

Second, our experience last week demonstrated that voting hit or miss on individual items is not going to be successful. One person's pork is another's prize. And no one wants to give up their prize program if there isn't shared sacrifice. With the commission approach, we will know that all programs have been examined and those which provide unjustified subsidies have been exposed.

Third, the members of the Commission will be appointed specifically for this purpose by the President and the Congress. They will possess the exper-

tise, authority and stature necessary to do the job.

Fourth, the commission's recommendations will not be buried in the corner of a Federal agency or a congressional committee. While the President and Congress will be able to amend or reject the Commission's recommendations, they must address them.

Mr. President, we should require no less of profitmaking enterprises than we ask of all Americans. It is a matter of fairness and shared sacrifice. At a time when the national debate is focused on getting control of the budget, now and in the future, we cannot afford to provide corporate subsidies which undermine our efforts and which send the wrong message to American taxpayers.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CORPORATE SUBSIDY REVIEW, REFORM AND TERMINATION COMMISSION

"The Termination Commission will do for Corporate Pork what BRAC did for military infrastructure; identify and terminate excess and waste!"

The eight-members of the Commission would: be nominated by the President by January 31; have six members nominated by Congress; require Senate Confirmation for their appointments; and identify programs or tax policies that provide unnecessary benefits to for-profit enterprise, or serve the pecuniary interests of an enterprise but do not provide a public benefit, or; provide inequitable tax advantages to for-profit enterprise.

Federal Agencies would: Submit a list of programs which meet "corporate pork" definitional criteria no later than their budget request in January 1997; and submit recommendations to the commission for termination or reform of such programs.

Commission would: Review the agencies' recommendations, perform their own analysis; receive Comptroller General's analysis April 15, 1997; and submit a comprehensive reform proposal to the President by July 1, 1997.

President would: Have 15 days to review the Commission's recommendations; have the ability to suggest changes to the Commission's package; and forward the package directly if there are no changes.

Commission would: Have until August 15 to act upon the President's proposed changes; and have until August 15 to reject the President's changes.

President: Must forward Commission's revised proposal to Congress by September 1. Failure to do so terminates the entire process.

Congress will: Have 20 days for Committee review in both Houses; follow Budget Act expedited procedures; and have limited debate and amendments.

Mr. FEINGOLD. Mr. President, I am pleased to join with my friend, the senior Senator from Arizona [Mr. MCCAIN] in introducing this legislation. This is the most recent of several bipartisan reform efforts in which I have joined with Senator MCCAIN.

In many ways, this measure focuses on the downstream results of the other problems on which we have worked. Unjustified corporate subsidies, through direct appropriation or through the Tax Code, continue to prosper in part because of the influence

of the special constituencies that benefit from those subsidies.

But, Mr. President, these subsidies also continue to exist through simple inattention, and the Corporate Subsidy Commission created by this legislation will bring some needed scrutiny to subsidies that, though they may have had some merit once, are no longer justified.

Targeting unjustified corporate subsidies would be appropriate at any time, but they are especially needed as we try to balance the Federal books. We absolutely must subject these kinds of corporate subsidies to tougher scrutiny than we have before.

As with the spending we provide to individuals, nonprofits, and State and local governments, if we are to eliminate the Federal budget deficit, we need to demand a higher level of justification for corporate programs.

There is no doubt that those of us who have cosponsored this legislation differ greatly on the total package of spending cuts we would propose to balance the Federal budget, as the reconciliation legislation this body passed dramatically demonstrates.

But we are all united in suggesting that much more needs to be done in the area of corporate subsidies.

This legislation continues the broader effort to reduce the deficit that I have made, and which began with an 82+ point plan to reduce the deficit I offered during my campaign for the U.S. Senate in 1992.

Many of the provisions of that plan eliminated or reduced corporate subsidies that are no longer justified, including both direct appropriations and tax expenditures.

Mr. President, I am particularly pleased that the Commission's mission will include the review of tax expenditures. They are a significant and growing portion of the Federal budget. In a June, 1994 report, the General Accounting Office, using data from the Joint Committee on Taxation, stated that spending for tax expenditures totaled about \$400 billion in 1993.

As that report notes, spending done through tax expenditures moves immediately to the front of the budget line. Tax expenditures are, in effect, funded before the Federal Government pays for a single school lunch or an aircraft carrier because, under our budget process, tax expenditures must be funded as they are created, and with the exception of a few that must be reauthorized, they can grow in the absence of Congressional oversight.

Mr. President, some current tax expenditures are certainly justified. However, the system of tax expenditures itself lacks appropriate review and control mechanisms, and many individual expenditures are unjustified.

The result is a loss of overall economic efficiency for the Nation's economy, and scarce budget resources at a time when we are trying to balance the Federal books.

This Commission can provide needed review of inefficient and expensive corporate subsidies, requiring Congress to examine this spending in a timely manner.

By Mr. LUGAR:

S. 1377. A bill to provide authority for the assessment of cane sugar produced in the Everglades agricultural area of Florida, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

CANE SUGAR LEGISLATION

Mr. LUGAR. Mr. President, I am introducing legislation today to establish an Everglades restoration fund. The Everglades restoration fund would be financed by a 2-cent-per-pound assessment on all cane sugar produced in the Everglades agricultural area, Florida. It is estimated that a 2-cents-per-pound assessment would produce revenues of \$70 million per year or approximately \$350 million over a 5-year period. These funds will be used for land acquisition in the Everglades agricultural area.

An Everglades restoration plan has been devised in cooperation with the Corps of Engineers and the South Florida Water Management District. This plan calls for 131,000 acres of land within the southern Everglades agricultural area to be acquired at an estimated cost of \$355 million, assuming an acre cost of \$2,700 per acre.

I believe this plan is fair to Florida sugar producers. Because of the Federal sugar program, sugar prices in Florida are higher than they otherwise would be.

The sugar growers in the Everglades agricultural area are also beneficiaries of federally subsidized water projects which created agricultural lands in the Everglades agricultural area and which pump waters in and out of these lands as needed for sugar production. It is reasonable for these beneficiaries to help restore the unique ecosystem that these projects have degraded.

I am aware of the fact that the State of Florida has enacted the Everglades Forever Act, which imposes a tax of \$25 to \$35 per acre over 20 years to raise a total of \$322 million to improve water quality.

Sugar producers have also agreed to take other steps designed to improve water quality. These steps include compliance with phosphorous discharge standards and the creation of stormwater treatment areas to help filter phosphorous discharges and for other purposes. However, these measures are primarily related to improving water quality in the Everglades. My proposal is designed to restore the ecosystem to a natural condition with regard to water flows.

No more important or complex ecosystem in need of restoration exists in our Nation than the Everglades in south Florida. It is a troubled system, on the brink of collapse, largely caused by federally supported drainage construction designed to promote and pro-

tect agriculture. This problem is exacerbated by the Federal sugar program. Failure to act will doom the Everglades to accelerated deterioration, a tragic and totally unacceptable fate.

Mr. President, I urge my colleagues to support this bill to restore the Everglades and to bring assurances to homeowners in Florida, to bring assurances to those who fear the end of the coral in the Keys, who are disturbed by the algae in the Florida Bay, and who, in fact, appreciate that a fine balance is created here between benefits given to the sugar producers and an assessment that will make all the difference in the restoration of the Everglades.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1377

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1 EVERGLADES AGRICULTURAL AREA.

Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is amended—

- (a) in subsection (i)—
 - (1) in paragraph (1)—
 - (A) by redesignating subparagraph (B) as (C);
 - (B) in subparagraph (A) by striking “and” after the semicolon; and
 - (C) by inserting “and” after the semicolon in subparagraph (B); and
 - (D) by inserting a new subparagraph (C) that reads as follows:

“(C) in the case of marketings from production from the Everglades Agricultural Area of Florida as determined by the Secretary, in addition to assessments under subparagraph B, the sum of 2 cents per pound of raw cane sugar for each of the 1996 through 2000 fiscal years;”

- (b) redesignating subsection (j) as subsection (k); and
- (c) by inserting a new subsection (j) that reads as follows:

“(j) EVERGLADES AGRICULTURAL AREA ACCOUNT—

(1) IN GENERAL.—
“(A) ACCOUNT.—The Secretary shall establish an Everglades Agricultural Area Account as an account of the Commodity Credit Corporation.”

“(B) AREA.—The Secretary shall determine the extent of the Everglades Agricultural Area of Florida for the purposes of subsection (i)(1)(C) and subparagraph (C).”

“(C) COMMODITY CREDIT CORPORATION.—The funds collected from the assessment provided in subsection (i)(1)(C) shall be paid into the Everglades Agricultural Area Account of the Commodity Credit Corporation, and shall be available until expended.”

“(D) PURPOSES.—The Secretary is authorized and directed to transfer funds from the Everglades Agricultural Area Account to the South Florida Water Management District or other appropriate public entities for the purpose of purchasing agricultural lands in the Everglades Agricultural Area of Florida and for other related purposes.”

ADDITIONAL COSPONSORS

S. 284

At the request of Mr. DOLE, the names of the Senator from Missouri

[Mr. ASHCROFT], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 284, a bill to restore the term of patents, and for other purposes.

S. 356

At the request of Mr. SHELBY, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 356, a bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States.

S. 607

At the request of Mr. WARNER, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 881

At the request of Mr. GRASSLEY, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 1200

At the request of Ms. SNOWE, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1200, a bill to establish and implement efforts to eliminate restrictions on the enclaved people of Cyprus.

S. 1316

At the request of Mr. KEMPTHORNE, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1316, A bill to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the Safe Drinking Water Act), and for other purposes.

SENATE CONCURRENT RESOLUTION 11

At the request of Ms. SNOWE, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Concurrent Resolution 11, A concurrent resolution supporting a resolution to the long-standing dispute regarding Cyprus.

SENATE RESOLUTION 146

At the request of Mr. JOHNSTON, the names of the Senator from Michigan [Mr. LEVIN], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Washington [Mrs. MURRAY] were added as cosponsors of Senate Resolution 146, A resolution designating the week beginning November 19, 1995, and the week beginning on November 24, 1996, as “National Family Week,” and for other purposes.