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## **Conference Report to Accompany Food, Agriculture, Conservation, and Trade Act of 1990**

**H.R. Rep. No. 101-916 (1990)**

### **Part 8 of 14**

**Title XX- Grain Quality** (pp. 595-602)

**Title XXI- Organic Certification** (pp. 602-619)

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of the checkoff programs should take care to faithfully and diligently perform the functions assigned to them under the authorizing legislation and otherwise meet their crucial program responsibilities. It further is the sense of Congress that each of these boards and councils, in carrying out the responsibilities assigned to it, is accountable to the Secretary of Agriculture, Congress, and the industry contributing funds for the checkoff program involved, and that each currently operational checkoff board or council should review its charter and activities to ensure that its responsibilities and duties have not been inappropriately delegated or otherwise relinquished to another organization.

#### **SEC. 1999T. CONSISTENCY WITH INTERNATIONAL OBLIGATIONS OF THE UNITED STATES.**

(a) **IN GENERAL.**—Prior to the promulgation of, or amendment to, any order or plan under a research and promotion program relating to research and promotion of any agricultural commodity or product, after the date of enactment of this title, where such order or plan would provide for an assessment on imports, the Secretary of Agriculture shall consult with the United States Trade Representative regarding the consistency of the provisions of the order or plan with the international obligations of the United States.

(b) **COMPLIANCE WITH U.S. INTERNATIONAL OBLIGATIONS.**—The Secretary of Agriculture shall take all steps necessary and appropriate to ensure that any order or plan or amendment to such order or plan, and the implementation and enforcement of any order or plan or amendment to such order or plan, or program as it relates to imports is nondiscriminatory and in compliance with the international obligations of the United States, as interpreted by the United States Trade Representative.

(c) **CONSTRUCTION.**—Nothing in this section shall be construed as providing for a cause of action under this section.

## **TITLE XX—GRAIN QUALITY**

#### **SEC. 2001. SHORT TITLE.**

This title may be cited as the "Grain Quality Incentives Act of 1990".

#### **SEC. 2002. COMMITTEE ON GRAIN QUALITY AND GRAIN QUALITY COORDINATOR.**

##### **(a) ESTABLISHMENT OF COMMITTEE AND COORDINATOR.—**

(1) **COMMITTEE.**—The Secretary of Agriculture (hereafter referred to in this title as the "Secretary") shall establish, within the Department of Agriculture, a Committee on Grain Quality (hereafter referred to in this section as the "Committee").

(2) **COORDINATOR.**—The Committee established under paragraph (1) shall be chaired by an individual, appointed by the Secretary, who shall serve as the Grain Quality Coordinator (hereafter referred to in this title as the "Coordinator") and, in consultation with the Committee, carry out the duties described in subsection (b).

(b) **DUTIES.**—The Coordinator shall be responsible for—

(1) assembling and evaluating, in a systematic manner, concerns and problems with the quality of United States grain, expressed by foreign and domestic buyers and end-users;

(2) developing and implementing a coordinated effort to inform and educate foreign buyers concerning the proper specifications of grain purchase contracts to obtain the quality of grain they desire;

(3) reviewing the programs and activities of the Department of Agriculture with respect to United States grain to determine whether the activities are consistent with the provisions of this title (and other provisions of law) as such provisions relate to grain quality and grain quality competitiveness;

(4) serving as the Federal Government coordinator with respect to grain quality and grain quality competitiveness; and

(5) investigating and communicating, through the Secretary, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning—

(A) actions undertaken by the Department of Agriculture—

(i) to improve the quality of United States grain; and

(ii) that are inconsistent with the goal of improving grain quality;

(B) conditions in the production and marketing sectors that discourage improvements in grain quality;

(C) interrelationships of rules and actions taken by the Federal Grain Inspection Service, other agencies of the Department of Agriculture, Food and Drug Administration, Environmental Protection Agency, and other Federal agencies, relating to grain production, handling, storage, transportation, and processing as such actions affect the wholesomeness and performance of grain;

(D) recommendations for legislative or regulatory changes that would address grain quality issues;

(E) progress made and benefits expected from the international harmonization of sanitary and phytosanitary requirements affecting grain;

(F) potential opportunities and benefits from the international harmonization of grain grades and standards;

(G) alternative forms of financial and technical assistance available and needed by producers and elevator operators to acquire and properly utilize grain cleaning, drying, and storage equipment; and

(H) progress on requirements of other sections of this title.

(c) **TERMINATION.**—This section shall terminate on January 1, 2001.

**SEC. 2003. BENEFITS AND COSTS ASSOCIATED WITH IMPROVED GRAIN QUALITY.**

The Administrator of the Federal Grain Inspection Service shall estimate the economic impact, including the benefits and costs and the distribution of such benefits and costs, of any major changes necessary to carry out the amendments made under this title to sec-

tions 4 and 13 of the United States Grain Standards Act (7 U.S.C. 76 and 87b) prior to making such changes.

**SEC. 2004. CLASSIFICATION, GRADES AND STANDARDS DESIGN FRAMEWORK.**

Section 2(b)(3) of the United States Grain Standards Act (7 U.S.C. 74(b)(3)) is amended—

- (1) in subparagraph (C), by striking “and” at the end thereof;
- (2) in subparagraph (D), by striking the period and inserting a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

“(E) reflect the economic value-based characteristics in the end uses of grain; and

“(F) accommodate scientific advances in testing and new knowledge concerning factors related to, or highly correlated with, the end use performance of grain.”.

**SEC. 2005. IMPROVING THE CLEANLINESS OF GRAIN.**

Section 4(b) of the United States Grain Standards Act (7 U.S.C. 76(b)) is amended—

- (1) by inserting “(1)” after the subsection designation; and

- (2) by adding at the end thereof the following new paragraph:

“(2)(A)(i) If the Administrator determines that the establishment or amendment of standards regarding cleanliness conditions of wheat, corn, barley, sorghum and soybeans that meet the requirements for grade number 3 or better (as set forth in subparagraph (B)) would—

“(I) enhance the competitiveness of exports of wheat, corn, barley, sorghum and soybeans from the United States with wheat, corn, barley, sorghum and soybean exports marketed by other major exporters;

“(II) result in the maintenance or expansion of the United States export market share for wheat, corn, barley, sorghum and soybeans;

“(III) result in the maintenance or increase of United States producer income; and

“(IV) be in the interest of United States agriculture, taking into consideration technical constraints, economic benefits and costs to producers and industry, price competitiveness, and importer needs;

the Administrator shall establish or amend the standards to include economically and commercially practical levels of cleanliness for wheat, corn, barley, sorghum and soybeans.

“(ii) The Administrator shall make a finding under this subsection for grain of the type described in clause (i) as soon as practicable after the date of enactment of this paragraph.

“(B)(i) In establishing requirements for cleanliness characteristics, the Administrator shall—

“(I) consider technical constraints, economic benefits and costs to producers and industry, the price competitiveness of United States agricultural production, and levels of cleanliness met by major competing nations that export wheat, corn, barley, sorghum and soybeans;

"(II) promulgate regulations after providing for notice and an opportunity for public comment; and

"(III) phase in any requirements for cleanliness characteristics by incrementally decreasing the levels of the objectionable material permitted in shipments of grade number 3 or better wheat, corn, barley, sorghum and soybeans.

"(ii) Following the phase-in period referred to in clause (i)(III), subsequent revision of cleanliness requirements shall be conducted consistent with the schedule of the Administrator for reviewing grain standards.

"(C) If the Administrator determines to establish requirements for cleanliness characteristics under this section, the Administrator shall ensure that such requirements are fully implemented not later than 6 years after the date of enactment of this paragraph."

**SEC. 2006. GRADE DETERMINING FACTORS RELATED TO PHYSICAL SOUNDNESS AND PURITY.**

Section 4 of the United States Grain Standards Act (7 U.S.C. 76) (as amended by section 2005) is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) In establishing standards under subsection (a) for each grain for which official grades are established, the Administrator shall establish for each such grain official grade-determining factors and factor limits that reflect the levels of soundness and purity that are consistent with end-use performance goals of the major foreign and domestic users of each such grain. Such factors and factor limits for grades number 3 and better shall provide users of such standards the best possible information from which to determine end-use product quality. The Administrator shall establish factors and factor limits that will provide that grain meeting the requirements for grades number 3 and better will perform in accordance with general trade expectations for the predominant uses of such grain.

"(2) In establishing factors and factor limits under paragraph (1), the Administrator shall provide for notice and an opportunity for public comment prior to making changes in the grade-determining factors and factor limits that shall be applicable under this section to grain that is officially graded."

**SEC. 2007. TESTING FOR AFLATOXIN CONTAMINATION OF CORN SHIPPED IN FOREIGN COMMERCE.**

Section 5 of the United States Grain Standards Act (7 U.S.C. 77) is amended by inserting at the end the following new subsections:

"(c) The Administrator is authorized and directed to require that all corn exported from the United States be tested to ascertain whether it exceeds acceptable levels of aflatoxin contamination, unless the contract for export between the buyer and seller stipulates that aflatoxin testing shall not be conducted."

**SEC. 2008. PROHIBITION OF CONTAMINATION.**

Section 13 of the United States Grain Standards Act (7 U.S.C. 87b) is amended by adding at the end the following new subsection:

"(e)(1) The Administrator may prohibit the contamination of sound and pure grain as a result of the introduction of—

"(A) nongrain substances;

"(B) grain unfit for ordinary commercial purposes; or

"(C) grain that exceeds action limits established by the Food and Drug Administration or grain having residues that exceed the tolerance levels established by the Environmental Protection Agency.

"(2) No prohibition imposed under this section shall be construed to restrict the marketing of any grain so long as the grade or condition of the grain is properly identified.

"(3) Prior to taking action under this subsection, the Administrator shall promulgate regulations after providing for notice and an opportunity for public comment, that identify and define actions and conditions that are subject to prohibition.

"(4) In no case shall the Administrator prohibit the blending of an entire grade of grain.

"(5) In implementing paragraph (1)(C), the Administrator shall report any prohibitions to other appropriate public health agencies."

#### **SEC. 2009. STANDARDIZING COMMERCIAL INSPECTIONS.**

The United States Grain Standards Act (7 U.S.C. 71) is amended by adding at the end the following new section:

#### **"SEC. 22. STANDARDIZING COMMERCIAL INSPECTIONS.**

"(a) **TESTING EQUIPMENT.**—To promote greater uniformity in commercial grain inspection results, the Administrator may work in conjunction with the National Institute for Standards and Technology and the National Conference on Weights and Measures to—

"(1) identify inspection instruments requiring standardization under subsection (b);

"(2) establish performance criteria for commercial grain inspection instruments;

"(3) develop a national program to approve grain inspection instruments for commercial inspection; and

"(4) develop standard reference materials or other means necessary for calibration or testing of approved instruments.

"(b) **GENERAL INSPECTION PROCEDURES.**—To ensure that producers are treated uniformly in delivering grain, the Administrator shall develop practical and cost-effective procedures for conducting commercial inspections of grain with respect to the application of quality factors, that result in premiums and discounts. The procedures shall be made available to country elevators and others making first-point-of-delivery inspections.

"(c) **INSPECTION SERVICES AND INFORMATION.**—To encourage the use of equipment and procedures developed in accordance with subsection (a) and (b), the Administrator shall provide for official inspection services by the Service, States, and official inspection agencies and provide information on the proper use of sampling and inspection equipment, application of the grain standards, and availability of official inspection services, including appeals under this Act.

"(d) **STANDARDIZED AFLATOXIN EQUIPMENT AND PROCEDURES.**—The Administrator shall—

"(1) establish uniform standards for testing equipment; and

"(2) establish uniform testing procedures and sampling techniques;

that may be used by processors, refiners, operators of grain elevators and terminals, and others to accurately detect the level of aflatoxin contamination of corn in the United States."

**SEC. 2010. ENTRY QUALITY STANDARDS FOR ALL FARMER-OWNED RESERVE GRAINS.**

Section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) is amended by adding at the end the following new subsection:

"(k) In announcing the terms and conditions of the producer storage program under subsection (e)(1), the Secretary shall review standards concerning the quality of grain that shall be allowed to be stored under the program, and such standards should encourage only quality grain, as determined by the Secretary, to be pledged as collateral for such loans. The Secretary shall review inspection, maintenance, and stock rotation requirements and take the necessary steps to maintain the quality of such grain."

**SEC. 2011. PRICE SUPPORT LOAN INCENTIVES FOR QUALITY GRAIN.**

Section 403(a) of the Agricultural Act of 1949 (7 U.S.C. 1423) (as amended by section 1128) is further amended by adding at the end thereof the following new sentence: "Beginning with the 1991 crops of wheat, feed grains, and soybeans for which price support is provided under this Act, the Secretary shall establish premiums and discounts related to cleanliness factors in addition to any other premiums or discounts related to quality."

**SEC. 2012. QUALITY REQUIREMENTS FOR COMMODITY CREDIT CORPORATION-OWNED GRAIN.**

The Agricultural Act of 1949 is amended by inserting after section 407 (7 U.S.C. 1427) the following new section:

**"SEC. 407A. QUALITY REQUIREMENTS FOR COMMODITY CREDIT CORPORATION OWNED GRAIN.**

"(a) **ESTABLISHMENT OF MINIMUM STANDARDS.**—Notwithstanding any other provision of law, the Secretary shall establish minimum quality standards that shall apply to grain that is deposited for storage for the account of the Commodity Credit Corporation. In establishing such standards, the Secretary shall take into consideration factors related to the ability of grain to withstand storage and assurance of acceptable end-use performance.

"(b) **INSPECTION OF GRAIN ACQUISITIONS.**—The Commodity Credit Corporation shall utilize Federal Grain Inspection Service approved procedures to inspect and evaluate the condition of the grain it acquires from producers. In no case shall this section require the use of an official inspection unless the producer so requests."

**SEC. 2013. SEED VARIETY INFORMATION AND SURVEY.**

**(a) INFORMATION.**—

(1) **IN GENERAL.**—Grain submitted for public testing shall be evaluated for selected specific agronomic performance characteristics and intrinsic end-use performance characteristics, as determined by the Secretary, with the results of the evaluations made available to the Secretary.

(2) **DISSEMINATION OF INFORMATION.**—The Secretary shall disseminate varietal performance information obtained under paragraph (1) to plant breeders, producers, and end users.

(b) **SURVEY.**—The Secretary shall periodically conduct, compile, and publish a survey of grain varieties commercially produced in the United States.

(c) **ANALYSIS OF VARIETY SURVEY DATA.**—The Secretary shall analyze the variety surveys conducted under subsection (b) in conjunction with available applied research information on intrinsic quality characteristics of the varieties, to evaluate general intrinsic crop quality characteristics and trends in production related to intrinsic quality characteristics. This information shall be disseminated as required by subsection (a)(2).

#### **SEC. 2014. AUTHORITY TO ASSIST FARMERS AND ELEVATOR OPERATORS.**

The Secretary may provide technical assistance (including information on such financial assistance as may be available) to grain producers and elevator operators to assist such producers and operators in installing or improving grain cleaning, drying or storage equipment.

#### **SEC. 2015. SENSE OF CONGRESS CONCERNING TESTS FOR PURITY.**

(a) **FINDING.**—Congress finds that consumers, both international and domestic, are aware of, and concerned with, the purity of their food supply.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that in order to assure buyers of the purity of United States grain, the Federal Grain Inspection Service should, as soon as technically and economically practical, develop tests of mycotoxins and pesticide residues and make such tests available on such impurities in conjunction with official grain inspections established under the United States Grain Standards Act (7 U.S.C. 71 et seq.).

#### **SEC. 2016. SENSE OF CONGRESS CONCERNING COOPERATIVE ENFORCEMENT OF FEDERAL GRAIN PURITY REQUIREMENTS.**

(a) **FINDINGS.**—Congress finds that the laws and regulations related to the purity and safety of grain that are administered by the Food and Drug Administration and the Environmental Protection Agency serve to insure the integrity of the United States as a supplier of wholesome grain.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that Federal agencies that are responsible for enforcing the laws and regulations relating to the quality, purity, and safety of United States grain exported and marketed domestically should seek assistance from and cooperate with the Federal Grain Inspection Service in the enforcement of the laws and regulations referred to in subsection (a).

#### **SEC. 2017. SENSE OF CONGRESS CONCERNING END-USE PERFORMANCE RESEARCH.**

(a) **FINDINGS.**—Congress finds that—

(1) research concerning the end-use performance of grain conducted by the Agricultural Research Service and land-grant universities is critical to improving the quality and competitiveness of United States grains in domestic and world markets;

(2) the work done by the Agricultural Research Service wheat quality laboratories has proven valuable to improving the un-



derstanding of individuals concerning the relationships between the physical and chemical properties of wheat and the performance of wheat in milling and baking; and

(3) research conducted by the Agricultural Research Service and land-grant universities concerning the composition of corn and soybean varieties has proven valuable to feed and food users.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the Secretary, and in particular the Agricultural Research Service and land-grant universities, should adjust their financial priorities to place increased emphasis on grain variety evaluation and the development of objective tests for the end-use properties of grains.

#### **SEC. 2018. SENSE OF CONGRESS CONCERNING COOPERATION IN OBJECTIVE TESTING.**

(a) **FINDING.**—Congress finds that the close cooperative relationship that exists between the Federal Grain Inspection Service, the Agricultural Research Service, and land-grant universities has proven highly beneficial in identifying grain quality related characteristics, developing tests, and designing grain standards.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the cooperative efforts described in subsection (a), including the sharing of funds and personnel, should be expanded, and that the Federal Grain Inspection Service should continue to utilize the research capabilities of the Agricultural Research Service and the land-grant universities in these efforts.

## **TITLE XXI—ORGANIC CERTIFICATION**

#### **SEC. 2101. SHORT TITLE.**

This title may be cited as the "Organic Foods Production Act of 1990".

#### **SEC. 2102. PURPOSES.**

It is the purpose of this title—

(1) to establish national standards governing the marketing of certain agricultural products as organically produced products;

(2) to assure consumers that organically produced products meet a consistent standard; and

(3) to facilitate interstate commerce in fresh and processed food that is organically produced.

#### **SEC. 2103. DEFINITIONS.**

As used in this title:

(1) **AGRICULTURAL PRODUCT.**—The term "agricultural product" means any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock that is marketed in the United States for human or livestock consumption.

(2) **BOTANICAL PESTICIDES.**—The term "botanical pesticides" means natural pesticides derived from plants.

(3) **CERTIFYING AGENT.**—The term "certifying agent" means the chief executive officer of a State or, in the case of a State that provides for the Statewide election of an official to be re-

sponsible solely for the administration of the agricultural operations of the State, such official, and any person (including private entities) who is accredited by the Secretary as a certifying agent for the purpose of certifying a farm or handling operation as a certified organic farm or handling operation in accordance with this title.

(4) **CERTIFIED ORGANIC FARM.**—The term "certified organic farm" means a farm, or portion of a farm, or site where agricultural products or livestock are produced, that is certified by the certifying agent under this title as utilizing a system of organic farming as described by this title.

(5) **CERTIFIED ORGANIC HANDLING OPERATION.**—The term "certified organic handling operation" means any operation, or portion of any handling operation, that is certified by the certifying agent under this title as utilizing a system of organic handling as described under this title.

(6) **CROP YEAR.**—The term "crop year" means the normal growing season for a crop as determined by the Secretary.

(7) **GOVERNING STATE OFFICIAL.**—The term "governing State official" means the chief executive official of a State or, in the case of a State that provides for the Statewide election of an official to be responsible solely for the administration of the agricultural operations of the State, such official, who administers an organic certification program under this title.

(8) **HANDLE.**—The term "handle" means to sell, process or package agricultural products.

(9) **HANDLER.**—The term "handler" means any person engaged in the business of handling agricultural products, except such term shall not include final retailers of agricultural products that do not process agricultural products.

(10) **HANDLING OPERATION.**—The term "handling operation" means any operation or portion of an operation (except final retailers of agricultural products that do not process agricultural products) that—

(A) receives or otherwise acquires agricultural products; and

(B) processes, packages, or stores such products.

(11) **LIVESTOCK.**—The term "livestock" means any cattle, sheep, goats, swine, poultry, equine animals used for food or in the production of food, fish used for food, wild or domesticated game, or other nonplant life.

(12) **NATIONAL LIST.**—The term "National List" means a list of approved and prohibited substances as provided for in section 2118.

(13) **ORGANIC PLAN.**—The term "organic plan" means a plan of management of an organic farming or handling operation that has been agreed to by the producer or handler and the certifying agent and that includes written plans concerning all aspects of agricultural production or handling described in this title including crop rotation and other practices as required under this title.

(14) **ORGANICALLY PRODUCED.**—The term "organically produced" means an agricultural product that is produced and handled in accordance with this title.

(15) **PERSON.**—The term "person" means an individual, group of individuals, corporation, association, organization, cooperative, or other entity.

(16) **PESTICIDE.**—The term "pesticide" means any substance which alone, in chemical combination, or in any formulation with one or more substances, is defined as a pesticide in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

(17) **PROCESSING.**—The term "processing" means cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, dehydrating, freezing, or otherwise manufacturing, and includes the packaging, canning, jarring, or otherwise enclosing food in a container.

(18) **PRODUCER.**—The term "producer" means a person who engages in the business of growing or producing food or feed.

(19) **SECRETARY.**—The term "Secretary" means the Secretary of Agriculture.

(20) **STATE ORGANIC CERTIFICATION PROGRAM.**—The term "State organic certification program" means a program that meets the requirements of section 2107, is approved by the Secretary, and that is designed to ensure that a product that is sold or labeled as "organically produced" under this title is produced and handled using organic methods.

(21) **SYNTHETIC.**—The term "synthetic" means a substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes.

#### **SEC. 2104. NATIONAL ORGANIC PRODUCTION PROGRAM.**

(a) **IN GENERAL.**—The Secretary shall establish an organic certification program for producers and handlers of agricultural products that have been produced using organic methods as provided for in this title.

(b) **STATE PROGRAM.**—In establishing the program under subsection (a), the Secretary shall permit each State to implement a State organic certification program for producers and handlers of agricultural products that have been produced using organic methods as provided for in this title.

(c) **CONSULTATION.**—In developing the program under subsection (a), and the National List under section 2118, the Secretary shall consult with the National Organic Standards Board established under section 2119.

(d) **CERTIFICATION.**—The Secretary shall implement the program established under subsection (a) through certifying agents. Such certifying agents may certify a farm or handling operation that meets the requirements of this title and the requirements of the organic certification program of the State (if applicable) as an organically certified farm or handling operation.

#### **SEC. 2105. NATIONAL STANDARDS FOR ORGANIC PRODUCTION.**

To be sold or labeled as an organically produced agricultural product under this title, an agricultural product shall—

(1) have been produced and handled without the use of synthetic chemicals, except as otherwise provided in this title;

(2) except as otherwise provided in this title and excluding livestock, not be produced on land to which any prohibited substances, including synthetic chemicals, have been applied during the 3 years immediately preceding the harvest of the agricultural products.

(3) be produced and handled in compliance with an organic plan agreed to by the producer and handler of such product and the certifying agent.

#### SEC. 2106. COMPLIANCE REQUIREMENTS.

##### (a) DOMESTIC PRODUCTS.—

###### (1) IN GENERAL.—On or after October 1, 1993—

(A) a person may sell or label an agricultural product as organically produced only if such product is produced and handled in accordance with this title; and

(B) no person may affix a label to, or provide other market information concerning, an agricultural product if such label or information implies, directly or indirectly, that such product is produced and handled using organic methods, except in accordance with this title.

(2) USDA STANDARDS AND SEAL.—A label affixed, or other market information provided, in accordance with paragraph (1) may indicate that the agricultural product meets Department of Agriculture standards for organic production and may incorporate the Department of Agriculture seal.

(b) IMPORTED PRODUCTS.—Imported agricultural products may be sold or labeled as organically produced if the Secretary determines that such products have been produced and handled under an organic certification program that provides safeguards and guidelines governing the production and handling of such products that are at least equivalent to the requirements of this title.

(c) EXEMPTIONS FOR PROCESSED FOOD.—Subsection (a) shall not apply to agricultural products that—

(1) contain at least 50 percent organically produced ingredients by weight, excluding water and salt, to the extent that the Secretary, in consultation with the National Organic Standards Board and the Secretary of Health and Human Services, has determined to permit the word “organic” to be used on the principal display panel of such products only for the purpose of describing the organically produced ingredients; or

(2) contain less than 50 percent organically produced ingredients by weight, excluding water and salt, to the extent that the Secretary, in consultation with the National Organic Standards Board and the Secretary of Health and Human Services, has determined to permit the word “organic” to appear on the ingredient listing panel to describe those ingredients that are organically produced in accordance with this title.

(d) SMALL FARMER EXEMPTION.—Subsection (a)(1) shall not apply to persons who sell no more than \$5,000 annually in value of agricultural products.

#### SEC. 2107. GENERAL REQUIREMENTS.

(a) IN GENERAL.—A program established under this title shall—

(1) provide that an agricultural product to be sold or labeled as organically produced must—

(A) be produced only on certified organic farms and handled only through certified organic handling operations in accordance with this title; and

(B) be produced and handled in accordance with such program;

(2) require that producers and handlers desiring to participate under such program establish an organic plan under section 2114;

(3) provide for procedures that allow producers and handlers to appeal an adverse administrative determination under this title;

(4) require each certified organic farm or each certified organic handling operation to certify to the Secretary, the governing State official (if applicable), and the certifying agent on an annual basis, that such farm or handler has not produced or handled any agricultural product sold or labeled as organically produced except in accordance with this title;

(5) provide for annual on-site inspection by the certifying agent of each farm and handling operation that has been certified under this title;

(6) require periodic residue testing by certifying agents of agricultural products that have been produced on certified organic farms and handled through certified organic handling operations to determine whether such products contain any pesticide or other nonorganic residue or natural toxicants and to require certifying agents, to the extent that such agents are aware of a violation of applicable laws relating to food safety, to report such violation to the appropriate health agencies;

(7) provide for appropriate and adequate enforcement procedures, as determined by the Secretary to be necessary and consistent with this title;

(8) protect against conflict-of-interest as specified under section 2116(h);

(9) provide for public access to certification documents and laboratory analyses that pertain to certification;

(10) provide for the collection of reasonable fees from producers, certifying agents and handlers who participate in such program; and

(11) require such other terms and conditions as may be determined by the Secretary to be necessary.

(b) **DISCRETIONARY REQUIREMENTS.**—An organic certification program established under this title may—

(1) provide for the certification of an entire farm or handling operation or specific fields of a farm or parts of a handling operation if—

(A) in the case of a farm or field, the area to be certified has distinct, defined boundaries and buffer zones separating the land being operated through the use of organic methods from land that is not being operated through the use of such methods;

(B) the operators of such farm or handling operation maintain records of all organic operations separate from

records relating to other operations and make such records available at all times for inspection by the Secretary, the certifying agent, and the governing State official; and

(C) appropriate physical facilities, machinery, and management practices are established to prevent the possibility of a mixing of organic and nonorganic products or a penetration of prohibited chemicals or other substances on the certified area; and

(2) provide for reasonable exemptions from specific requirements of this title (except the provisions of section 2112) with respect to agricultural products produced on certified organic farms if such farms are subject to a Federal or State emergency pest or disease treatment program.

(c) **STATE PROGRAM.**—A State organic certification program approved under this title may contain additional guidelines governing the production or handling of products sold or labeled as organically produced in such State as required in section 2108.

#### **SEC. 2108. STATE ORGANIC CERTIFICATION PROGRAM.**

(a) **IN GENERAL.**—The governing State official may prepare and submit a plan for the establishment of a State organic certification program to the Secretary for approval. A State organic certification program must meet the requirements of this title to be approved by the Secretary.

(b) **ADDITIONAL REQUIREMENTS.**—

(1) **AUTHORITY.**—A State organic certification program established under subsection (a) may contain more restrictive requirements governing the organic certification of farms and handling operations and the production and handling of agricultural products that are to be sold or labeled as organically produced under this title than are contained in the program established by the Secretary.

(2) **CONTENT.**—Any additional requirements established under paragraph (1) shall—

(A) further the purposes of this title;

(B) not be inconsistent with this title;

(C) not be discriminatory towards agricultural commodities organically produced in other States in accordance with this title; and

(D) not become effective until approved by the Secretary.

(c) **REVIEW AND OTHER DETERMINATIONS.**—

(1) **SUBSEQUENT REVIEW.**—The Secretary shall review State organic certification programs not less than once during each 5-year period following the date of the approval of such programs.

(2) **CHANGES IN PROGRAM.**—The governing State official, prior to implementing any substantive change to programs approved under this subsection, shall submit such change to the Secretary for approval.

(3) **TIME FOR DETERMINATION.**—The Secretary shall make a determination concerning any plan, proposed change to a program, or a review of a program not later than 6 months after receipt of such plan, such proposed change, or the initiation of such review.

**SEC. 2109. PROHIBITED CROP PRODUCTION PRACTICES AND MATERIALS.**

(a) **SEED, SEEDLINGS AND PLANTING PRACTICES.**—For a farm to be certified under this title, producers on such farm shall not apply materials to, or engage in practices on, seeds or seedlings that are contrary to, or inconsistent with, the applicable organic certification program.

(b) **SOIL AMENDMENTS.**—For a farm to be certified under this title, producers on such farm shall not—

(1) use any fertilizers containing synthetic ingredients or any commercially blended fertilizers containing materials prohibited under this title or under the applicable State organic certification program; or

(2) use as a source of nitrogen: phosphorous, lime, potash, or any materials that are inconsistent with the applicable organic certification program.

(c) **CROP MANAGEMENT.**—For a farm to be certified under this title, producers on such farm shall not—

(1) use natural poisons such as arsenic or lead salts that have long-term effects and persist in the environment, as determined by the applicable governing State official or the Secretary;

(2) use plastic mulches, unless such mulches are removed at the end of each growing or harvest season; or

(3) use transplants that are treated with any synthetic or prohibited material.

**SEC. 2110. ANIMAL PRODUCTION PRACTICES AND MATERIALS.**

(a) **IN GENERAL.**—Any livestock that is to be slaughtered and sold or labeled as organically produced shall be raised in accordance with this title.

(b) **BREEDER STOCK.**—Breeder stock may be purchased from any source if such stock is not in the last third of gestation.

(c) **PRACTICES.**—For a farm to be certified under this title as an organic farm with respect to the livestock produced by such farm, producers on such farm—

(1) shall feed such livestock organically produced feed that meets the requirements of this title;

(2) shall not use the following feed—

(A) plastic pellets for roughage;

(B) manure refeeding; or

(C) feed formulas containing urea; and

(3) shall not use growth promoters and hormones on such livestock, whether implanted, ingested, or injected, including antibiotics and synthetic trace elements used to stimulate growth or production of such livestock.

(d) **HEALTH CARE.**—

(1) **PROHIBITED PRACTICES.**—For a farm to be certified under this title as an organic farm with respect to the livestock produced by such farm, producers on such farm shall not—

(A) use subtherapeutic doses of antibiotics;

(B) use synthetic internal paracitides on a routine basis;

or

(C) administer medication, other than vaccinations, in the absence of illness.

(2) **STANDARDS.**—The National Organic Standards Board shall recommend to the Secretary standards in addition to those in paragraph (1) for the care of livestock to ensure that such livestock is organically produced.

(e) **ADDITIONAL GUIDELINES.**—

(1) **POULTRY.**—With the exception of day old poultry, all poultry from which meat or eggs will be sold or labeled as organically produced shall be raised and handled in accordance with this title prior to and during the period in which such meat or eggs are sold.

(2) **DAIRY LIVESTOCK.**—A dairy animal from which milk or milk products will be sold or labeled as organically produced shall be raised and handled in accordance with this title for not less than the 12-month period immediately prior to the sale of such milk and milk products.

(f) **LIVESTOCK IDENTIFICATION.**—

(1) **IN GENERAL.**—For a farm to be certified under this title as an organic farm with respect to the livestock produced by such farm, producers on such farm shall keep adequate records and maintain a detailed, verifiable audit trail so that each animal (or in the case of poultry, each flock) can be traced back to such farm.

(2) **RECORDS.**—In order to carry out paragraph (1), each producer shall keep accurate records on each animal (or in the case of poultry, each flock) including—

(A) amounts and sources of all medications administered; and

(B) all feeds and feed supplements bought and fed.

(h) **NOTICE AND PUBLIC COMMENT.**—The Secretary shall hold public hearings and shall develop detailed regulations, with notice and public comment, to guide the implementation of the standards for livestock products provided under this section.

**SEC. 2111. HANDLING.**

(a) **IN GENERAL.**—For a handling operation to be certified under this title, each person on such handling operation shall not, with respect to any agricultural product covered by this title—

(1) add any synthetic ingredient during the processing or any post harvest handling of the product;

(2) add any ingredient known to contain levels of nitrates, heavy metals, or toxic residues in excess of those permitted by the applicable organic certification program;

(3) add any sulfites, nitrates, or nitrites;

(4) add any ingredients that are not organically produced in accordance with this title and the applicable organic certification program, unless such ingredients are included on the National List and represent not more than 5 percent of the weight of the total finished product (excluding salt and water);

(5) use any packaging materials, storage containers or bins that contain synthetic fungicides, preservatives, or fumigants;

(6) use any bag or container that had previously been in contact with any substance in such a manner as to compromise the organic quality of such product; or



(7) use, in such product water that does not meet all Safe Drinking Water Act requirements.

(b) **MEAT.**—For a farm or handling operation to be organically certified under this title, producers on such farm or persons on such handling operation shall ensure that organically produced meat does not come in contact with nonorganically produced meat.

#### **SEC. 2112. ADDITIONAL GUIDELINES.**

(a) **IN GENERAL.**—The Secretary, the applicable governing State official, and the certifying agent shall utilize a system of residue testing to test products sold or labeled as organically produced under this title to assist in the enforcement of this title.

(b) **PRE-HARVEST TESTING.**—The Secretary, the applicable governing State official, or the certifying agent may require preharvest tissue testing of any crop grown on soil suspected of harboring contaminants.

#### **(c) COMPLIANCE REVIEW.**—

(1) **INSPECTION.**—If the Secretary, the applicable governing State official, or the certifying agent determines that an agricultural product sold or labeled as organically produced under this title contains any detectable pesticide or other non-organic residue or prohibited natural substance the Secretary, the applicable governing State official, or the certifying agent shall conduct an investigation to determine if the organic certification program has been violated, and may require the producer or handler of such product to prove that any prohibited substance was not applied to such product.

(2) **REMOVAL OF ORGANIC LABEL.**—If, as determined by the Secretary, the applicable governing State official, or the certifying agent, the investigation conducted under paragraph (1) indicates that the residue is—

(A) the result of intentional application of a prohibited substance; or

(B) present at levels that are greater than unavoidable residual environmental contamination as prescribed by the Secretary or the applicable governing State official in consultation with the appropriate environmental regulatory agencies;

such agricultural product shall not be sold or labeled as organically produced under this title.

(d) **RECORDKEEPING REQUIREMENTS.**—Producers who operate a certified organic farm or handling operation under this title shall maintain records for 5 years concerning the production or handling of agricultural products sold or labeled as organically produced under this title, including—

(1) a detailed history of substances applied to fields or agricultural products; and

(2) the names and addresses of persons who applied such substances, the dates, the rate, and method of application of such substances.

#### **SEC. 2113. OTHER PRODUCTION AND HANDLING PRACTICES.**

If a production or handling practice is not prohibited or otherwise restricted under this title, such practice shall be permitted unless it

is determined that such practice would be inconsistent with the applicable organic certification program.

#### SEC. 2114. ORGANIC PLAN.

(a) **IN GENERAL.**—A producer or handler seeking certification under this title shall submit an organic plan to the certifying agent and the State organic certification program (if applicable), and such plan shall be reviewed by the certifying agent who shall determine if such plan meets the requirements of the programs.

##### (b) CROP PRODUCTION FARM PLAN.—

(1) **SOIL FERTILITY.**—An organic plan shall contain provisions designed to foster soil fertility, primarily through the management of the organic content of the soil through proper tillage, crop rotation, and manuring.

##### (2) MANURING.—

(A) **INCLUSION IN ORGANIC PLAN.**—An organic plan shall contain terms and conditions that regulate the application of manure to crops.

(B) **APPLICATION OF MANURE.**—Such organic plan may provide for the application of raw manure only to—

(i) any green manure crop;

(ii) any perennial crop;

(iii) any crop not for human consumption; and

(iv) any crop for human consumption, if such crop is harvested after a reasonable period of time determined by the certifying agent to ensure the safety of such crop, after the most recent application of raw manure, but in no event shall such period be less than 60 days after such application.

(C) **CONTAMINATION BY MANURE.**—Such organic plan shall prohibit raw manure from being applied to any crop in a way that significantly contributes to water contamination by nitrates or bacteria.

(c) **LIVESTOCK PLAN.**—An organic livestock plan shall contain provisions designed to foster the organic production of livestock consistent with the purposes of this title.

(d) **MIXED CROP LIVESTOCK PRODUCTION.**—An organic plan may encompass both the crop production and livestock production requirements in subsections (b) and (c) if both activities are conducted by the same producer.

(e) **HANDLING PLAN.**—An organic handling plan shall contain provisions designed to ensure that agricultural products that are sold or labeled as organically produced are produced and handled in a manner that is consistent with the purposes of this title.

(f) **MANAGEMENT OF WILD CROPS.**—An organic plan for the harvesting of wild crops shall—

(1) designate the area from which the wild crop will be gathered or harvested;

(2) include a 3 year history of the management of the area showing that no prohibited substances have been applied;

(3) include a plan for the harvesting or gathering of the wild crops assuring that such harvesting or gathering will not be destructive to the environment and will sustain the growth and production of the wild crop; and

(4) include provisions that no prohibited substances will be applied by the producer.

(g) **LIMITATION ON CONTENT OF PLAN.**—An organic plan shall not include any production or handling practices that are inconsistent with this title.

#### **SEC. 2115. ACCREDITATION PROGRAM.**

(a) **IN GENERAL.**—The Secretary shall establish and implement a program to accredit a governing State official, and any private person, that meets the requirements of this section as a certifying agent for the purpose of certifying a farm or handling operation as a certified organic farm or handling operation.

(b) **REQUIREMENTS.**—To be accredited as a certifying agent under this section, a governing State official or private person shall—

(1) prepare and submit, to the Secretary, an application for such accreditation;

(2) have sufficient expertise in organic farming and handling techniques as determined by the Secretary; and

(3) comply with the requirements of this section and section 2116.

(c) **DURATION OF DESIGNATION.**—An accreditation made under this section shall be for a period of not to exceed 5 years, as determined appropriate by the Secretary, and may be renewed.

#### **SEC. 2116. REQUIREMENTS OF CERTIFYING AGENTS.**

(a) **ABILITY TO IMPLEMENT REQUIREMENTS.**—To be accredited as a certifying agent under section 2115, a governing State official or a person shall be able to fully implement the applicable organic certification program established under this title.

(b) **INSPECTORS.**—Any certifying agent shall employ a sufficient number of inspectors to implement the applicable organic certification program established under this title, as determined by the Secretary.

(c) **RECORDKEEPING.**—

(1) **MAINTENANCE OF RECORDS.**—Any certifying agent shall maintain all records concerning its activities under this title for a period of not less than 10 years.

(2) **ACCESS FOR SECRETARY.**—Any certifying agent shall allow representatives of the Secretary and the governing State official access to any and all records concerning the certifying agent's activities under this title.

(3) **TRANSFER OF RECORDS.**—If any private person that was certified under this title is dissolved or loses its accreditation, all records or copies of records concerning such person's activities under this title shall be transferred to the Secretary and made available to the applicable governing State official.

(d) **AGREEMENT.**—Any certifying agent shall enter into an agreement with the Secretary under which such agent shall—

(1) agree to carry out the provisions of this title; and

(2) agree to such other terms and conditions as the Secretary determines appropriate.

(e) **PRIVATE CERTIFYING AGENT AGREEMENT.**—Any certifying agent that is a private person shall, in addition to the agreement required in subsection (d)—

(1) agree to hold the Secretary harmless for any failure on the part of the certifying agent to carry out the provisions of this title; and

(2) furnish reasonable security, in an amount determined by the Secretary, for the purpose of protecting the rights of participants in the applicable organic certification program established under this title.

(f) **COMPLIANCE WITH PROGRAM.**—Any certifying agent shall fully comply with the terms and conditions of the applicable organic certification program implemented under this title.

(g) **CONFIDENTIALITY.**—Except as provided in section 2107(a)(9), any certifying agent shall maintain strict confidentiality with respect to its clients under the applicable organic certification program and may not disclose to third parties (with the exception of the Secretary or the applicable governing State official) any business related information concerning such client obtained while implementing this title.

(h) **CONFLICT OF INTEREST.**—Any certifying agent shall not—

(1) carry out any inspections of any operation in which such certifying agent, or employee of such certifying agent has, or has had, a commercial interest, including the provision of consultancy services;

(2) accept payment, gifts, or favors of any kind from the business inspected other than prescribed fees; or

(3) provide advice concerning organic practices or techniques for a fee, other than fees established under such program.

(i) **ADMINISTRATOR.**—A certifying agent that is a private person shall nominate the individual who controls the day-to-day operation of the agent.

(j) **LOSS OF ACCREDITATION.**—

(1) **NONCOMPLIANCE.**—If the Secretary or the governing State official (if applicable) determines that a certifying agent is not properly adhering to the provisions of this title, the Secretary or such governing State official may suspend such certifying agent's accreditation.

(2) **EFFECT ON CERTIFIED OPERATIONS.**—If the accreditation of a certifying agent is suspended under paragraph (1), the Secretary or the governing State official (if applicable) shall promptly determine whether farming or handling operations certified by certifying such agent may retain their organic certification.

#### **SEC. 2117. PEER REVIEW OF CERTIFYING AGENTS.**

(a) **PEER REVIEW.**—In determining whether to approve an application for accreditation submitted under section 2115, the Secretary shall consider a report concerning such applicant that shall be prepared by a peer review panel established under subsection (b).

(b) **PEER REVIEW PANEL.**—To assist the Secretary in evaluating applications under section 2115, the Secretary may establish a panel of not less than three persons who have expertise in organic farming and handling methods, to evaluate the State governing official or private person that is seeking accreditation as a certifying agent under such section. Not less than two members of such panel shall be persons who are not employees of the Department of Agriculture or of the applicable State government.

## SEC. 2118. NATIONAL LIST.

(a) *IN GENERAL.*—The Secretary shall establish a National List of approved and prohibited substances that shall be included in the standards for organic production and handling established under this title in order for such products to be sold or labeled as organically produced under this title.

(b) *CONTENT OF LIST.*—The list established under subsection (a) shall contain an itemization, by specific use or application, of each synthetic substance permitted under subsection (c)(1) or each natural substance prohibited under subsection (c)(2).

(c) *GUIDELINES FOR PROHIBITIONS OR EXEMPTIONS.*—

(1) *EXEMPTION FOR PROHIBITED SUBSTANCES.*—The National List may provide for the use of substances in an organic farming or handling operation that are otherwise prohibited under this title only if—

(A) the Secretary determines, in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, that the use of such substances—

(i) would not be harmful to human health or the environment;

(ii) is necessary to the production or handling of the agricultural product because of the unavailability of wholly natural substitute products; and

(iii) is consistent with organic farming and handling;

(B) the substance—

(i) is used in production and contains an active synthetic ingredient in the following categories: copper and sulfur compounds; toxins derived from bacteria; pheromones, soaps, horticultural oils, fish emulsions, treated seed, vitamins and minerals; livestock paracitides and medicines and production aids including netting, tree wraps and seals, insect traps, sticky barriers, row covers, and equipment cleansers;

(ii) is used in production and contains synthetic inert ingredients that are not classified by the Administrator of the Environmental Protection Agency as inert of toxicological concern; or

(iii) is used in handling and is non-synthetic but is not organically produced; and

(C) the specific exemption is developed using the procedures described in subsection (d).

(2) *PROHIBITION ON THE USE OF SPECIFIC NATURAL SUBSTANCES.*—The National List may prohibit the use of specific natural substances in an organic farming or handling operation that are otherwise allowed under this title only if—

(A) the Secretary determines, in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, that the use of such substances—

(i) would be harmful to human health or the environment; and

(ii) is inconsistent with organic farming or handling, and the purposes of this title; and

(B) the specific prohibition is developed using the procedures specified in subsection (d).

**(d) PROCEDURE FOR ESTABLISHING NATIONAL LIST.—**

(1) **IN GENERAL.**—The National List established by the Secretary shall be based upon a proposed national list or proposed amendments to the National List developed by the National Organic Standards Board.

(2) **NO ADDITIONS.**—The Secretary may not include exemptions for the use of specific synthetic substances in the National List other than those exemptions contained in the Proposed National List or Proposed Amendments to the National List.

(3) **PROHIBITED SUBSTANCES.**—In no instance shall the National List include any substance, the presence of which in food has been prohibited by Federal regulatory action.

(4) **NOTICE AND COMMENT.**—Before establishing the National List or before making any amendments to the National List, the Secretary shall publish the Proposed National List or any Proposed Amendments to the National List in the Federal Register and seek public comment on such proposals. The Secretary shall include in such Notice any changes to such proposed list or amendments recommended by the Secretary.

(5) **PUBLICATION OF NATIONAL LIST.**—After evaluating all comments received concerning the Proposed National List or Proposed Amendments to the National List, the Secretary shall publish the final National List in the Federal Register, along with a discussion of comments received.

(e) **SUNSET PROVISION.**—No exemption or prohibition contained in the National List shall be valid unless the National Organic Standards Board has reviewed such exemption or prohibition as provided in this section within 5 years of such exemption or prohibition being adopted or reviewed and the Secretary has renewed such exemption or prohibition.

**SEC. 2119. NATIONAL ORGANIC STANDARDS BOARD.**

(a) **IN GENERAL.**—The Secretary shall establish a National Organic Standards Board (in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2 et seq.)) (hereafter referred to in this section as the "Board") (to assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects of the implementation of this title.

(b) **COMPOSITION OF BOARD.**—The Board shall be composed of 15 members, of which—

(1) four shall be individuals who own or operate an organic farming operation;

(2) two shall be individuals who own or operate an organic handling operation;

(3) one shall be an individual who owns or operates a retail establishment with significant trade in organic products;

(4) three shall be individuals with expertise in areas of environmental protection and resource conservation;

(5) three shall be individuals who represent public interest or consumer interest groups;

(6) one shall be an individual with expertise in the fields of toxicology, ecology, or biochemistry; and

(7) one shall be an individual who is a certifying agent as identified under section 2116.

(c) **APPOINTMENT.**—Not later than 180 days after the date of enactment of this title, the Secretary shall appoint the members of the Board under paragraph (1) through (6) of subsection (b) (and under subsection (b)(7) at an appropriate date after the certification of individuals as certifying agents under section 2116) from nominations received from organic certifying organizations, States, and other interested persons and organizations.

(d) **TERM.**—A member of the Board shall serve for a term of 5 years, except that the Secretary shall appoint the original members of the Board for staggered terms. A member cannot serve consecutive terms unless such member served an original term that was less than 5 years.

(e) **MEETINGS.**—The Secretary shall convene a meeting of the Board not later than 60 days after the appointment of its members and shall convene subsequent meetings on a periodic basis.

(f) **COMPENSATION AND EXPENSES.**—A member of the Board shall serve without compensation. While away from their homes or regular places of business on the business of the Board, members of the Board may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(g) **CHAIRPERSON.**—The Board shall select a Chairperson for the Board.

(h) **QUORUM.**—A majority of the members of the Board shall constitute a quorum for the purpose of conducting business.

(i) **DECISIVE VOTES.**—Two-thirds of the votes cast at a meeting of the Board at which a quorum is present shall be decisive of any motion.

(j) **OTHER TERMS AND CONDITIONS.**—The Secretary shall authorize the Board to hire a staff director and shall detail staff of the Department of Agriculture or allow for the hiring of staff and may, subject to necessary appropriations, pay necessary expenses incurred by such Board in carrying out the provisions of this title, as determined appropriate by the Secretary.

(k) **RESPONSIBILITIES OF THE BOARD.**—

(1) **IN GENERAL.**—The Board shall provide recommendations to the Secretary regarding the implementation of this title.

(2) **NATIONAL LIST.**—The Board shall develop the proposed National List or proposed amendments to the National List for submission to the Secretary in accordance with section 2118.

(3) **TECHNICAL ADVISORY PANELS.**—The Board shall convene technical advisory panels to provide scientific evaluation of the materials considered for inclusion in the National List. Such panels may include experts in agronomy, entomology, health sciences and other relevant disciplines.

(4) **SPECIAL REVIEW OF BOTANICAL PESTICIDES.**—The Board shall, prior to the establishment of the National List, review all botanical pesticides used in agricultural production and consid-

er whether any such botanical pesticide should be included in the list of prohibited natural substances.

(5) **PRODUCT RESIDUE TESTING.**—The Board shall advise the Secretary concerning the testing of organically produced agricultural products for residues caused by unavoidable residual environmental contamination.

(6) **EMERGENCY SPRAY PROGRAMS.**—The Board shall advise the Secretary concerning rules for exemptions from specific requirements of this title (except the provisions of section 2112) with respect to agricultural products produced on certified organic farms if such farms are subject to a Federal or State emergency pest or disease treatment program.

(l) **REQUIREMENTS.**—In establishing the proposed National List or proposed amendments to the National List, the Board shall—

(1) review available information from the Environmental Protection Agency, the National Institute of Environmental Health Studies, and such other sources as appropriate, concerning the potential for adverse human and environmental effects of substances considered for inclusion in the proposed National List;

(2) work with manufacturers of substances considered for inclusion in the proposed National List to obtain a complete list of ingredients and determine whether such substances contain inert materials that are synthetically produced; and

(3) submit to the Secretary, along with the proposed National List or any proposed amendments to such list, the results of the Board's evaluation and the evaluation of the technical advisory panel of all substances considered for inclusion in the National List.

(m) **EVALUATION.**—In evaluating substances considered for inclusion in the proposed National List or proposed amendment to the National List, the Board shall consider—

(1) the potential of such substances for detrimental chemical interactions with other materials used in organic farming systems;

(2) the toxicity and mode of action of the substance and of its breakdown products or any contaminants, and their persistence and areas of concentration in the environment;

(3) the probability of environmental contamination during manufacture, use, misuse or disposal of such substance;

(4) the effect of the substance on human health;

(5) the effects of the substance on biological and chemical interactions in the agroecosystem, including the physiological effects of the substance on soil organisms (including the salt index and solubility of the soil), crops and livestock;

(6) the alternatives to using the substance in terms of practices or other available materials; and

(7) its compatibility with a system of sustainable agriculture.

(n) **PETITIONS.**—The Board shall establish procedures under which persons may petition the Board for the purpose of evaluating substances for inclusion on the National List.

(o) **CONFIDENTIALITY.**—Any confidential business information obtained by the Board in carrying out this section shall not be released to the public.



# SEC. 2120. VIOLATIONS OF TITLE.

(a) **MISUSE OF LABEL.**—Any person who knowingly sells or labels a product as organic, except in accordance with this title, shall be subject to a civil penalty of not more than \$10,000.

(b) **FALSE STATEMENT.**—Any person who makes a false statement under this title to the Secretary, a governing State official, or a certifying agent shall be subject to the provisions of section 1001 of title 18, United States Code.

## (c) INELIGIBILITY.—

(1) **IN GENERAL.**—Except as provided in paragraph (2), any person who—

(A) makes a false statement;

(B) attempts to have a label indicating that an agricultural product is organically produced affixed to such product that such person knows, or should have reason to know, to have been produced or handled in a manner that is not in accordance with this title; or

(C) otherwise violates the purposes of the applicable organic certification program as determined by the Secretary; after notice and an opportunity to be heard, shall not be eligible, for a period of 5 years from the date of such occurrence, to receive certification under this title with respect to any farm or handling operation in which such person has an interest.

(2) **WAIVER.**—Notwithstanding paragraph (1), the Secretary may reduce or eliminate the period of ineligibility referred to in such paragraph if the Secretary determines that such modification or waiver is in the best interests of the applicable organic certification program established under this title.

(d) **REPORTING OF VIOLATIONS.**—A certifying agent shall immediately report any violations of this title to the Secretary or the governing State official (if applicable).

(e) **VIOLATIONS BY CERTIFYING AGENT.**—A certifying agent that is a private person that violates the provisions of this title or that falsely or negligently certifies any farming or handling operation that does not meet the terms and conditions of the applicable organic certification program as an organic operation, as determined by the Secretary or the governing State official (if applicable) shall, after notice and an opportunity to be heard—

(1) lose its accreditation as a certifying agent under this title; and

(2) be ineligible to be accredited as a certifying agent under this title for a period of not less than 3 years subsequent to the date of such determination.

(f) **EFFECT OF OTHER LAWS.**—Nothing in this title shall alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), and the Egg Products Inspection Act (21 U.S.C. 1031 et seq.) concerning meat, poultry and egg products, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq.), nor the authority of the Administrator of the Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 et seq.).

**SEC. 2121. ADMINISTRATIVE APPEAL.**

(a) **EXPEDITED APPEALS PROCEDURE.**—The Secretary shall establish an expedited administrative appeals procedure under which persons may appeal an action of the Secretary, the applicable governing State official, or a certifying agent under this title that—

(1) adversely affects such person; or

(2) is inconsistent with the organic certification program established under this title.

(b) **APPEAL OF FINAL DECISION.**—A final decision of the Secretary under subsection (a) may be appealed to the United States District Court for the District in which such person is located.

**SEC. 2122. ADMINISTRATION.**

(a) **REGULATIONS.**—Not later than 540 days after the date of enactment of this title, the Secretary shall issue proposed regulations to carry out this title.

(b) **ASSISTANCE TO STATE.**—

(1) **TECHNICAL AND OTHER ASSISTANCE.**—The Secretary shall provide technical, administrative, and Extension Service assistance to assist States in the implementation of an organic certification program under this title.

(2) **FINANCIAL ASSISTANCE.**—The Secretary may provide financial assistance to any State that implements an organic certification program under this title.

**SEC. 2123. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this title.

## **TITLE XXII—CROP INSURANCE AND DISASTER ASSISTANCE**

### **Subtitle A—Crop Insurance**

**SEC. 2201. SUBMISSION OF SOCIAL SECURITY ACCOUNT NUMBERS AND EMPLOYER IDENTIFICATION NUMBERS.**

(a) **SUBMISSION REQUIRED.**—Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) is amended by adding at the end the following new subsection:

“(1) **SUBMISSION OF CERTAIN INFORMATION.**—

“(1) **SOCIAL SECURITY ACCOUNT AND EMPLOYER IDENTIFICATION NUMBERS.**—The Corporation shall require, as a condition of eligibility for participation in the multiple peril crop insurance program, submission of social security account numbers, subject to the requirements of section 205(c)(2)(C)(iii) of the Social Security Act, and employer identification numbers, subject to the requirements of section 6109(f) of the Internal Revenue Code of 1986.

“(2) **NOTIFICATION BY POLICYHOLDERS.**—Each policyholder shall notify each individual or other entity that acquires or holds a substantial beneficial interest in such policyholder of the requirements and limitations under this title.

“(3) **IDENTIFICATION OF HOLDERS OF SUBSTANTIAL INTERESTS.**—The Manager of the Corporation may require each pol-

icyholder to provide to the Manager, at such times and in such manner as prescribed by the Manager, the name of each individual that holds or acquires a substantial beneficial interest in the policyholder.

"(4) **DEFINITION.**—For purposes of this subsection, the term 'substantial beneficial interest' means not less than 5 percent of all beneficial interests in the policyholder."

(b) **ACCESS BY FCIC TO SOCIAL SECURITY ACCOUNT NUMBERS.**—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended—

(1) by redesignating clauses (ii), (iii), and (iv) as clauses (iv), (v), and (vi), respectively;

(2) by redesignating subclauses (I) and (II) of clause (i) as clauses (i) and (ii), respectively; and

(3) by inserting after clause (ii) (as redesignated) the following new clause:

"(iii) In the administration of section 506 of the Federal Crop Insurance Act, the Federal Crop Insurance Corporation may require each policyholder and each reinsured company to furnish to the insurer or to the Corporation the social security account number of such policy holder, subject to the requirements of this clause. No officer or employee of the Federal Crop Insurance Corporation shall have access to any such number for any purpose other than the establishment of a system of records necessary for the effective administration of such Act. The Manager of the Corporation may require each policyholder to provide to the Manager, at such times and in such manner as prescribed by the Manager, the social security account number of each individual that holds or acquires a substantial beneficial interest in the policyholder. For purposes of this clause, the term 'substantial beneficial interest' means not less than 5 percent of all beneficial interest in the policyholder. The Secretary of Agriculture shall restrict, to the satisfaction of the Secretary of Health and Human Services, access to social security account numbers obtained pursuant to this clause only to officers and employees of the United States or authorized persons whose duties or responsibilities require access for the administration of the Federal Crop Insurance Act. The Secretary of Agriculture shall provide such other safeguards as the Secretary of Health and Human Services determines to be necessary or appropriate to protect the confidentiality of such social security account numbers. For purposes of this clause the term 'authorized person' means an officer or employee of an insurer whom the Manager of the Corporation designates by rule, subject to appropriate safeguards including a prohibition against the release of such social security account number (other than to the Corporation) by such person."

(c) **CONFIDENTIALITY OF SOCIAL SECURITY ACCOUNT NUMBERS.**—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by subsection (b)) is further amended by adding at the end thereof the following new clause:

"(vii)(I) Social security account numbers and related records that are obtained or maintained by authorized persons pursuant to any provision of law, enacted on or after October 1, 1990, shall be confidential, and no authorized person shall disclose any such social security account number or related record.

"(II) Paragraphs (1), (2), and (3) of section 7213(a) of the Internal Revenue Code of 1986 shall apply with respect to the unauthorized willful disclosure to any person of social security account numbers and related records obtained or maintained by an authorized person pursuant to a provision of law enacted on or after October 1, 1990, in the same manner and to the same extent as such paragraphs as such paragraphs apply with respect to unauthorized disclosures of returns and return information described in such paragraphs. Paragraph (4) of such 7213(a) of such Code shall apply with respect to the willful offer of any item of material value in exchange for any such social security account number or related record in the same manner and to the same extent as such paragraph applies with respect to offers (in exchange for any return or return information) described in such paragraph.

"(III) For purposes of this clause, the term 'authorized person' means an officer or employee of the United States, an officer or employee of any State, political subdivision of a State, or agency of a State or political subdivision of a State, and any other person (or officer or employee thereof), who has or had access to social security account numbers or related records pursuant to any provision of law enacted on or after October 1, 1990. For purposes of this subclause, the term 'officer or employee' includes a former officer or employee.

"(IV) For purposes of this clause, the term 'related record' means any record, list, or compilation that indicates, directly or indirectly, the identity of any individual with respect to whom a social security account number is maintained pursuant to this clause."

(d) ACCESS BY FCIC TO EMPLOYER IDENTIFICATION NUMBERS.—Section 6109 of the Internal Revenue Code of 1986 (relating to identifying numbers) is amended by adding at the end thereof the following new subsection:

"(f) ACCESS TO EMPLOYER IDENTIFICATION NUMBERS BY FEDERAL CROP INSURANCE CORPORATION FOR PURPOSES OF THE FEDERAL CROP INSURANCE ACT.—

"(1) IN GENERAL.—In the administration of section 506 of the Federal Crop Insurance Act, the Federal Crop Insurance Corporation may require each policyholder and each reinsured company to furnish to the insurer or to the Corporation the employer identification number of such policy holder, subject to the requirements of this paragraph. No officer or employee of the Federal Crop Insurance Corporation, or authorized person shall have access to any such number for any purpose other than the establishment of a system of records necessary to the effective administration of such Act. The Manager of the Corporation may require each policyholder to provide to the Manager or authorized person, at such times and in such manner as prescribed by the Manager, the employer identification number of each entity that holds or acquires a substantial beneficial interest in the policyholder. For purposes of this subclause, the term 'substantial beneficial interest' means not less than 5 percent of all beneficial interest in the policyholder. The Secretary of Agriculture shall restrict, to the satisfaction of the Secretary of the Treasury, access to employer identification numbers obtained pursuant to this paragraph only to officers and employees of the United States or authorized persons whose duties or responsibil-

ities require access for the administration of the Federal Crop Insurance Act.

"(2) **CONFIDENTIALITY AND NONDISCLOSURE RULES.**—Employer identification numbers maintained by the Secretary of Agriculture or the Federal Crop Insurance Corporation pursuant to this subsection shall be confidential, and except as authorized by this subsection, no officer or employee of the United States or authorized person who has or had access to such employer identification numbers shall disclose any such employer identification number obtained thereby in any manner. For purposes of this paragraph, the term 'officer or employee' includes a former officer or employee. For purposes of this subsection, the term 'authorized person' means an officer or employee of an insurer whom the Manager of the Corporation designates by rule, subject to appropriate safeguards including a prohibition against the release of such social security account numbers (other than to the Corporations) by such person.

"(3) **SANCTIONS.**—Paragraphs (1), (2), and (3) of section 7213(a) shall apply with respect to the unauthorized willful disclosure to any person of employer identification numbers maintained by the Secretary of Agriculture or the Federal Crop Insurance Corporation pursuant to this subsection in the same manner and to the same extent as such paragraphs apply with respect to unauthorized disclosures of return and return information described in such paragraphs. Paragraph (4) of section 7213(a) shall apply with respect to the willful offer of any item of material value in exchange for any such employer identification number in the same manner and to the same extent as such paragraph applies with respect to offers (in exchange for any return or return information) described in such paragraph."

#### **SEC. 2202. PENALTIES FOR WILLFUL PROVISION OF FALSE OR INACCURATE INFORMATION.**

(a) **PENALTIES AUTHORIZED.**—Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506), as amended by section 2201(a), is further amended by adding at the end the following new subsection:

"(m) **PENALTIES.**—

"(1) **FALSE INFORMATION.**—If a person wilfully and intentionally provides any false or inaccurate information to the Corporation or to any insurer with respect to an insurance plan or policy under this title, the Corporation may, after notice and an opportunity for a hearing on the record—

"(A) impose a civil fine of not to exceed to \$10,000 on the person; and

"(B) disqualify the person from receiving any benefit under this title for a period of not to exceed 10 years.

"(2) **ASSESSMENT OF PENALTY.**—In assessing penalties under this subsection, the Corporation shall consider the gravity of the violation."

(b) **CONFORMING AND STYLISTIC AMENDMENTS.**—Such section is further amended—

(1) by striking the section heading and all that follows through "The Corporation—" and inserting the following:

**"SEC. 506. GENERAL POWERS."**

(2) by inserting "SUCCESSION.—The Corporation" in subsection (a) after "(a)";

(3) by inserting "CORPORATE SEAL.—The Corporation" in subsection (b) after "(b)";

(4) by inserting "PROPERTY.—The Corporation" in subsection (c) after "(c)";

(5) by inserting "SUIT.—The Corporation," in subsection (d) after "(d)";

(6) by inserting "BYLAWS AND REGULATIONS.—The Corporation" in subsection (e) after "(e)";

(7) by inserting "MAILS.—The Corporation" in subsection (f) after "(f)";

(8) by inserting "ASSISTANCE.—The Corporation," in subsection (g) after "(g)";

(9) by inserting "DATA COLLECTION.—The Corporation" in subsection (h) after "(h)";

(10) by inserting "EXPENDITURES.—The Corporation" in subsection (i) after "(i)";

(11) by inserting "OTHER POWERS.—The Corporation" in subsection (j) after "(j)";

(12) by inserting "CONTRACTS.—The Corporation" in subsection (k) after "(k)";

(13) by striking the semicolon at the end of subsections (a), (b), (c), (e), (f), (g), (h) and inserting a period at the end of each of those subsections; and

(14) by striking "; and" at the end of subsections (i) and (j) and inserting a period at the end of each of those subsections.

**SEC. 2203. UNIFORM CLAIMS ADJUSTMENT AND REINSURANCE AGREEMENTS.**

(a) **CLAIMS ADJUSTMENT.**—Section 508(c) of the Federal Crop Insurance Act (7 U.S.C. 1508(c)) is amended—

(1) by striking "To adjust and pay claims for losses" in the first sentence and inserting "CLAIMS FOR LOSSES.—The Corporation may adjust and pay claims for losses as provided under subsection (a)"; and

(2) by inserting after the first sentence the following new sentence: "The rules prescribed by the Board shall establish standards to ensure that all claims for losses are adjusted to the extent practicable in a uniform and timely manner."

(b) **REINSURANCE AGREEMENTS.**—Section 508(e) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)) is amended—

(1) by striking "And" and inserting "REINSURANCE.—The Corporation is"; and

(2) by adding at the end the following new sentence: "Beginning with the 1992 reinsurance year (July 1, 1991 through June 30, 1992), the Corporation shall revise its reinsurance agreements with the reinsured companies so as to require the reinsured companies to bear an increased share of any potential loss under such agreement, taking into consideration the financial conditions of the reinsured companies and the availability of private reinsurance."

**SEC. 2204. REVIEW OF POLICIES, ENSURING ACTUARIAL SOUNDNESS, AND INFORMATION COLLECTION.**

(a) *IN GENERAL.*—Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended—

(1) by redesignating subsections (b) through (j) as subsections (e) through (m), respectively;

(2) by inserting after subsection (a) the following new subsections:

“(b) *SUBMISSION OF POLICIES AND MATERIALS TO BOARD.*—

“(1) *IN GENERAL.*—In addition to any standard forms or policies that the Board may require be made available to producers under subsection (a) persons may prepare for submission to the Board—

“(A) other crop insurance policies and provisions of policies; and

“(B) rates of premiums for multiple peril crop insurance pertaining to wheat, soybeans, field corn and any other crops determined by the Secretary.

“(2) *PREPARATION OF POLICIES.*—A policy or other material submitted to the Board under this subsection may be prepared without regard to the limitations contained in this title, including the requirements concerning the levels of coverage and rates, the use of Agricultural Stabilization and Conservation Service adjusted yields, and the requirement that a price level for each commodity insured must equal the projected market price for the commodity as established by the Board. Policies that establish insurance coverage based on alternative factors of loss such as the average loss rate for the area from a condition common to the area may be approved under this section. Such policy may only be subsidized at an amount equivalent to that which is authorized in this title.

“(3) *REVIEW AND APPROVAL BY THE BOARD.*—A policy or other material submitted to the Board under this subsection shall be reviewed by the Board and, if the Board finds that the interests of producers are adequately protected and that any premiums charged to such producers are actuarially appropriate, shall be approved by the Board for reinsurance and for sale to producers as an additional choice at actuarially appropriate rates and under appropriate terms and conditions taking into consideration the risks covered by the policy or other material. The Corporation may enter into more than one reinsurance agreement simultaneously to facilitate the offering of such new policies. Proposals made to the Board under this paragraph shall be considered as confidential commercial or financial information for purposes of section 552(b)(4) of title V, United States Code, until approved or disapproved by the Board. The Board shall provide an applicant with notification of intent to disapprove a proposal not later than 30 days prior to taking such action. An applicant so notified may modify such application and such modification shall be considered an extension of the original application.

“(4) *REQUIRED PUBLICATION.*—Any policies, provisions of policies, and rates approved under this subsection shall be published and made available to all persons contracting with or re-

insured by the Corporation in the same manner as the Corporation's standard policies of insurance are published and made available.

"(c) **ACTUARIAL SOUNDNESS.**—Not later than 180 days after the date of enactment of this subsection, the Corporation shall compile and make available, by region and by crop, the rates that would be necessary to achieve actuarial soundness.

"(d) **ADOPTION OF RATES AND COVERAGES.**—The Corporation shall adopt, as soon as practicable, rates and coverages that will improve the actuarial soundness of the insurance operations of the Corporation for those crops that are determined to be insured at rates that are not actuarially sound, except that no rate may be increased by an amount of more than 20 percent over the comparable rate of the preceding crop year."; and

(3) by adding at the end the following new subsection:

"(n) **INFORMATION COLLECTION ON CROP INSURANCE.**—

"(1) **IN GENERAL.**—The Corporation shall provide to the Secretary of Agriculture—

"(A) current and complete information on all aspects of Federal crop insurance for distribution to producers through local offices of the Department of Agriculture; and

"(B) a listing of agents for agent referral to producers through local offices of the Department of Agriculture.

"(2) **USE OF INFORMATION.**—The Secretary shall utilize the information provided under paragraph (1) to educate State executive directors of the Agricultural Stabilization and Conservation Service concerning such information to enable such directors to convey such information to local offices for distribution to local producers."

(b) **CONFORMING AND STYLISTIC AMENDMENTS.**—Such section is further amended—

(1) by striking the section heading and all that follows through "authorized and empowered—" and inserting the following:

"**SEC. 508. CROP INSURANCE.**";

(2) in subsection (e) (as redesignated by subsection (a)(1)), by striking "(1) To" and inserting "PREMIUMS.—(1) The Corporation may";

(3) in subsection (g) (as redesignated by subsection (a)(1))—

(A) by striking "In" and inserting "SPECIAL RULE FOR COTTON.—In"; and

(B) by striking "to include" and inserting "the Corporation may include";

(4) in subsection (i) (as redesignated by subsection (a)(1)), by striking "To provide" and inserting "APPLICATION TO OTHER AREAS.—The Corporation may provide";

(5) in subsection (j) (as redesignated by subsection (a)(1)), by striking "To offer" and inserting "OPTIONAL COVERAGES.—The Corporation may offer";

(6) in subsection (k) (as redesignated by subsection (a)(1)), by striking "To include" and inserting "SPECIAL RULE FOR TIMBER AND FORESTS.—The Corporation may include";

(7) in subsection (l) (as redesignated by subsection (a)(1))—



(A) by striking "To conduct" and inserting "RESEARCH.—The Corporation may conduct"; and

(B) by striking the second and third sentences; and

(8) by striking subsection (m) (as redesignated by subsection (a)(1)) and inserting the following new subsection:

"(m) CROP INSURANCE FOR DRY EDIBLE BEANS.—The Corporation shall make available to producers of different types of dry edible beans crop insurance that meets the differentiated needs of such producers."

#### SEC. 2205. ASCS YIELDS AND DOLLAR-DENOMINATED COVERAGE.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) is amended—

(1) in subsection (a)—

(A) by inserting "AUTHORITY TO OFFER INSURANCE.—(1)" after "(a)";

(B) by striking "to insure" in the first sentence, and inserting "the Corporation may insure";

(C) by striking "The Corporation" in the seventh sentence, and inserting in lieu thereof the following: "For any commodity for which the Agricultural Stabilization and Conservation Service has established for the farming unit involved an adjusted yield for the purposes of programs administered by such Service (or a yield for crop insurance purposes under the provisions of this title), and such yield is greater than the recorded or the appraised yield, as established by the Corporation, of a commodity on such farming unit, insurance coverage may be provided to cover against the loss in yield of the commodity on the basis of the adjusted yield for the commodity established by the Agricultural Stabilization and Conservation Service rather than the recorded or appraised yield as established by the Corporation. Such additional insurance shall be provided for an additional premium (for which no premium subsidy or administrative subsidy may be provided) set at such rate as the Board determines appropriate to reflect accurately the increased risk involved and that the Board determines actuarially sufficient to cover claims for losses on such insurance and to establish a reasonable reserve against unforeseen losses. Except as provided in the preceding two sentences, the Corporation"; and

(D) by adding at the end the following new sentences: "Beginning with the 1992 crop year, the Corporation shall establish a price level for each commodity on which insurance is offered that shall not be less than the projected market price for the commodity as determined by the Board. Insurance coverage shall be made available to the producer on the basis of any price election which equals or is less than that established by the Board and the coverage shall be quoted in terms of dollars per acre."; and

(2) by striking out subsection (k).

#### SEC. 2206. CONTRACTING WITH PRIVATE COMPANIES.

Section 507(c) of the Federal Crop Insurance Act (7 U.S.C. 1507(c)) is amended—

(1) by inserting after "private insurance companies" in paragraph (2) the following: "private rating bureaus, and other organizations as appropriate for actuarial, loss adjustment, and other services to avoid duplication by the Federal Government of services that are or may readily be available in the private sector,"; and

(2) by adding at the end the following new sentence: "Nothing in this subsection shall permit the Corporation to contract with other persons to carry out the responsibility of the Corporation to review and approve policies, rates, and other materials submitted under section 508(b)."

## **Subtitle B—Disaster Assistance**

### **CHAPTER 1—1989 CROP CLARIFICATION**

#### **SEC. 2231. SUGARCANE DISASTER ASSISTANCE.**

(a) **DETERMINATION.**—Section 103 of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended by adding at the end the following new subsection:

"(f) **SPECIAL RULE FOR SUGARCANE.**—For purposes of determining the total quantity of the 1989 crop of sugarcane that the producers on a farm are able to harvest, the Secretary shall make the determination based on the quantity of recoverable sugar."

(b) **DEADLINE.**—Section 152(a)(2) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended by adding at the end the following new sentence: "In the case of producers described in section 103(f), the Secretary shall permit the producers to apply for assistance no later than January 15, 1991, and shall, in the case of applications received prior to the date of enactment of the Food, Agriculture, Conservation, and Trade Act of 1990, recompute (in accordance with section 103(f)) the amount of any assistance due no later than 90 days after the date of enactment of such Act."

#### **SEC. 2232. VALENCIA ORANGES.**

(a) **ELIGIBILITY.**—Section 104(a)(1)(A) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended to read:

"(A) **ELIGIBILITY.**—Effective only for the 1989 crops of soybeans and nonprogram crops, and any crop of valencia oranges affected by a freeze, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1988 or 1989, or freeze, the total quantity of the 1989 crop of the commodity, or the total quantity of any crop of valencia oranges, that the producers on a farm are able to harvest is less than—"

(b) **SPECIAL RULES.**—Section 104(d)(1) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended:

(1) by inserting after "(1) **DEFINITION OF NONPROGRAM CROPS.**" a new subparagraph designation "(A)";

(2) by inserting after "earthquake" the following: "or grown in a county declared a Presidential disaster area, and shall include any valencia oranges, affected by a freeze, grown in a county declared a Presidential disaster area in 1989"; and

(3) by adding at the end a new subparagraph to read as follows:

"(B) For purposes of this Act, the term '1989 crop' shall include any crop of valencia oranges damaged by freeze in 1989."

(c) **EXCLUSIONS FROM HARVESTED QUANTITIES.**—Section 104(a)(4) of that Act is amended by adding at the end the following new sentence: "For a crop of valencia oranges, the exclusion required by the preceding sentence shall be 100 percent."

(d) **APPLICATION OF AMENDMENTS.**—Section 152(a) of the Disaster Assistance Act of 1989 is amended by adding at the end the following new paragraph:

"(3) **EXTENDED APPLICATION PERIOD.**—In the case of producers of valencia oranges affected by the amendments made to section 104(a) by section 2235 of the Food, Agriculture, Conservation, and Trade Act of 1990, the Secretary shall—

"(A) allow such producers to submit applications for payments under section 104 until January 15, 1991; and

"(B) in the case of applications submitted by such producers before the date of the enactment of that Act, recompute (not later than 90 days after such date) the payment to such producers under section 104 in light of those amendments."

## CHAPTER 2—OTHER ASSISTANCE

### SEC. 2235. AMENDMENTS TO THE DISASTER ASSISTANCE ACT OF 1989.

(a) **DOUBLE CROPPING OF NONPROGRAM CROPS GROWN IN A PRESIDENTIAL DISASTER AREA.**—Section 104(a) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended by adding at the end the following new paragraph:

"(5) **DOUBLE CROPPING.**—

"(A) **TREATED SEPARATELY.**—In the case of a 1989 nonprogram crop that is historically double cropped (including two crops of the same commodity) by the producers on a farm, the Secretary shall treat each cropping separately for purposes of determining under paragraph (1)—

"(i) whether the crop was affected by damaging weather or related conditions in 1989; and

"(ii) the total quantity of the crop that the producers are able to harvest.

"(B) **APPLICATION OF PARAGRAPH.**—This paragraph shall—

"(i) apply only in the case of a 1989 nonprogram crop that is grown in a county declared to be a Presidential disaster area for that crop; and

"(ii) not apply in the case of a replacement crop described in section 110."

(b) **HURRICANE HUGO FORESTRY ASSISTANCE ACT; COST-SHARE ASSISTANCE.**—

(1) **ESTABLISHMENT.**—For the purposes of encouraging tree owners to reestablish stands of trees damaged by Hurricane Hugo, the Secretary of Agriculture (hereafter in this subsection referred to as the "Secretary") shall develop and implement a cost-share program to provide financial assistance to owners of private timber stands that were damaged, as determined by the Secretary, in 1989 by Hurricane Hugo. This assistance shall only be made available in those counties in South Carolina,

North Carolina, Virginia, Puerto Rico, and the United States Virgin Islands declared by the President to be disaster areas as a result of Hurricane Hugo and any county contiguous to those counties.

(2) **ELIGIBLE PRACTICES.**—Practices eligible for cost-share assistance under this subsection are—

(A) reforestation;

(B) site preparation; and

(C) such other timber stand reestablishment practices as may be prescribed by the Secretary.

(3) **PRIVATE TIMBER STANDS.**—

(A) **DEFINITION.**—For the purpose of this subsection, the term “private timber stand” means a stand of trees damaged by Hurricane Hugo held continuously during the period described in paragraph (1) for commercial purposes by a private individual, group, association, corporation, Indian tribe or other native Indian group, or other legal entity, owning 1,000 acres or less of land planted to trees, except agencies of Federal, State, or local governments. Such term does not include a stand of trees transferred after the date on which such stand was damaged by Hurricane Hugo except for a stand of trees transferred by bequest, devise or inheritance, or acquired from a decedent by reason of death because of the form of ownership or other condition (including trees acquired through the exercise or nonexercise of a power of appointment).

(B) **PERIOD FOR PURPOSES OF SUBPARAGRAPH (A).**—The period referred to in subparagraph (A) is the period beginning on the date on which such trees were damaged by Hurricane Hugo and ending at the time the request is made for assistance under this subsection.

(4) **INDIVIDUAL FOREST MANAGEMENT PLANS.**—The Secretary may provide assistance under this subsection only after a management plan for the private timber stand has been developed by the holder of the stand in cooperation with, and approved by, the State forester or equivalent State official. Such management plan shall—

(A) include provision for the replacement of the timber stand through reforestation by tree plantings or other means; and

(B) be the basis for an agreement between the holder and the Secretary under paragraph (5).

(5) **COST SHARE.**—The Secretary shall enter into agreements to share the cost of implementing eligible practices set forth in the agreement with holders who agree to implement those eligible practices. The amount of the Federal cost-share (including labor) for an eligible practice shall be 75 percent of the total cost of implementing eligible practices. The Secretary may consider, in determining the total cost of implementing eligible practices, any revenues from the sale of timber from private timber stands.

(6) **DEADLINE.**—Requests for assistance under this subsection must be filed with the Secretary not later than December 31, 1993.

(7) *PAYMENT LIMITATION.*—The total amount of payments that a person shall be entitled to receive under this subsection may not exceed \$50,000. The Secretary shall issue regulations defining the term "person" which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308).

(8) *REGULATIONS.*—The Secretary shall issue regulations to implement the provisions of this subsection as soon as practicable after the date on which appropriations are made available to carry out this subsection, without regard to the requirement for notice and public participation in rulemaking prescribed in section 553 of title 5, United States Code.

(c) *AUTHORIZATION OF APPROPRIATIONS.*—Any benefits or assistance provided under this section, or under the amendments made by this section to the Disaster Assistance Act of 1989, shall be provided only to the extent provided for in advance by appropriation acts. To carry out this section, and the amendments made by this section to the Disaster Assistance Act of 1989, there are hereby authorized to be appropriated for fiscal years 1991 through 1995 such sums as are necessary.

#### SEC. 2236. SUGARCANE.

(a) *1990 CROP.*—Effective only for the 1990 crop of sugarcane, section 201(k)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446(k)(2)) is amended—

- (1) by inserting "(A)" after the paragraph designation; and
- (2) by adding at the end the following paragraph:

"(B)(i) If, because of frost, freeze, or related condition in 1989 constituting a major disaster or emergency declared by the President in the State of Louisiana under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the total quantity of the 1990 crop of sugarcane that the producers are able to harvest on any farm is less than—

"(I) 60 percent of the county average yield, as determined by the Secretary, for the crop, multiplied by

"(II) the acreage planted for harvest to the crop, the Secretary shall make a reduced yield disaster payment to the producers at a rate equal to 50 percent of the loan level for the crop for the deficiency in production greater than 60 percent for the crop.

"(ii) The Secretary shall ensure that no producer receives duplicative payments under this subparagraph.

"(iii) Any benefits or assistance provided for under this section shall be provided only to the extent provided for in advance in appropriations Acts. There are authorized to be appropriated such sums as may be necessary to carry out this subparagraph."

## CHAPTER 3—EMERGENCY CROP LOSS ASSISTANCE

### Subchapter A—Annual Crops

#### SEC. 2241. PAYMENTS TO PROGRAM PARTICIPANTS FOR TARGET PRICE COMMODITIES.

##### (a) DISASTER PAYMENTS.—

(1) *IN GENERAL.*—Effective only for producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, except as otherwise provided in this subsection, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1989 or 1990, the total quantity of the 1990 crop of the commodity that such producers are able to harvest on the farm is less than the result of multiplying 60 percent (or, in the case of producers who obtained crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the farm program payment yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of a natural disaster, as determined by the Secretary) for such crop, the Secretary shall make a disaster payment available to such producers at a rate equal to 65 percent of the established price for the crop for any deficiency in production greater than 40 percent (or, in the case of producers who obtained crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act, 35 percent) for the crop.

##### (2) LIMITATIONS.—

(A) *ACREAGE IN EXCESS OF PERMITTED ACREAGE.*—Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm with respect to any acreage in excess of the permitted acreage for the farm for the commodity.

(B) *CROP INSURANCE.*—Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 2247.

(3) *REDUCTION IN DEFICIENCY PAYMENTS.*—The total quantity of a crop of a commodity on which deficiency payments otherwise would be payable to producers on a farm under the Agricultural Act of 1949 shall be reduced by the quantity on which a payment is made to the producers for the crop under paragraph (1).

##### (4) ELECTION OF PAYMENTS.—

(A) *APPLICATION OF PARAGRAPH.*—This paragraph shall apply, effective only for the 1990 crops of wheat, feed grains, upland cotton, and rice, to producers on a farm who—

(i) had failed wheat, feed grain, upland cotton, or rice acreage; or

(ii) were prevented from planting acreage to such commodity because of damaging weather or related condition in 1989 or 1990.

(B) **ELECTION.**—The Secretary of Agriculture shall (within 30 days after the date of enactment of this Act) permit producers referred to in subparagraph (A) to elect whether to receive disaster payments in accordance with this section in lieu of payments received under the Agricultural Act of 1949.

(b) **ADVANCE DEFICIENCY PAYMENTS.**—

(1) **APPLICATION OF SUBSECTION.**—This subsection shall apply only to producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 for the 1990 crop of wheat, feed grains, upland cotton, or rice.

(2) **FORGIVENESS OF REFUND REQUIREMENT.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), if because of damaging weather or related condition in 1989 or 1990 the total quantity of the 1990 crop of the commodity that the producers are able to harvest on the farm is less than the result of multiplying the farm program payment yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of a natural disaster, as determined by the Secretary) for such crop (hereinafter in this section referred to as the “qualifying amount”), the producers shall not be required to refund any advance deficiency payment made to the producers for such crop under section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b-2) with respect to that portion of the deficiency in production that does not exceed—

(i) in the case of producers who obtained crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act, 35 percent of the qualifying amount; and

(ii) in the case of other producers, 40 percent of the qualifying amount.

(B) **CROP INSURANCE.**—Producers on a farm shall not be eligible for the forgiveness provided for under subparagraph (A), unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 2247.

(3) **ELECTION FOR NONRECIPIENTS.**—The Secretary shall allow producers on a farm who elected, prior to the date of enactment of this Act, not to receive advance deficiency payments made available for the 1990 crop under section 107C of the Agricultural Act of 1949, to elect (within 30 days after the date of the enactment of this Act) whether to receive such advance deficiency payments.

(4) **DATE OF REFUND FOR PAYMENTS.**—Effective only for the 1990 crops of wheat, feed grains, upland cotton, and rice, if the Secretary determines that any portion of the advance deficiency payment made to producers for the crop under section 107C of the Agricultural Act of 1949 must be refunded, such refund

shall not be required prior to July 31, 1991, for that portion of the crop for which a disaster payment is made under subsection (a).

**SEC. 2242. PAYMENTS TO PROGRAM NONPARTICIPANTS FOR TARGET PRICE COMMODITIES.**

**(a) DISASTER PAYMENTS.—**

(1) **IN GENERAL.**—Effective only for producers on a farm who elected not to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, if the Secretary of Agriculture determines that because of damaging weather or related condition in 1989 or 1990, the total quantity of the 1990 crop of the commodity that such producers are able to harvest on the farm is less than the result of multiplying 40 percent (or in the case of producers who obtained crop insurance, 35 percent) of the county average yield established by the Secretary for such crop by the sum of acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), the Secretary shall make a disaster payment available to such producers.

(2) **PAYMENT RATE.**—The payment shall be made to the producers at a rate equal to 65 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 40 percent for the crop (or in the case of producers who obtained crop insurance, 35 percent).

**(b) PREVENTED PLANTING CREDIT.—**

(1) **IN GENERAL.**—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1990 crop of the commodity for harvest because of damaging weather or related condition in 1989 or 1990, as determined by the Secretary.

(2) **MAXIMUM ACREAGE.**—Such acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1989 minus acreage actually planted to the commodity for harvest in 1990; or

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987, 1988, and 1989 minus acreage actually planted to the commodity for harvest in 1990.

(3) **ADJUSTMENTS.**—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers.

**(c) LIMITATIONS.—**

(1) **ACREAGE LIMITATION PROGRAM.**—The amount of payments made available to producers on a farm for a crop of a commodi-



ty under subsection (a) shall be reduced by a factor equivalent to the acreage limitation program percentage established for such crop under the Agricultural Act of 1949.

(2) **CROP INSURANCE.**—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 2247.

#### SEC. 2243. PEANUTS, SUGAR, AND TOBACCO.

##### (a) **DISASTER PAYMENTS.**—

(1) **IN GENERAL.**—Effective only for the 1990 crops of peanuts, sugar beets, sugarcane, and tobacco, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1989 or 1990, the total quantity of the 1990 crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 60 percent (or, in the case of producers who obtained crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the county average yield (or program yield, in the case of peanuts) established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), the Secretary shall make a disaster payment available to such producers.

(2) **PAYMENT RATE.**—The payment shall be made to the producers at a rate equal to 65 percent of the applicable payment level under paragraph (3), as determined by the Secretary, for any deficiency in production greater than—

(A) in the case of producers who obtained crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act—

(i) 35 percent for the crop; or

(ii) with respect to a crop of burley tobacco or flue-cured tobacco, 35 percent of the farm's effective marketing quota for 1990; and

(B) in the case of producers who did not obtain crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act—

(i) 40 percent for the crop; or

(ii) with respect to a crop of burley tobacco or flue-cured tobacco, 40 percent of the farm's effective marketing quota for 1990.

(3) **PAYMENT LEVEL.**—For purposes of paragraph (1), the payment level for a commodity shall be equal to—

(A) for peanuts, the price support level for quota peanuts or the price support level for additional peanuts, as applicable;

(B) for tobacco, the national average loan rate for the type of tobacco involved, or (if there is none) the market price, as determined under section 2244(a)(2); and

(C) for sugar beets and sugarcane, a level determined by the Secretary to be fair and reasonable in relation to the level of price support established for the 1990 crops of sugar

beets and sugarcane, and that, insofar as is practicable, shall reflect no less return to the producer than under the 1990 price support levels.

**(b) PREVENTED PLANTING CREDIT.—**

(1) **IN GENERAL.**—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1990 crop of the commodity for harvest because of damaging weather or related condition in 1989 or 1990, as determined by the Secretary.

(2) **MAXIMUM ACREAGE.**—Such acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1989 minus acreage actually planted to harvest in 1990; or

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987, 1988, and 1989 minus acreage actually planted to the commodity for harvest in 1990.

(3) **ADJUSTMENTS.**—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers and any change in quotas for the 1990 crops of tobacco.

(c) **LIMITATION.**—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiple crop insurance, to the extent required under section 2247.

(d) **SPECIAL RULES FOR PEANUTS.**—Notwithstanding any other provision of law—

(1) a deficiency in production of quota peanuts from a farm, as otherwise determined under this section, shall be reduced by the quantity of peanut poundage quota that was the basis of such anticipated production that has been transferred from the farm;

(2) payments made under this section shall be made taking into account whether the deficiency for which the deficiency in production is claimed was a deficiency in production of quota or additional peanuts and the payment rate shall be established accordingly; and

(3) the quantity of undermarketings of quota peanuts from a farm for the 1990 crop that may otherwise be claimed under section 358 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such peanuts for which payment has been received under this section.

(e) **SPECIAL RULES FOR TOBACCO.**—Notwithstanding any other provision of law—

(1) the quantity of undermarketings of quota tobacco from a farm for the 1990 crop that may otherwise be claimed under section 317 or 319 of the Agricultural Adjustment Act of 1938 (7

U.S.C. 1314c or 1314e) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such tobacco for which payment has been received under this section; and

(2) disaster payments made to producers under this section may not be considered by the Secretary in determining the net losses of the Commodity Credit Corporation under section 106A(d) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)).

(f) **SPECIAL RULE FOR SUGARCANE.**—For purposes of determining the total quantity of the 1990 crop of sugarcane that the producers on a farm are able to harvest, the Secretary shall make the determination based on the quantity of recoverable sugar.

#### **SEC. 2244. SOYBEANS AND NONPROGRAM CROPS.**

(a) **DISASTER PAYMENTS.**—

(1) **IN GENERAL.**—

(A) **ELIGIBILITY.**—Effective only for the 1990 crops of soybeans and nonprogram crops, to the extent that assistance was not made available under the Disaster Assistance Act of 1989 for a producer's losses, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1989 or 1990, the total quantity of the 1990 crop of the commodity that the producers on a farm are able to harvest is less than—

(i) with respect to soybeans and sunflowers, the result of multiplying 60 percent (or in the case of producers who obtained crop insurance, if available, for the 1990 crop year of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the State, area, or county yield, adjusted for adverse weather conditions during the 1987, 1988, and 1989 crop years, as determined by the Secretary, for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary for such crop under subsection (b);

(ii) with respect to nonprogram crops (other than as provided in clauses (i) and (iii)), the result of multiplying 60 percent (or in the case of producers who obtained crop insurance, if available, for the 1990 crop year of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the yield established by the Commodity Credit Corporation under subsection (d)(2) for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary for such crop under subsection (b); and

(iii) with respect to crops covered in section 201(b) of the Agricultural Act of 1949 (7 U.S.C. 1446(b)), 60 percent (or in the case of producers who obtained crop insurance, if available, for the 1990 crop year of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the historical annual yield of the producers for such crops, as determined by the Secretary,

the Secretary shall make a disaster payment available to such producers.

(B) **PAYMENT RATE.**—The payment shall be made to such producers at a rate equal to 65 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 40 percent for soybeans, sunflowers and for other nonprogram crops for the crop, except that in the case of producers who obtained crop insurance, if available, for the 1990 crop under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 35.

(2) **PAYMENT LEVEL.**—For purposes of paragraph (1), the payment level for a commodity shall equal the simple average price received by producers of the commodity, as determined by the Secretary subject to paragraph (3), during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

(3) **CALCULATION OF PAYMENTS FOR DIFFERENT VARIETIES.**—

(A) **CROP-BY-CROP BASIS.**—The Secretary shall make disaster payments under this subsection on a crop-by-crop basis, with consideration given to markets and uses of the crops, under regulations issued by the Secretary.

(B) **DIFFERENT VARIETIES.**—For purposes of determining the payment levels on a crop-by-crop basis, the Secretary shall consider as separate crops, and develop separate payment levels insofar as is practicable for, different varieties of the same commodity, and commodities for which there is a significant difference in the economic value in the market.

(C) **DOUBLE CROPPING.**—

(i) **TREATED SEPARATELY.**—In the case of a crop that is historically double cropped (including two crops of the same commodity) by the producers on a farm, the Secretary shall treat each cropping separately for purposes of determining whether the crop was affected by damaging weather or related conditions and the total quantity of the crop that the producers are able to harvest.

(ii) **APPLICATION OF PARAGRAPH.**—This paragraph shall not apply in the case of a replacement crop.

(4) **EXCLUSIONS FROM HARVESTED QUANTITIES.**—For purposes of determining the total quantity of the 1990 nonprogram crop of the commodity that the producers on a farm are able to harvest under paragraph (1), the Secretary shall exclude—

(A) commodities that cannot be sold in normal commercial channels of trade; and

(B) dockage, including husks and shells, if such dockage is excluded in determining yields under subsection (d)(2).

(b) **PREVENTED PLANTING CREDIT.**—

(1) **IN GENERAL.**—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1990 crop of the commodity for harvest because of damaging weather or

related condition in 1989 or 1990, as determined by the Secretary.

(2) **MAXIMUM ACREAGE.**—Such acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1989 minus acreage actually planted for harvest in 1990; or

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987, 1988, and 1989 minus acreage actually planted to the commodity for harvest in 1990.

(3) **ADJUSTMENTS.**—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers.

(c) **LIMITATION.**—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 2247.

(d) **SPECIAL RULES FOR NONPROGRAM CROPS.**—

(1) **DEFINITION OF NONPROGRAM CROP.**—As used in this section, the term “nonprogram crop” means all crops for which crop insurance through the Federal Crop Insurance Corporation was available for crop year 1990, and other commercial crops (including ornamentals which shall include flowering shrubs, flowering trees, and field or container grown roses or turf and sweet potatoes for which such insurance was not available for crop year 1990), except that such term shall not include a crop covered under section 2241, 2242, or 2243, soybeans, or sunflowers.

(2) **FARM YIELDS.**—

(A) **ESTABLISHMENT.**—The Commodity Credit Corporation shall establish disaster program farm yields for nonprogram crops to carry out this section.

(B) **PROVEN YIELDS AVAILABLE.**—If the producers on a farm can provide satisfactory evidence to the Commodity Credit Corporation of actual crop yields on the farm for at least 1 of the immediately preceding 3 crop years, the yield for the farm shall be based on such proven yield.

(C) **PROVEN YIELDS NOT AVAILABLE.**—If such data do not exist for any of the 3 preceding crop years, the Commodity Credit Corporation shall establish a yield for the farm by using a county average yield for the commodity, or by using other data available to it.

(D) **COUNTY AVERAGE YIELDS.**—In establishing county average yields for nonprogram crops, the Commodity Credit Corporation shall use the best available information concerning yields. Such information may include extension service records, credible nongovernmental studies, and yields in similar counties.

(3) **RESPONSIBILITY OF PRODUCERS.**—It shall be the responsibility of the producers of nonprogram crops to provide satisfactory evidence of 1990 crop losses resulting from damaging weather or related condition in 1989 or 1990 in order for such producers to obtain disaster payments under this section.

**SEC. 2245. CROP QUALITY REDUCTION DISASTER PAYMENTS.**

(a) **IN GENERAL.**—To ensure that all producers of 1990 crops covered under sections 2241 through 2244 are treated equitably, the Secretary of Agriculture may make additional disaster payments to producers of such crops who suffer losses resulting from the reduced quality of such crops caused by damaging weather or related condition in 1989 or 1990, as determined by the Secretary.

(b) **ELIGIBLE PRODUCERS.**—If the Secretary determines to make crop quality disaster payments available to producers under subsection (a), producers on a farm of a crop described in subsection (a) shall be eligible to receive reduced quality disaster payments only if such producers incur a deficiency in production of not less than 35 percent and not more than 75 percent for such crop (as determined under section 2241, 2242, 2243, or 2244, as appropriate).

(c) **MAXIMUM PAYMENT RATE.**—The Secretary shall establish the reduced quality disaster payment rate, except that such rate shall not exceed 10 percent, as determined by the Secretary, of—

(1) the established price for the crop, for commodities covered under section 2241;

(2) the basic county loan rate for the crop (or a comparable price if there is no current basic county loan rate), for commodities covered under section 2242;

(3) the payment level under section 2243(a)(3), for commodities covered by section 2243; and

(4) the payment level under section 2244(a)(2), for commodities covered under section 2244.

(d) **DETERMINATION OF PAYMENT.**—The amount of payment to a producer under this section shall be determined by multiplying the payment rate established under subsection (c) by the portion of the actual harvested crop on the producer's farm that is reduced in quality by such natural disaster in 1989 or 1990, as determined by the Secretary.

**SEC. 2246. EFFECT OF FEDERAL CROP INSURANCE PAYMENTS.**

In the case of producers on a farm who obtained crop insurance for the 1990 crop of a commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Secretary of Agriculture shall reduce the amount of payments made available under this chapter for such crop to the extent that the amount determined by adding the net amount of crop insurance indemnity payment (gross indemnity less premium paid) received by such producers for the deficiency in the production of the crop and the disaster payment determined in accordance with this chapter for such crop exceeds the amount determined by multiplying—

(1) 100 percent of the yield used for the calculation of disaster payments made under this chapter for such crop; by

(2) the sum of the acreage of such crop planted to harvest and the acreage for which prevented planting credit is approved by the Secretary (or, in the case of disaster payments under section

2241, the eligible acreage established under sections 2241(a)(1) and 2241(a)(2)(A)); by

(3)(A) in the case of producers who participated in a production adjustment program for the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, the established price for the 1990 crop of the commodity;

(B) in the case of producers who did not participate in a production adjustment program for the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, the basic county loan rate (or a comparable price, as determined by the Secretary, if there is no current basic county loan rate) for the 1990 crop of the commodity;

(C) in the case of producers of sugar beets, sugarcane, peanuts, or tobacco, the payment level for the commodity established under section 2243(a)(3); and

(D) in the case of producers of soybeans or a nonprogram crop (as defined in section 2244(d)(1)), the simple average price received by producers of the commodity, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

#### SEC. 2247. CROP INSURANCE COVERAGE FOR THE 1991 CROPS.

(a) **REQUIREMENT.**—Subject to the limitations under subsection (b), producers on a farm, to be eligible to receive a disaster payment under this chapter, an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) for crop losses due to damaging weather or related condition in 1989 or 1990, or forgiveness of the repayment of advance deficiency payments under section 2241(b), must agree to obtain multiperil crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the 1991 crop of the commodity for which such payments, loans, or forgiveness are sought.

(b) **LIMITATIONS.**—Producers on a farm shall not be required to agree to obtain crop insurance under subsection (a) for a commodity—

(1) unless such producers' deficiency in production, with respect to the crop for which a disaster payment under this chapter otherwise may be made, exceeds 65 percent;

(2) where, or if, crop insurance coverage is not available to the producers for the commodity for which the payment, loan, or forgiveness is sought;

(3) if the producers' annual premium rate for such crop insurance is an amount greater than 125 percent of the average premium rate for insurance on that commodity for the 1990 crop in the county in which the producers are located;

(4) in any case in which the producers' annual premium for such crop insurance is an amount greater than 25 percent of the amount of the payment, loan, or forgiveness sought; or

(5) if the producers can establish by appeal to the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)), or to the county committee established under section 332 of the Consolidated

*Farm and Rural Development Act (17 U.S.C. 1982), as appropriate, that the purchase of crop insurance would impose an undue financial hardship on such producers and that a waiver of the requirement to obtain crop insurance should, in the discretion of the county committee, be granted.*

**(c) IMPLEMENTATION.—**

**(1) COUNTY COMMITTEES.**—*The Secretary of Agriculture shall ensure (acting through the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act and located in the counties in which the assistance programs provided for under sections 2241 through 2245 are implemented and through the county committees established under section 332 of the Consolidated Farm and Rural Development Act in counties in which emergency loans, as described in subsection (a), are made available) that producers who apply for assistance, as described in subsection (a), obtain multiperil crop insurance as required under this section.*

**(2) OTHER SOURCES.**—*Each producer who is subject to the requirements of this section may comply with such requirements by providing evidence of multiperil crop insurance coverage from sources other than through the county committee office, as approved by the Secretary.*

**(3) COMMISSIONS.**—*The Secretary shall provide by regulation for a reduction in the commissions paid to private insurance agents, brokers, or companies on crop insurance contracts entered into under this section sufficient to reflect that such insurance contracts principally involve only a servicing function to be performed by the agent, broker, or company.*

**(d) REPAYMENT OF BENEFITS.**—*Notwithstanding any other provision of law, if (prior to the end of the 1991 crop year for the commodity involved) the crop insurance coverage required of the producer under this section is canceled by the producer, the producer—*

*(1) shall make immediate repayment to the Secretary of any disaster payment or forgiven advance deficiency payment that the producer otherwise is required to repay; and*

*(2) shall become immediately liable for full repayment of all principal and interest outstanding on any emergency loan described in subsection (a) made subject to this section.*

**SEC. 2248. CROPS HARVESTED FOR FORAGE USES.**

*Not later than 45 days after funds are appropriated to carry out this chapter, the Secretary of Agriculture shall announce the terms and conditions by which producers on a farm may establish a 1990 yield with respect to crops that will be harvested for silage and other forage uses.*

**SEC. 2249. PAYMENT LIMITATIONS.**

**(a) LIMITATION.**—*Subject to subsections (b) and (c), the total amount of payments that a person shall be entitled to receive under one or more of the programs established under this chapter may not exceed \$100,000.*

**(b) NO DOUBLE BENEFITS.**—*No person may receive disaster payments under this chapter to the extent that such person receives a livestock emergency benefit for lost feed production in 1990 under section 606 of the Agricultural Act of 1949 (7 U.S.C. 1471d).*



**(c) COMBINED LIMITATION.—**

(1) **IN GENERAL.**—No person may receive any payment under this chapter or benefit under title VI of the Agricultural Act of 1949 (7 U.S.C. 1471 et seq.) for livestock emergency losses suffered in 1990 if such payment or benefit will cause the combined total amount of such payments and benefits received by such person to exceed \$100,000.

(2) **ELECTION.**—If a producer is subject to paragraph (1), the person may elect (subject to the benefits limitations under section 609 of the Agricultural Act of 1949 (7 U.S.C. 1471g) whether to receive the \$100,000 in such payments, or such livestock emergency benefits (not to exceed \$50,000), or a combination of payments and benefits specified by the person.

(d) **REGULATIONS.**—The Secretary of Agriculture shall issue regulations—

(1) defining the term "person" for the purposes of this section and section 2266, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308); and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this section.

**SEC. 2250. SUBSTITUTION OF CROP INSURANCE PROGRAM YIELDS.**

(a) **IN GENERAL.**—Notwithstanding any other provision of this chapter, the Secretary of Agriculture may permit each eligible producer (as defined in subsection (d)) of a 1990 crop of a commodity who has obtained multiperil crop insurance for such crop (or, as provided in subsection (c), who obtained multiperil crop insurance for the producer's 1989 crop of such commodity) under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) to substitute, at the discretion of the producer, the crop insurance yield for such crop, as established under such Act, for the farm yield otherwise assigned to the producer under this chapter, for the purposes of determining such producer's eligibility for a disaster payment on the 1990 crop under this chapter and the amount of such payment.

(b) **ADJUSTMENT OF ADVANCED DEFICIENCY PAYMENTS.—**

(1) **IN GENERAL.**—Notwithstanding any other provision of this chapter, if an eligible producer of wheat, feed grains, cotton, or rice elects to substitute yields for such producer's 1990 crop under subsection (a), the producer's eligibility for a waiver or repayment of an advance deficiency payment on such crop under this chapter shall be adjusted as provided in paragraph (2).

(2) **AMOUNT.**—The amount of production of such crop on which the producer otherwise would be eligible for waiver of repayment of advance deficiency payments under this chapter shall be reduced by an amount of production equal to the difference between—

(A) the amount of production eligible for disaster payments under this chapter using a substituted yield under this section; and

(B) the amount of production that would have been eligible for disaster payments using the farm program payment yield otherwise assigned to the producer under this chapter.

(c) **MULTIPERIL CROP INSURANCE NOT AVAILABLE.**—A producer may use the crop insurance yield for the producer's 1989 crop of a commodity for purposes of substituting yields under subsection (a) if the producer demonstrates to the Secretary that, through no fault of the producer, multiperil crop insurance under the Federal Crop Insurance Act was not made available to the producer for the producer's 1990 crop of the commodity.

(d) **DEFINITION OF ELIGIBLE PRODUCER.**—For purposes of this section, the term "eligible producer" means a producer of the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans.

#### **SEC. 2251. DEFINITIONS.**

As used in this chapter:

(1) **DAMAGING WEATHER.**—The term "damaging weather" includes but is not limited to drought, hail, excessive moisture, freeze, tornado, hurricane, earthquake, or excessive wind, or any combination thereof.

(2) **RELATED CONDITION.**—The term "related condition" includes but is not limited to insect infestations, plant diseases, or other deterioration of a crop of a commodity, including aflatoxin, that is accelerated or exacerbated naturally as a result of damaging weather occurring prior to or during harvest.

### **Subchapter B—Orchards**

#### **SEC. 2255. ELIGIBILITY.**

(a) **LOSS.**—Subject to the limitation in subsection (b), the Secretary of Agriculture shall provide assistance, as specified in section 2256, to eligible orchardists that planted trees for commercial purposes but lost such trees as a result of freeze, earthquake, or related condition in 1990, as determined by the Secretary.

(b) **LIMITATION.**—An eligible orchardist shall qualify for assistance under subsection (a) only if such orchardist's tree mortality, as a result of the natural disaster, exceeds 35 percent (adjusted for normal mortality).

#### **SEC. 2256. ASSISTANCE.**

The assistance provided by the Secretary of Agriculture to eligible orchardists for losses described in section 2255 shall consist of either—

(1) reimbursement of 65 percent of the cost of replanting trees lost due to freeze, earthquake, or related condition in 1990 in excess of 35 percent mortality (adjusted for normal mortality); or

(2) at the discretion of the Secretary, sufficient seedlings to re-establish the stand.

#### **SEC. 2257. LIMITATION ON ASSISTANCE.**

(a) **LIMITATION.**—The total amount of payments that a person shall be entitled to receive under this chapter may not exceed \$25,000, or an equivalent value in tree seedlings.

(b) **REGULATIONS.**—The Secretary of Agriculture shall issue regulations—

(1) defining the term “person” for the purposes of this chapter, which shall conform, to the extent practicable, to the regulations defining the term “person” issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) and the Disaster Assistance Act of 1988 (7 U.S.C. 1421 note); and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

#### **SEC. 2258. DEFINITION.**

As used in this chapter, the term “eligible orchardist” means a person who produces annual crops from trees for commercial purposes and owns 500 acres or less of such trees.

#### **SEC. 2259. DUPLICATIVE PAYMENTS.**

The Secretary of Agriculture shall establish guidelines to ensure that no person receives duplicative payments under this chapter and the forestry incentives program, agricultural conservation program, or other Federal program.

### **Subchapter C—Forest Crops**

#### **SEC. 2261. ELIGIBILITY.**

(a) **LOSS.**—Subject to the limitation in subsection (b), the Secretary of Agriculture shall provide assistance, as specified in section 2262, to eligible tree farmers that planted tree seedlings in 1989 or 1990 for commercial purposes but lost such seedlings as a result of drought, earthquake, or related condition in 1990, as determined by the Secretary.

(b) **LIMITATION.**—An eligible tree farmer shall qualify for assistance under subsection (a) only if such tree farmer's tree seedling mortality, as a result of the natural disaster, exceeds 35 percent (adjusted for normal mortality).

#### **SEC. 2262. ASSISTANCE.**

The assistance provided by the Secretary of Agriculture to eligible tree farmers for losses described in section 2261 shall consist of either—

(1) reimbursement of 65 percent of the cost of replanting seedlings lost due to drought, earthquake, or related conditions in 1990 in excess of 35 percent mortality (adjusted for normal mortality); or

(2) at the discretion of the Secretary, sufficient tree seedlings to reestablish the stand.

#### **SEC. 2263. LIMITATION ON ASSISTANCE.**

(a) **LIMITATION.**—The total amount of payments that a person shall be entitled to receive under this chapter may not exceed \$25,000, or an equivalent value in tree seedlings.

(b) **REGULATIONS.**—The Secretary of Agriculture shall issue regulations—

(1) defining the term “person” for the purposes of this chapter, which shall conform, to the extent practicable, to the regulations defining the term “person” issued under section 1001 of

the Food Security Act of 1985 and the Disaster Assistance Act of 1988; and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

#### **SEC. 2264. DEFINITION.**

As used in this chapter, the term "eligible tree farmer" means a person who grows trees for harvest for commercial purposes and owns 1,000 acres or less of such trees.

#### **SEC. 2265. DUPLICATIVE PAYMENTS.**

The Secretary of Agriculture shall establish guidelines to ensure that no person receives duplicative payments under this chapter and the forestry incentives program, agricultural conservation program, or other Federal program.

### **Subchapter D—Administrative Provisions**

#### **SEC. 2266. INELIGIBILITY.**

(a) **GENERAL RULE.**—A person who has qualifying gross revenues in excess of \$2,000,000 annually, as determined by the Secretary of Agriculture, shall not be eligible to receive any disaster payment or other benefits under this subchapter.

(b) **QUALIFYING GROSS REVENUES.**—For purposes of this section, the term "qualifying gross revenues" means—

(1) if a majority of the person's annual income is received from farming, ranching, and forestry operations, the gross revenue from the person's farming, ranching, and forestry operations; and

(2) if less than a majority of the person's annual income is received from farming, ranching, and forestry operations, the person's gross revenue from all sources.

#### **SEC. 2267. TIMING AND MANNER OF ASSISTANCE.**

(a) **TIMING OF ASSISTANCE.**—

(1) **ASSISTANCE MADE AVAILABLE AS SOON AS PRACTICABLE.**—Subject to paragraph (2), the Secretary of Agriculture shall make disaster assistance available under this subchapter as soon as practicable after the date on which appropriations are made available to carry out this chapter.

(2) **COMPLETED APPLICATION.**—No payment or benefit provided under this subchapter shall be payable or due until such time as a completed application for a crop of a commodity therefor has been approved.

(b) **MANNER.**—The Secretary may make payments available under chapter 1 in the form of cash, commodities, or commodity certificates, as determined by the Secretary.

#### **SEC. 2268. COMMODITY CREDIT CORPORATION.**

(a) **USE.**—The Secretary of Agriculture shall use the funds, facilities, and authorities of the Commodity Credit Corporation in carrying out this chapter.

(b) **EXISTING AUTHORITY.**—The authority provided by this subchapter shall be in addition to, and not in place of, any authority

granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

#### **SEC. 2269. EMERGENCY LOANS.**

Section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(b)) shall not apply to persons who otherwise would be eligible for an emergency loan under subtitle C of such Act, if such eligibility is the result of damage to an annual crop planted for harvest in 1988.

#### **SEC. 2270. REGULATIONS.**

The Secretary of Agriculture or the Commodity Credit Corporation, as appropriate, shall issue regulations to implement this chapter as soon as practicable after the date on which appropriations are made available to carry out this chapter, without regard to the requirement for notice and public participation in rule making prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.

### **Subchapter E—Appropriations**

#### **SEC. 2271. AUTHORIZATION OF APPROPRIATIONS.**

Any benefits or assistance (including the forgiveness of unearned advanced deficiency payments of any emergency loans) made available under this chapter shall be provided only to the extent provided for in advance in appropriations Acts. To carry out this chapter there are authorized to be appropriated such sums as may be necessary in each of the fiscal years 1991 and 1992.

#### **SEC. 2272. PRORATION OF BENEFITS.**

Any funds made available for carrying out this chapter in appropriations Acts shall be prorated to all producers eligible for assistance under this chapter.

### **CHAPTER 4—ASSISTANCE FOR BIG HORN RIVER DRAINAGE SYSTEM**

#### **SEC. 2275. DISASTER ASSISTANCE TO PRODUCERS ON THE BIG HORN RIVER DRAINAGE SYSTEM LOCATED ON THE WIND RIVER INDIAN RESERVATION.**

(a) **IN GENERAL.**—Effective only for producers on a farm who suffered losses due to drought induced by a lack of water as a result of Indian Tribal water rights adjudication affecting producers on that portion of the Big Horn River drainage system located on the Wind River Indian Reservation, Wyoming, for the 1990 crop of wheat, barley, oats, grass hay, and alfalfa hay, subject to subsection (b), the Secretary of Agriculture shall make disaster assistance available to such producers under similar terms and conditions as are prescribed under titles I and III of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note, 1961 note, and 1941 note) for providing disaster assistance to producers for the 1989 crop of the commodity, except that the assistance shall be limited to a total amount of \$250,000.

(b) **ADMINISTRATION.**—Titles I and III of the Disaster Assistance Act of 1989 shall apply to assistance provided under this section, except that for purposes of providing assistance under this section—

(1) terms and conditions of programs established for a crop referred to in subsection (a) shall apply to such assistance, includ-

ing crop years, production adjustment programs, yields, acreage bases, established prices, advance deficiency payments, loan rates, crop insurance indemnities, and livestock emergency benefits;

(2) producers shall not be required to obtain multiperil crop insurance, as a condition of obtaining assistance under this section;

(3) in section 101(b)(4), for purposes of this section only—

(A) "1990 crops" shall be substituted for "1989 crops"; and

(B) "July 31, 1991" shall be substituted for "July 31, 1990";

(4) in section 102(b)(2)(A), for purposes of this section only "1989 minus acreage actually planted to the commodity for harvest in 1990" shall be substituted for "1988 minus acreage actually planted to the commodity for harvest in 1989";

(5) in section 102(b)(2)(B), for purposes of this section "1987, 1988, and 1989, minus acreage actually planted to the commodity for harvest 1989" shall be substituted for "1986, 1987, and 1988 minus acreage actually planted to the commodity for harvest in 1989"; and

(6) in section 152(a)(2), for purposes of this section "180 days after the date of enactment of the Food, Agriculture, Conservation, and Trade Act of 1990" shall be substituted for "March 31, 1990".

(c) **DEFERRAL ON REPAYMENTS.**—The producers on a farm as specified in subsection (a) may elect, at the producer's option, to request and receive a 12-month deferral on payments of principal and interest due on (farm loans) insured or underwritten by the appropriate agency of the United States. The request for deferral shall be made in writing to the administrator of the applicable farm loan program and must be sent by certified mail to the nearest regional office. Written requests for deferral under subsection (c) shall be made within 60 days of the date of enactment of this Act.

## **Subtitle C—Miscellaneous Provisions**

### **SEC. 2281. EMERGENCY GRANTS TO ASSIST LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS.**

(a) **IN GENERAL.**—The Secretary of Agriculture may make grants, not to exceed \$20,000,000 annually, to public agencies or private organizations with tax exempt status under section 501(c)(3) of the Internal Revenue Code of 1986, that have experience in providing emergency services to low-income migrant and seasonal farmworkers where the Secretary determines that a local, State or national emergency or disaster has caused low-income migrant or seasonal farmworkers to lose income, to be unable to work, or to stay home or return home in anticipation of work shortages. Emergency services to be provided with assistance received under this section may include such types of assistance as the Secretary of Agriculture determines to be necessary and appropriate.

(b) **DEFINITION.**—For the purposes of this section, the term "low-income migrant or seasonal farmworker" means an individual—

(1) who has, during any consecutive 12 month period within the preceding 24 month period, performed farm work for wages;

(2) who has received not less than one-half of such individual's total income, or been employed at least one-half of total work time in farm work; and

(3) whose annual family income within the 12 month period referred to in paragraph (1) does not exceed the higher of the poverty level or 70 percent of the lower living standard income level.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

## **TITLE XXIII—RURAL DEVELOPMENT**

### **SEC. 2301. SHORT TITLE.**

This title may be cited as the "Rural Economic Development Act of 1990".

### **Subtitle A—Reorganization of the Department of Agriculture**

#### **SEC. 2302. RURAL DEVELOPMENT ADMINISTRATION.**

(a) **AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.**—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended—

(1) by adding after the sections added thereto by subtitle A of title XVIII of this Act the following new section:

#### **"SEC. 364. RURAL DEVELOPMENT ADMINISTRATION.**

**"(a) ESTABLISHMENT.**—There is established in the Department of Agriculture the Rural Development Administration, which shall be headed by an Administrator appointed by the Secretary.

**"(b) ADMINISTRATION.**—Except as provided in subsection (c), or as otherwise provided in this section, the Secretary shall carry out this Act through the Farmers Home Administration.

**"(c) EXCEPTIONS.**—The Secretary shall carry out section 303 (in the case of loans made for purposes specified in paragraphs (2) and (3) of section 303(a)), section 304(b), section 306(a), section 306B, section 310A, section 310B, section 312(a) (in the case of loans made for the purposes specified in paragraphs (5) and (6) of section 312(a)), section 1323 of the Food Security Act of 1985 (7 U.S.C. 1932 note), title VI of the Rural Development Act of 1972, and such other rural development programs as the Secretary determines appropriate through the Rural Development Administration.

**"(d) REFERENCES.**—Any reference in any law, regulation, or order in effect immediately before the date of enactment of this section to the Farmers Home Administration or to the Administrator of the Farmers Home Administration or of the Farmers Home Administration relating to any function, power, or duty that is, on or after such date, a function, power, or duty of the Rural Development Administration or the Administrator of the Rural Development Administra-

tion, shall be deemed to be a reference to the Rural Development Administration or to the Administrator of the Rural Development Administration, as the case may be.

**"(e) EFFECT ON PENDING PROCEEDINGS AND PARTIES TO SUCH PROCEEDINGS.—**

**"(1) NONABATEMENT OF ACTIONS.—**This section does not abate any proceeding commenced—

"(A) by or against any entity any function of which is transferred by this section; or

"(B) by or against any officer of any entity referred to in subparagraph (A) in the official capacity of such individual as such an officer.

**"(2) EFFECT ON PARTIES.—**If an officer of the Farmers Home Administration, in the official capacity of such officer, is a party to a proceeding pending on the date of enactment of this section, and under this section the officer or any function of the officer is transferred to the Rural Development Administration, Department of Agriculture, then such action shall be continued with the Secretary or the Administrator, Rural Development Administration, or other appropriate officer of the Department substituted or added as a party.

**"(3) TRANSFER OF CERTAIN RIGHTS OF FARMERS HOME ADMINISTRATION TO RURAL DEVELOPMENT ADMINISTRATION.—**The rights, interests, obligations, and duties of the Farmers Home Administration arising before the date of enactment of this section from any loan made, insured, or guaranteed, or any grant or contract made, by the Farmers Home Administration in the exercise of its functions shall—

"(A) with respect to any function to be exercised on or after such date by the Farmers Home Administration under subsection (b), continue to be vested in the Farmers Home Administration; and

"(B) with respect to any function to be exercised on or after such date by the Rural Development Administration under subsection (c), be vested in the Rural Development Administration.

**"(f) COMPENSATION OF ADMINISTRATOR.—**The Administrator of the Rural Development Administration shall be compensated in accordance with subchapter VIII of chapter 53 of title 5, United States Code."; and

(2) in section 309(e)—

(A) by inserting "and the Rural Development Administration, in proportion to such charges collected in connection with the insurance of loans by such agency" after "Farmers Home Administration"; and

(B) by striking "expenses." and inserting "expenses for such agency."

**(b) FACILITATION OF TRANSFER OF FUNCTIONS.—**(1) Notwithstanding the provisions of section 331 of the Consolidated Farm and Rural Development Act, as soon as practicable, but in no case later than 180 days after the date of enactment of this section, the Secretary shall transfer to the Rural Development Administration the powers, duties, and assets of the agencies, offices, and other entities in the Department of Agriculture, or elements thereof, related to the



performance of rural development functions, including, but not limited to, the agencies, offices, and other entities in the Department of Agriculture, or elements thereof, that administer sections 303 (in the case of loans made for purposes specified in paragraphs (2) and (3) of subsection (a) of section 303), 304(b), 306(a), 306B, 310A, 310B, and section 312(a) (in the case of loans made for the purposes specified in paragraphs (5) and (6) of section 312(a)) of the Consolidated Farm and Rural Development Act, section 1323 of the Food Security Act of 1985 (7 U.S.C. 1932 note), title VI of the Rural Development Act of 1972, and such other rural development programs as the Secretary determines appropriate.

(2) **INCIDENTAL TRANSFERS.**—The Secretary shall make such determinations, and shall transfer such personnel from the Farmers Home Administration, as may be necessary or appropriate with regard to the functions transferred to the Rural Development Administration under this section or the amendments made by this section. The Secretary shall also make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available, or to be made available in connection with the functions transferred by this section or the amendments made by this section, as the Secretary may deem necessary to accomplish the purposes of this section.

(3) **EFFECTIVE AND EFFICIENT TRANSFER OF AUTHORITY.**—The Administrator of the Farmers Home Administration and the Secretary shall take whatever steps are necessary to assure the effective and efficient transfer of authority as provided for in this section.

#### **SEC. 2303. CONFORMING AMENDMENTS.**

(a) Section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) is amended—

(1) in the first sentence—

(A) by striking “For the purposes of this title and” and inserting “In accordance with section 359, for purposes of this title, and”; and

(B) by inserting before the period “, or may assign and transfer such powers, duties, and assets to the Rural Development Administration as provided by law for that office”;

(2) in subsection (d), by inserting “or the Rural Development Administration” after “Farmers Home Administration”; and

(3) in subsection (h) (as so redesignated by section 1805 of this Act), by inserting “Rural Development Administration under this title or by the” before “Farmers Home Administration” each place such term appears.

(b) Section 331A of such Act (7 U.S.C. 1981a) is amended by inserting “or by the Rural Development Administration” immediately after “Farmers Home Administration”.

(c) Section 335 of such Act (7 U.S.C. 1985) is amended—

(1) in subsection (a), by inserting “or the Rural Development Administration” after “Farmers Home Administration”; and

(2) in subsection (c)(1), by inserting “or the Rural Development Administration” after “Farmers Home Administration”.

(d) Section 338(a) of such Act (7 U.S.C. 1988(a)) is amended by inserting "or the Rural Development Administration" after "Farmers Home Administration".

(e) Sections 657, 658, 1006, and 1014 of title 18, United States Code, are each amended by striking "Farmers' Home Administration" and inserting "Farmers Home Administration, the Rural Development Administration".

(f)(1) Section 623(c)(2) of the Community Economic Development Act of 1981 (42 U.S.C. 9812(c)(2)) is amended by inserting "; or the Rural Development Administration" after "Farmers Home Administration".

(2) Section 628 of such Act (42 U.S.C. 9817) is amended—

(A) by amending the heading to read as follows:

"DEPARTMENT OF AGRICULTURE; RURAL DEVELOPMENT  
ADMINISTRATION PROGRAMS"; and

(B) by inserting "; or of the Rural Development Administration" after "of the Farmers Home Administration".

## **Subtitle B—Coordination of Rural Development Efforts**

### **CHAPTER 1—GENERAL PROVISIONS**

#### **SEC. 2310. GENERAL PROVISIONS.**

(a) **APPLICATION FOR PARTICIPATION.**—If a State desires to participate in the program established in chapter 2 of this subtitle or the program established in sections 365 and 366 of the Consolidated Farm and Rural Development Act (as added by chapter 3 of this subtitle), the Governor of the State may submit to the Secretary of Agriculture (in this section referred to as the "Secretary") an application therefor.

(b) **SELECTION OF STATES.**—

(1) **RURAL INVESTMENT PARTNERSHIPS.**—The Secretary shall select not more than 5 States to which to make chapter 2 applicable during any particular period, to the extent of qualifying applications therefor.

(2) **RURAL ECONOMIC DEVELOPMENT REVIEW PANELS.**—The Secretary shall select not more than 5 States to which to make sections 365 and 366 of the Consolidated Farm and Rural Development Act applicable during any particular period, to the extent of qualifying applications therefor.

(c) **DURATION OF PROJECTS.**—

(1) **RURAL INVESTMENT PARTNERSHIPS.**—Chapter 2 shall apply to any State selected by the Secretary under subsection (b)(1) until September 30, 1996.

(2) **RURAL ECONOMIC DEVELOPMENT REVIEW PANELS.**—Chapter 3 shall apply to any State selected by the Secretary under subsection (b)(2) until September 30, 1996.

(d) **EFFECTIVE DATE.**—Chapter 2 of this subtitle and sections 365, 366, 367, and 368(b) of the Consolidated Farm and Rural Development Act (as added by chapter 3 of this subtitle) shall take effect on October 1, 1991.

## CHAPTER 2—RURAL INVESTMENT PARTNERSHIPS

### SEC. 2311. DEFINITIONS.

*As used in this chapter:*

(1) **APPROVED LOCAL BUSINESS.**—The term "approved local business" means a local business that is approved to receive assistance from the revolving fund of an eligible entity as provided under the provisions of this chapter.

(2) **ELIGIBLE ENTITY.**—The term "eligible entity" means an entity—

(A) that is—

(i) a nonprofit private corporation or a public entity that is—

(I) the governing body of each public regional organization (such as the governing body of an economic development district) that is chartered or otherwise organized under State law for the purpose of promoting economic development;

(II) the agency of each State that is primarily responsible for rural economic development programs within the State;

(III) the governing body of a county or other political subdivision of a State;

(IV) the governing body of a town or township within a State; or

(V) an incorporated public organization or a nonprofit private community development corporation, or similar nonprofit private organization, that is chartered or otherwise organized under State law for the purpose of promoting economic development; or

(ii) an Indian tribe (as defined in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), an Indian organization or entity chartered under the Act of June 18, 1934 (25 U.S.C. 1001 et seq.), commonly known as the "Indian Reorganization Act", or any tribal organization (as defined in the section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c))); and

(B) that—

(i) possesses the powers reasonably necessary to perform the functions and activities described in this chapter;

(ii) has a professional staff and management ability (including adequate accounting, legal, and business servicing abilities or experience); and

(iii) meets any other requirements established by the Board to carry out this chapter.

(3) **INVESTMENT BOARD.**—The terms "Investment Board" and "Board" mean the Rural Partnerships Investment Board established in section 2312(a).

(4) **LOCAL BUSINESS.**—The term "local business" means—

(A) a business concern, located in a rural area, that—

(i) is incorporated or otherwise organized under State law so that financial records and accounts are maintained regarding the business concern separate and apart from records and accounts not related to that business concern; and

(ii) is independently or cooperatively (not including borrowers under the Rural Electrification Act of 1936) owned and operated as defined by the Board; or

(B) an individual who plans to organize and operate an entity of the type described in subparagraph (A), that meets any additional requirements that are established by the Board to carry out the intent of this Act.

(5) **RURAL AREA.**—The term "rural area" means all territory of a State that is not within the outer boundary of any city or town having a population of 20,000 or more based on the latest decennial census of the United States, and any neighboring urbanized area as defined by the Board.

(6) **RURAL FUND.**—The terms "Rural Fund" and "Fund" mean the Rural Business Investment Fund established under section 2313(a).

(7) **SECRETARY.**—The term "Secretary" means the Secretary of Agriculture, unless otherwise specified in this chapter.

(8) **STATE.**—The term "State" means any State to which the Secretary has made this chapter applicable under section 2310(b)(1).

#### **SEC. 2312. RURAL PARTNERSHIPS INVESTMENT BOARD.**

(a) **ESTABLISHMENT.**—There is established a "Rural Partnerships Investment Board" to provide lines of credit to eligible entities to enable such entities to establish, maintain, or expand revolving funds that are used to make or guarantee loans, or to make capital investments in new or expanding local businesses in conjunction with loans or investments made by depository institutions (as defined in section 3(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(1)), State owned banks whose deposits are backed by the full faith and credit of the State, or community development credit unions chartered by the National Credit Union Administration under the Federal Credit Union Act (12 U.S.C. 1751 et seq.).

(b) **BOARD OF DIRECTORS.**—

(1) **IN GENERAL.**—The Board of Directors of the Investment Board shall consist of—

(A) the Administrator of the Rural Electrification Administration;

(B) the Administrator of the Rural Development Administration;

(C) the Administrator of the Extension Service of the Department of Agriculture; and

(D) two members who shall be—

(i) experienced in rural development and related matters;

(ii) appointed by the President with the advice and consent of the Senate; and

(iii) from different political parties.

(2) **CHAIRPERSON.**—The Chairperson of the Board shall be the Administrator of the Rural Development Administration.

(3) **VACANCIES.**—Vacancies on the Board shall be filled in the same manner as the vacant position was previously filled.

(4) **CHIEF EXECUTIVE OFFICER.**—A chief executive officer shall be selected by the Board and shall serve at the pleasure of the Board.

(5) **QUORUM.**—A quorum shall consist of three members of the Board. All decisions made by the Board shall require an affirmative vote of a majority of the members.

(6) **COMPENSATION.**—Members of the Board—

(A) specified under subparagraphs (A), (B), and (C) of paragraph (1) shall receive reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Investment Board, as set forth in the bylaws issued by the Board of Directors, except that such level shall not exceed the maximum fixed by subchapter 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States; and

(B) appointed under subparagraph (D) of paragraph (1) shall receive compensation for the time devoted to meetings and other activities at a daily rate not to exceed the daily rate of compensation prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code, and reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Investment Board, as set forth in the bylaws issued by the Board of Directors, except that such level shall not exceed the maximum fixed by subchapter 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States.

(7) **RULES AND RECORDS.**—The Board shall adopt such rules and procedures as it may consider appropriate for the transaction of the business of the Investment Board, and shall keep permanent and accurate records and minutes of its acts and proceedings.

(c) **POWERS OF THE INVESTMENT BOARD.**—The Investment Board shall be a body corporate that shall have the power to—

(1) operate under the direction of its Board;

(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

(3) provide for one or more officers, employees, and agents, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

(4) hire, promote, compensate, and discharge officers and employees of the Investment Board, without regard to title 5, United States Code, except that no such officer or employee shall receive an annual rate of basic pay in excess of the rate prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code;

(5) prescribe by its Board its bylaws, that shall be consistent with law, and that shall provide for the manner in which—

- (A) its officers, employees, and agents are to be selected;
- (B) its property is to be acquired, held, and transferred;
- (C) its general operations are to be conducted; and
- (D) the privileges granted by law are to be exercised and enjoyed;

(6) with the consent of any executive department or independent agency, use the information, services, staff, and facilities of such in carrying out this chapter;

(7) enter into contracts and make advance, progress, or other payments with respect to such contracts;

(8) sue and be sued in its corporate name, and complain and defend in courts of competent jurisdiction;

(9) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its operations;

(10) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this chapter;

(11) make such rules and regulations as the Board determines necessary and appropriate to carry out the authority vested in the Board under this chapter;

(12) procure the temporary (not in excess of 2 years) or intermittent services of experts or consultants or organizations thereof, without regard to the civil service and classification laws and without regard to section 5 of title 41, at rates not to exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code, including traveltime, and while such individual is away from the home or regular place of business of such individual, travel expenses as authorized under section 5703 of title 5, United States Code; and

(13) exercise other powers as set forth in this chapter, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this chapter.

#### **SEC. 2313. ESTABLISHMENT OF INVESTMENT FUND.**

##### **(a) ESTABLISHMENT.—**

(1) **IN GENERAL.**—There is established in the Treasury of the United States a fund for the use of the Board in carrying out the provisions of this chapter, that shall be known as the "Rural Business Investment Fund".

(2) **AVAILABILITY.**—The Fund established under paragraph (1) shall be available to the Board to provide lines of credit for revolving funds to be operated by approved eligible entities to serve local businesses in rural areas.

##### **(b) USE.—**

(1) **LINES OF CREDIT.**—Amounts in the fund established by subsection (a) shall be used by the Board to provide lines of credit in amounts determined appropriate by the Board, but in no event shall any such line of credit exceed \$750,000 annually (up to a total amount of \$2,250,000) to an approved eligible entity. Each line of credit shall be made available over a period of time established by the Board for each such entity, but in no event shall any such period of time extend beyond the date on

which the Investment Board is terminated under section 2314(n).

(2) **EXCEPTION.**—Notwithstanding paragraph (1), if the approved eligible entity is the agency of any State that is primarily responsible for the rural economic development programs within such State, the Board may provide a line of credit to such agency in an amount that shall not exceed \$1,250,000 annually (up to a total amount of \$3,750,000) in the manner described in paragraph (1).

(3) **AMOUNTS DRAWN FROM LINE.**—Amounts drawn from each line of credit by each approved eligible entity shall be used solely as provided under this chapter and shall be drawn only as needed to provide loans, investments, or to carry out a guarantee.

(c) **APPLICATIONS OF ELIGIBLE ENTITIES FOR LINES OF CREDIT.**—

(1) **FEDERAL REGISTER NOTICES.**—The Board shall publish notices of solicitations for applications for lines of credit in the Federal Register and such notices shall contain—

(A) the application procedures established by the Board;

(B) the application requirements of paragraph (3);

(C) the deadlines for submission of applications (which shall be not less than 150 days after the publication of the applicable notice);

(D) a copy of all available response forms;

(E) a summary of the functions of the Board regarding applications; and

(F) other information determined appropriate by the Board.

(2) **SUBMISSION AND CONSIDERATION.**—An eligible entity that desires to receive a line of credit under this chapter shall submit an application to the Board at such time, in such form, and containing such information and documentation, including a description of the areas to be served, as the Board shall prescribe under paragraph (1), and the Board shall consider each such application based on the requirements of this chapter.

(3) **ELIGIBLE ENTITY.**—

(A) **MATCHING FUNDS OR LETTERS OF INTENT.**—In order for an application to be considered for approval by the Board for a line of credit, each eligible entity that submits an application shall—

(i) certify in writing that the entity shall use such funds as part of a revolving fund to invest in, and make or guarantee loans to, local businesses in accordance with this chapter; and

(ii)(I) agree to provide matching funds (Federal funds shall not be used to satisfy such matching requirement) in amounts that are at least equal to the amount of the line of credit to be provided by the Board, that shall be in the form of—

(aa) cash or cash equivalents; or

(bb) letters of credit in favor of the eligible entity issued or submitted by depository institutions (as defined in section 3(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(1)), insurance compa-

nies, similar Federally regulated financial institutions, State owned banks, local or State government or private philanthropic foundations, as determined appropriate and acceptable by the Board; or

(II) demonstrate, through procedures determined appropriate and acceptable by the Board, that depository institutions (as so defined) or community development credit unions described in section 2312(a) of this Act, are prepared to participate with the eligible entity in a loan, guarantee, or investment program for the benefit of local businesses, and that the total financial commitment demonstrated by the letters of intent or other documents is at least equal to the value of the line of credit for which the eligible entity is applying.

**(B) EXCEPTION FOR CERTAIN ELIGIBLE ENTITIES.—**

(i) **LOW PER CAPITA INCOME AREAS.**—If the average per capita income level of the identified rural areas served by an eligible entity is less than 70 percent of the national average per capita income for the most recent year for which such information is available, such eligible entity shall only be required to match 50 percent of the funds provided by the Board in the same manner as described in subclause (I) or (II) of subparagraph (A)(ii). A list of the average per capita income and population of each county in the United States that contains rural areas, and the national average per capita income for such year, shall be published in the Federal Register and otherwise made available by the Board to the public.

**(ii) INDIAN TRIBAL COUNCIL PARTICIPATION.—**

(I) **IN GENERAL.**—Community or tribal development corporations operated by Federally recognized tribal councils that desire to administer a local revolving fund may participate in the program established under this chapter if such corporations meet the rules and procedures established under this chapter that are determined by the Board to be pertinent.

**(II) ESTABLISHMENT OF SPECIAL RULES AND PROCEDURES.—**

(aa) **IN GENERAL.**—Not later than 220 days after the date of enactment of this Act, the Board shall establish rules and procedures to enable such community or tribal development corporations serving rural areas located on Federally recognized reservations (including former reservations in Oklahoma) to participate in the program established under this chapter through the operation of revolving funds used for investing in, and making or guaranteeing loans to, new or expanding local businesses.



(bb) **CONTENTS.**—Rules and procedures established under item (aa) shall be established to ensure that development corporations that receive Federal lines of credit under this chapter serve needy reservation areas, including areas that have low per capita income, high unemployment, high poverty rates, depressed or lagging local economies, and other factors determined appropriate by the Board.

(III) **MATCHING REQUIREMENTS.**—The requirements of subsection (c)(3) and section 2314(d) concerning the provision of matching funds and the requirement of partnerships for loans, and any related matching requirements, shall not apply to the development corporations receiving assistance under this clause.

(4) **REAPPLICATION FOR LINES OF CREDIT.**—

(A) **IN GENERAL.**—An eligible entity that has received a line of credit under this section may reapply in subsequent years for additional lines of credit if the Board makes a determination that—

(i) the applicant has demonstrated that the funds previously allocated under such line of credit have been substantially obligated and that additional demand for lending, investment, or guaranteed funding exists in the service area of the applicant;

(ii) the applicant will meet the matching requirements under subsection (c)(3); and

(iii) the applicant has administered the revolving fund consistent with this chapter and has the capacity to administer additional funds in the same manner.

(B) **PRIORITY.**—Eligible entities qualified to receive an initial line of credit or that will serve a service area not served by another entity shall receive priority over any applicant seeking a second or subsequent line of credit.

(5) **MONITORING COMPLIANCE.**—The Board shall establish procedures to monitor the compliance of each eligible entity participating in the program authorized by this chapter with the requirements of this chapter.

(6) **ELIGIBLE ENTITY REVOLVING FUND REQUIREMENT.**—To be eligible to receive a line of credit from the Rural Fund, the applicant eligible entity shall—

(A) demonstrate its ability or potential capacity to make sound business, lending, and investment decisions and to provide business counseling and technical assistance;

(B) demonstrate its ability to operate consistent with the requirements of this chapter and to increase the availability of credit in rural areas to promote the creation or expansion of viable businesses in rural areas;

(C) identify the proposed service area and define a strategy for serving that area that should describe such characteristics as similar industrial, labor, or other markets, similar geographic or socioeconomic conditions, or other related considerations, and, to the extent that such area includes

any towns or townships, make a commitment to serve such towns or townships in their entirety;

(D) provide an assurance that its service area will consist of—

(i) all rural areas in a county if the median household income of the county is less than the Statewide nonmetropolitan median household income; or

(ii) identified rural areas in a county if—

(I) the median household income of the county is not less than the Statewide nonmetropolitan median household income; and

(II) the median household income of each rural city, town, or township to be served, and of each separate contiguous rural area to be served, is less than the Statewide nonmetropolitan median household income;

(iii) identified rural areas in a State in which the average per capita income is less than 70 percent of the nationwide per capita income; or

(iv) any county where the net migration population loss is at least 5 percent or greater from April 1, 1980, to July 1, 1987, as reported by the Census Bureau of the Department of Commerce; and

(E) provide a notification that an application has been filed with the Board to each county or other local unit of government having jurisdiction over some or all of the proposed service area under procedures developed by the Board.

(7) **FACTORS IN APPROVAL OF APPLICATIONS.**—In determining which applications to approve, and the maximum amount of funds to be offered in each line of credit, the Board shall grant a preference to eligible entities—

(A) that have experience in serving local credit or equity needs and in making sound business and investment decisions, or that have the ability to serve such needs and make such decisions;

(B) whose boards of directors (or governing bodies if no such board exists) are composed of a cross-section of individuals (such as individuals with backgrounds in business, community development, or regional development, individuals who are State, local, or county government officials, or individuals involved in banking, financial, or other investment activities);

(C) that are likely to stimulate significant job creation or retention and new business creation or business expansion per dollar of funds provided under this section;

(D) that submit applications that demonstrate the ability and willingness to provide to local businesses continuing technical and management assistance, training, financial and business guidance, and planning;

(E) that demonstrate that the activities of the eligible entity are consistent with State, county, or local goals, whichever is applicable, regarding long-term economic growth and community development;

(F) that submit applications containing a comprehensive investment strategy, developed in consultation with the applicable State, regional council or government, and county or other general purpose unit of local government; and

(G) that propose to serve a service area—

(i) whose unemployment or poverty rates exceed the Statewide nonmetropolitan average;

(ii) with special needs arising from actual or threatened severe unemployment arising from economic dislocation; or

(iii) that includes any county in which the net migration population loss is at least 5 percent or greater from April 1, 1980, to July 1, 1987, as reported by the Census Bureau of the Department of Commerce.

**(8) GEOGRAPHIC SPREAD.—**

(A) **IN GENERAL.**—In awarding lines of credit under this section the Board shall attempt, as much as reasonably practicable and consistent with sound financial judgment, to assure that all rural regions of the United States benefit from such awards.

(B) **MINIMUM AMOUNT OF FUNDS.**—After considering the availability of qualified applications, and if consistent with good investment practices and the other requirements of this chapter, the Board shall approve the application of at least one eligible entity in each State selected under section 2310(b)(1). The Board shall, to the maximum extent practicable and appropriate, ensure that eligible entities that are approved by the Board in any given State receive at least \$750,000 (per State) out of the funds provided under subsection (d). In addition, to the maximum extent practicable the Board shall approve the applications of at least two eligible entities in each State containing an approved eligible entity.

(C) **MAXIMUM AMOUNT OF FUNDS.**—The total amount of funds provided under this chapter to eligible entities in any State shall not exceed \$10,000,000.

**(D) SPECIAL PROGRAM.—**

(i) **IN GENERAL.**—The Board shall issue regulations to establish a program that targets the benefits of the Federal lines of credit provided under this section to those rural areas and residents with special needs.

(ii) **LIMITS.**—If consistent with sound investment practices, not less than 5 percent, nor more than 15 percent, of the funds appropriated under subsection (d) shall be issued to eligible entities that will serve—

(I) local businesses located in very distressed rural areas, as defined by the Board, that may include areas with special needs arising from actual or threatened severe unemployment which results from economic dislocation; and

(II) local businesses that provide beneficial services to rural residents such as improved medical, hospital, or health care, licensed day care facilities or centers, improved services for the handicapped,

the disabled, the elderly or other needy individuals, improved educational opportunities, improved public transportation services for needy individuals, or other related services as determined appropriate by the Board.

(d) **LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.**—To carry out this chapter, there are authorized to be appropriated to the Rural Fund and the Board \$10,000,000 for fiscal year 1992, \$8,600,000 for fiscal year 1993, \$6,700,000 for fiscal year 1994, and \$4,700,000 for each of fiscal years 1995 and 1996. Amounts appropriated under this subsection shall remain available until expended or until the Board is terminated.

(e) **RELOCATION AND REFINANCING.**—The Board shall establish rules and procedures to prohibit eligible entities from using the assistance received under this chapter for loans and investments, or for issuing guarantees, that would—

(1) facilitate the relocation of a local business from one community to another;

(2) refinance the existing debt of a local business, except that such refinancing may be undertaken with such assistance if it is undertaken in conjunction with a substantial expansion effort by the local business; or

(3) significantly reduce the viability of a then existing business engaged in substantially the same business activities in the same community.

#### **SEC. 2314. LOCAL REVOLVING FUNDS.**

##### **(a) ESTABLISHMENT.—**

(1) **IN GENERAL.**—Each eligible entity approved by the Board to participate in the program established under this chapter shall establish a local revolving fund account in which to deposit—

(A)(i) amounts received from the Fund under this chapter;

(ii) any local matching funds described in section 2313(c)(3)(A); and

(iii) any profits or income, repayments of loans, proceeds from the sale of equity investments, or other gains or returns on investments or loans, derived from the activities of the revolving fund established under this subsection; less

(B) reasonable operating expenses or losses incurred in administering such fund.

(2) **PLACE OF ESTABLISHMENT.**—Each local revolving fund established under this subsection may be established in one or more member banks of the Federal Reserve System, any Federally insured State nonmember bank (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), or any State owned bank whose deposits are backed by the full faith and credit of the State, and the funds, except as provided in subsection (b) of this section, shall be held in cash and receive interest or be invested in direct obligations of the United States or in obligations guaranteed by the United States or an agency thereof.

(b) **USE OF FUND.**—Amounts in a local revolving fund may be used—

(1) to provide loans or equity capital, or loan guarantees, to approved local businesses as authorized in this chapter, under procedures established by the Board;

(2) to cover the costs of providing training, business or financial planning, or management or technical assistance to approved local businesses in amounts that do not exceed amounts or levels described in standards established by the Board;

(3) if financial investments are made in the eligible entity, in accordance with item (aa) or (bb) of section 2313(c)(3)(A)(ii)(I), to provide for a return of capital to non-Federal investors in the revolving fund, except that if such revolving fund experiences capital or other losses the share of returned capital under this paragraph shall be proportionately, or otherwise appropriately reduced to reflect such losses, under procedures established by the Board; or

(4) to cover reasonable operating or capital expenses, losses, or for other charges as prescribed in rules or standards established by the Board.

(c) **DECISIONS CONCERNING FUNDING.**—Eligible entities that receive a line of credit under section 2313 shall make case-by-case determinations concerning applications submitted by each local business for loans, equity capital, or loan guarantees, under general procedures and requirements established by the Board.

(d) **REQUIREMENT OF PARTNERSHIPS FOR LOANS OR INVESTMENTS.**—Funds in each local revolving fund shall be loaned, invested, or used to provide a guarantee, only if one or more depository institutions (as defined in section 3(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(1)) or community development credit unions described in section 2312(a) of this Act, under procedures established by the Board, match each investment or loan made by each such revolving fund to each such local business, on at least a dollar-for-dollar basis, or provide the funds for the loans that are guaranteed by such local revolving fund.

(e) **INVESTMENT SIZE LIMITS.**—

(1) **IN GENERAL.**—

(A) **AMOUNT PER LOCAL BUSINESS.**—The amount of Federal funds provided from any revolving fund for use in making loans or investments, or available regarding each guarantee, shall not exceed \$250,000 in any given calendar year, to any single approved local business or to other local businesses that are financially connected or otherwise related to such local business as defined by the Board.

(B) **OTHER SOURCES.**—This chapter shall not be construed to limit the total amount of loans, investments, or guarantees that each local business may receive from sources other than eligible entities.

(C) **PROCEDURES.**—In implementing this paragraph the Board shall develop procedures to establish, impute, or determine the amount of Federal funds that shall be considered available in the revolving funds created by approved eligible entities.

(2) **INELIGIBILITY.**—Any local business that employs 100 or more employees shall not be eligible to receive assistance from a local revolving fund that receives assistance under this chapter.

(f) **SUBORDINATED INTEREST OF LOCAL REVOLVING FUND.**—If a depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(1))) or a community development credit union described in section 2312(a) of this Act has made an investment or loan in a local business in conjunction with an investment or loan made out of the revolving fund of an approved eligible entity, the amount invested or loaned by such revolving fund in such local business may be subordinated to any degree and in any manner.

(g) **OTHER INVESTORS.**—A depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(1))), community development credit union described in section 2312(a) of this Act, similar Federally regulated financial institution, State owned bank, local or State government, private philanthropic foundation, or other entity that contributes capital to an eligible entity that receives Federal assistance under this chapter may establish contractual arrangements with such eligible entity concerning the return of such investments in the local revolving fund consistent with subsection (b)(3).

(h) **ADDITIONAL CAPITAL.**—The Board shall promulgate regulations that provide each participating eligible entity with a sufficient amount of time to obtain additional capital, lines of credit, or letters of intent, if any investor, pursuant to the contract with the eligible entity under subsection (g), withdraws some or all of its investment.

(i) **CONTINUATION OF LINE OF CREDIT.**—A line of credit provided to an approved eligible entity under section 2313 for use in a local revolving fund shall be available to be drawn upon until the Investment Board is terminated or until the line of credit is canceled, revoked, or suspended by the Board or the Secretary as described in section 2315 or subsection (l) of this section.

(j) **CONTINUATION OF BUSINESS PROMOTION ACTIVITIES.**—The Federal assistance provided to any eligible entity under this chapter shall become the property of such entity on the termination of the Investment Board if—

(1) the Board determines that the eligible entity that administers the local revolving fund has operated the fund in a manner that is consistent with this chapter; and

(2) the eligible entity contracts with the Secretary to continue to provide lending, investment, and guarantee assistance consistent with this chapter.

(k) **DEVELOPMENT OF MONITORING PROCEDURES.**—On and after the date on which the Investment Board is terminated, the Secretary shall act in place of the Board and shall monitor the operations of eligible entities that receive Federal assistance under this chapter which continue to exist on such date.

(l) **REFUND OF FUNDS.**—Notwithstanding subsection (j), and in addition to any actions taken under section 2315, if the Secretary finds that the purpose of any eligible entity is no longer to promote business development in a manner consistent with this chapter, the Secretary shall revoke the approval of the eligible entity, obtain a

refund in an amount equal to the amount of funds drawn out of the Federal line of credit issued to the eligible entity together with an appropriate amount of interest on such amount, as determined by the Secretary, and succeed to, or acquire the rights, privileges, and assets, investments of, and the payments due from such eligible entity, as described in section 2315(h).

**(m) ANNUAL REPORTS TO THE BOARD.—**

(1) **IN GENERAL.**—Each eligible entity that receives assistance under this chapter shall annually prepare and submit to the Board, at such time and in such form as the Board may require, a report describing the financial condition of the eligible entity, and the investments, cash revenues, income from investments, loans made, equity positions taken, guarantees issued, losses sustained or taken, any training, business, or technical assistance, or financial planning provided, operating expenses, loss rates, and such other matters as the Board determines appropriate concerning the eligible entity.

(2) **POST TERMINATION.**—After the Board terminates under subsection (n), the reports required under paragraph (1) shall be submitted to the Secretary who shall stand in the same position as the Board.

(n) **TERMINATION OF BOARD.**—The Investment Board established by section 2312(a) shall terminate on the last day of the 5th calendar year following the date of enactment of this chapter and on and after such date the Secretary shall act in place of such Board.

**SEC. 2315. COMPLIANCE AND ENFORCEMENT.**

**(a) REVOCATION OR CANCELLATION OF LINE OF CREDIT AND REFUND.—**

(1) **GROUND FOR REVOCATION.**—The Board shall revoke or suspend a line of credit, and shall request a full or partial refund of the Federal investment, with an appropriate amount of interest—

(A) for false statements knowingly made in any written statement required under this chapter, or under any regulation or Federal Register notice issued under this chapter;

(B) if any written statement required under this chapter, or under any regulation or Federal Register notice issued under this chapter, fails to state a material fact necessary in order to make the statement not misleading in the light of the circumstances under which the statement was made;

(C) for willful or repeated violation of, or willful or repeated failure to observe, any provision of this chapter;

(D) for willful or repeated violation of, or willful or repeated failure to observe, any rule or regulation authorized under this chapter; or

(E) for violation of, or failure to observe, any cease and desist order issued by the Board under this subsection.

(2) **CANCELLATION OF LINE OF CREDIT.**—Notwithstanding any action taken under paragraph (1), the Board may cancel any prospective payments to be made from any approved line of credit under this chapter if the Board determines that the eligible entity participating in the program established under this

chapter made an investment, or acted in a manner, that was inconsistent with any provision of this chapter.

(3) **CEASE AND DESIST ORDERS.**—If an eligible entity has not complied with any provision of this chapter, or of any regulation issued pursuant thereto, or is engaging or is about to engage in conduct that constitutes or will constitute a violation of this chapter or such regulation, the Board may order such entity to cease and desist from such conduct. The Board may further order such entity to take such action or to refrain from such action as the Board determines necessary to ensure compliance with this chapter and the regulations issued thereunder.

(4) **ORDER TO SHOW CAUSE, CONTENTS, AND HEARING.**—

(A) **ORDER.**—Prior to revoking or suspending a line of credit under paragraph (1) or (2), or issuing a cease and desist order under paragraph (3), the Board shall serve on the eligible entity an order to show cause why an order revoking or suspending the line of credit or a cease and desist order should not be issued.

(B) **CONTENTS.**—An order to show cause under subparagraph (A) shall contain a statement of the matters of fact and law asserted by the Board and the legal authority and jurisdiction under which a hearing is to be held, and shall state that a hearing will be held before the Board at a time and place stated in the order.

(C) **HEARING.**—If, after a hearing under subparagraph (B) or a waiver thereof, the Board determines on the record that an order revoking or suspending the line of credit, or a cease and desist order should be issued, or an order requiring a refund of the Federal investment in addition to reasonable interest thereon should issue, the Board shall promptly issue such order, which shall include a statement of the findings of the Administration and the reasons for such findings and specify the effective date of the order, and shall cause the order to be served on the entity.

(5) **SUBPOENA OF PERSONS, BOOKS, PAPERS, AND DOCUMENTS; FEES AND MILEAGE; ENFORCEMENT.**—

(A) **SUBPOENA.**—The Board may require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to the hearing from any place in the United States.

(B) **FEES AND MILEAGE.**—Witnesses summoned before the Board shall be paid by the party at whose instance such witnesses were called the same fees and mileage that are paid witnesses in the courts of the United States.

(C) **ENFORCEMENT.**—In the case of disobedience to a subpoena under this paragraph, the Board, or any party to a proceeding before the Board, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents.

(6) **PETITION TO MODIFY OR SET ASIDE ORDER; FILING, TIME AND PLACE, ADMINISTRATION TO SUBMIT RECORD; ACTION OF COURT; REVIEW.**—



(A) *IN GENERAL.*—An order issued by the Board under this subsection shall be final and conclusive unless not later than 30 days after the service thereof the eligible entity appeals to the United States court of appeals for the circuit in which such corporation has its principal place of business by filing with the clerk of such court a petition praying that the order of the Board be set aside or modified in the manner stated in the petition.

(B) *FILING.*—

(i) *LEAVE OF COURT.*—After the expiration of the 30-day period referred to in subparagraph (A), a petition may be filed only by leave of court on a showing of reasonable grounds for failure to file the petition prior to the expiration of such period.

(ii) *CERTIFICATION.*—The clerk of the court shall, on filing, cause a copy of the petition to be delivered to the Board and the Board shall certify and file in the court a transcript of the record on which the order was entered. If prior to the filing of such record the Board amends or sets aside its order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, after providing notice to the Board.

(C) *STAY OR SUSPENSION OF ORDER.*—The filing of a petition for review under this paragraph shall not of itself stay or suspend the operation of the order of the Board, but the court of appeals in its discretion may restrain or suspend, in whole or in part, the operation of the order pending the final hearing and determination of the petition.

(D) *ACTION BY COURT.*—The court may affirm, modify, or set aside the order of the Board.

(E) *ADDITIONAL EVIDENCE.*—

(i) *DETERMINATION.*—If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the Board to reopen the hearing for the taking of such evidence, in such manner and on such terms and conditions as the court may consider appropriate.

(ii) *FINDINGS.*—The Board may modify its findings as to the facts, or make new findings, by reason of the additional evidence taken under this subparagraph, and it shall file its modified or new findings and the amendments, if any, of its order, with the records of such additional evidence.

(F) *CONSIDERATION OF OBJECTIONS.*—The court shall not consider an objection to an order of the Board unless the objection was argued before the Board or, if it were not so argued, unless there were reasonable grounds for failure to do so.

(G) *REVIEW.*—The judgment and decree of the court affirming, modifying, or setting aside any such order of the Board shall be subject only to review by the Supreme Court of the United States on certification or certiorari as provided in section 1254 of title 28, United States Code.

(7) **ENFORCEMENT OF ORDER.**—If the entity against which or against whom an order is issued under this subsection fails to obey the order, the Board may apply to the United States court of appeals for the circuit where the entity has its principal place of business, for the enforcement of the order, and shall file a transcript of the record on which the order complained of was entered. On the filing of the application, the court shall cause notice thereof to be served on the entity. The evidence to be considered, the procedure to be followed, and the jurisdiction of the court shall be the same as is provided in paragraph (6) for applications to set aside or modify orders.

(b) **INVESTIGATIONS AND EXAMINATIONS.**—

(1) **AUTHORITY.**—

(A) **IN GENERAL.**—The Board may conduct such investigations as the Board considers necessary to determine whether an eligible entity has engaged in any conduct that constitutes or will constitute a violation of any provision of this chapter, of any regulation issued under this chapter, or of any order issued under this section.

(B) **FILING OF STATEMENTS.**—The Board shall permit any individual to file a statement with the Board in writing, under oath, or otherwise as the Board shall determine, as to all the facts and circumstances concerning the matter to be investigated.

(C) **SUBPOENA.**—For the purpose of any investigation under this subsection, the Board may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(D) **REFUSAL TO OBEY.**—In case of contumacy by, or refusal to obey a subpoena issued to, any individual, including an entity or corporation, the Board may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such individual resides or carries on business activity, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents, and such court may issue an order requiring such individual to appear before the Board, to produce records, if so ordered, or to give testimony touching the matter under investigation.

(E) **CONTEMPT.**—A failure to obey an order of the court under this subsection shall be punishable by such court as a contempt thereof. All process in any such case may be served in the judicial district where such individual is an inhabitant or wherever such individual may be found.

(2) **EXAMINATIONS AND REPORTS.**—

(A) **EXAMINATIONS.**—An eligible entity under this chapter shall be subject to examinations made by the Board through examiners selected or approved by the Board, and the cost of such examinations, including the compensation

of the examiners, may in the discretion of the Board be assessed against the entity examined and when so assessed shall be paid by such entity.

(B) **REPORTS.**—Such entities shall prepare and submit reports to the Board at such times and in such form as the Board may require.

(3) **EXAMINATIONS.**—Each eligible entity shall be examined and audited at least once every 2 years, under procedures established by the Board, to determine whether or not such entity has been operated in a manner consistent with this chapter and in an otherwise lawful manner, except that the Board may defer the examination for not more than 1 year if, in its discretion, the Board determines that such a deferral would be appropriate based on the prior operating experience of the entity, the contents and results of the last examination of the entity, and the management expertise of the entity.

(c) **INJUNCTIONS OR OTHER ORDERS.**—

(1) **GROUND'S AND JURISDICTION OF COURT.**—If, in the judgment of the Board, an eligible entity has engaged or is about to engage in conduct that constitutes or will constitute a violation of any provision of this chapter, of any regulation under this chapter, or of any order issued under this section, the Board may apply to the proper district court of the United States or a United States court located in any jurisdiction subject to the laws of the United States, for an order enjoining such conduct or enforcing compliance with such provision, rule, regulation, or order. Such court shall have jurisdiction over such conduct and, on a showing by the Board that such entity has engaged in or is about to engage in such conduct, may issue a permanent or temporary injunction, restraining order, or other order without bond.

(2) **EQUITY JURISDICTION OF CORPORATION AND ASSETS.**—In any proceeding under this section, the court as a court of equity may, to such extent as it considers necessary, declare that such court has exclusive jurisdiction over the entity and the assets thereof, wherever located. Such court shall have jurisdiction in any such proceeding to appoint a trustee or receiver to hold or administer under the direction of the court the assets so possessed.

(3) **TRUSTEESHIP OR RECEIVERSHIP.**—The Board shall have authority to act as trustee or receiver of an entity under this section. On request by the Board, the court may appoint the Board to act in such capacity unless the court determines such appointment to be inequitable or otherwise inappropriate because of the special circumstances involved.

(d) **UNLAWFUL ACTS AND OMISSIONS BY OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS.**—

(1) **VIOLATION OF CHAPTER.**—It shall be unlawful for any eligible entity to violate any provision of this chapter or any regulation issued under this chapter, or for any individual, directly or indirectly, to authorize, order, or participate in, or cause, bring about, counsel, aid, or abet conduct that constitutes or will constitute, in whole or in part, such a violation.

(2) **BREACH OF FIDUCIARY DUTY.**—It shall be unlawful for any officer, director, employee, agent, or other participant in the management or conduct of the affairs of an eligible entity to engage in conduct, in breach of the fiduciary duty of such individual or such officer, director, employee, agent, or participant, if, as a result thereof, the entity has suffered or is in imminent danger of suffering financial loss or other damage.

(3) **DISQUALIFICATION OF OFFICERS AND EMPLOYEES.**—Except on the written consent of the Board, it shall be unlawful for any individual to take or continue to hold office as an officer, director, or employee of an eligible entity, or become or continue to be an agent or participate in the conduct of the affairs or management of an eligible entity if such individual has been—

(A) convicted of a felony, or of any other criminal offense involving dishonesty or breach of trust; or

(B) found civilly liable in damages, or has been permanently or temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any conduct involving fraud or breach of trust.

(e) **PENALTIES AND FORFEITURES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), an eligible entity that violates any regulation or written directive issued by the Board requiring the filing of any regular or special report under this chapter, shall forfeit and pay to the United States a civil penalty of not more than \$100 for each and every day of the continuance of the corporation's failure to file such report, unless the entity demonstrates that such failure is due to reasonable cause and not due to willful neglect. The civil penalties provided for in this subsection shall accrue to the United States and may be recovered in a civil action brought by the Board.

(2) **EXEMPTION.**—At any time before a failure under paragraph (1), and after notice and opportunity for hearing, the Board may through rules and regulations, or on application of an interested party, by order, exempt in whole or in part, any entity from the provisions of paragraph (1), on such terms and conditions and for such period of time as the Board determines necessary and appropriate, if the Board finds that such action is not inconsistent with the public interest or the protection of the Board. The Board may for purposes of this subsection impose any alternative requirements appropriate to the situation.

(f) **JURISDICTION AND SERVICE OF PROCESS.**—Any suit or action brought under this section by the Board to enforce any liability or duty created by, or to enjoin any violation of, this chapter, or any rule, regulation, or order promulgated thereunder, shall be brought in the district in which the eligible entity maintains its principal office, and process in such cases may be served in any district in which the defendant maintains its principal office or transacts business, or wherever the defendant may be found.

(g) **SUBSTITUTION OF SECRETARY.**—On the termination of the Board, the Secretary shall stand in place of the Board and shall possess all the powers, privileges, and rights regarding compliance and enforcement described in this section and in section 2314.

(h) **REVOCATION, SUSPENSION, OR TERMINATION.**—If the approval of any eligible entity to participate in this program is revoked, suspended, or terminated, or if the activities of the eligible entity otherwise end, the Board, or the Secretary, upon the termination of the Board, shall—

- (1) possess all the rights and privileges of such eligible entity;
- (2) succeed to the assets of such eligible entity to the extent necessary to obtain a refund of any amounts due to the Board or the Secretary;
- (3) be entitled to receive any payments due to such eligible entity from any local businesses on any outstanding loans; and
- (4) take over any equity investment held by such eligible entity.

### CHAPTER 3—RURAL ECONOMIC DEVELOPMENT REVIEW PANELS

#### SEC. 2316. DELIVERY OF CERTAIN RURAL DEVELOPMENT PROGRAMS.

(a) **IN GENERAL.**—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding after the section added by section 2301(a)(1) of this Act the following new sections:

#### “SEC. 365. SYSTEM FOR DELIVERY OF CERTAIN RURAL DEVELOPMENT PROGRAMS.

“(a) **IN GENERAL.**—

“(1) **ASSISTANCE IN ELIGIBLE STATES.**—Assistance under each designated rural development program shall be provided in eligible States to qualified projects in accordance with this section.

“(2) **NO ASSISTANCE IN OTHER STATES.**—The Secretary shall not provide assistance under any designated rural development program in any State that is not an eligible State.

“(b) **DEFINITIONS.**—As used in this section and section 366:

“(1) **AREA PLAN.**—The term ‘area plan’ means, with respect to a local or regional area in a State, the long-range rural development plan developed for the area. Each area plan shall identify the geographical boundaries of the area and include—

“(A) an overall development plan for the area with goals, including business development and infrastructure development goals, and time lines based on a realistic assessment of the area, including, but not limited to—

“(i) the number and types of businesses in the area that are growing or declining, and a list of the types of businesses that the area could potentially support;

“(ii) the outstanding need for water and waste and other public services or facilities in the area;

“(iii) the realistic possibilities for industrial recruitment in the area;

“(iv) the potential for the development of tourism in the area;

“(v) the potential for the generation of employment in the area through the creation of small businesses and the expansion of existing businesses; and

“(vi) the potential for the production of value-added agricultural products in the area;

"(B) an inventory and assessment of the human resources of the area, including, but not limited to—

"(i) a current list of organizations in the area and their special interests;

"(ii) the current level of participation of area residents in rural development activities and the level of participation required for successful implementation of the plan;

"(iii) the availability of general and specialized job training in the area and the extent to which the needs of the area for such training are not being met;

"(iv) a list of area residents with special skills which could be useful in developing and implementing the plan; and

"(v) an analysis of the human needs of the area, the resources in the area available to meet those needs, and the manner in which the plan, if implemented, would increase the resources available to meet those needs;

"(C) the current degree of intergovernmental cooperation in the area and the degree of such cooperation needed for the successful implementation of the plan;

"(D) the ability and willingness of governments and citizens in the area to become involved in developing and implementing the plan;

"(E) a description of how the governments in the area will apply budget and fiscal control processes to the plan; and

"(F) the extent to which public services and facilities need to be improved to achieve the economic development and quality of life goals of the plan, taking into consideration, at a minimum—

"(i) law enforcement;

"(ii) fire protection;

"(iii) water and solid waste management;

"(iv) education;

"(v) health care;

"(vi) transportation;

"(vii) housing;

"(viii) communications; and

"(ix) the availability of, and capability to generate, electric power.

"(2) **DESIGNATED RURAL DEVELOPMENT PROGRAM.**—The term 'designated rural development program' means a program carried out under section 304(b), 306(a), or subsections (a) through (f) and (h) of section 310B of this Act, or under section 1323 of the Food Security Act of 1985, for which funds are available at any time during the fiscal year under such section.

"(3) **ELIGIBLE STATE.**—

"(A) **REQUIREMENTS.**—The term 'eligible State' means, with respect to a fiscal year, a State to which this section is made applicable under section 2310(b)(2) of the Rural Economic Development Act of 1990, and with respect to which all of the following apply not later than the first day of the fiscal year:

"(i) **ESTABLISHED RURAL ECONOMIC DEVELOPMENT REVIEW PANEL.**—The State has established an advisory rural economic development review panel that meets the requirements of section 366.

"(ii) **APPOINTED STATE COORDINATOR.**—The Governor of the State has appointed an officer or employee of the State government to—

"(I) manage, operate, and carry out the instructions of, the panel described in clause (i);

"(II) serve as a liaison between the panel and the Federal and State agencies involved in rural development, including transmitting to the Secretary any list transmitted to the State coordinator pursuant to section 366(b)(6);

"(III) ensure that all rural residents in the State are informed about the manner in which assistance under designated rural development programs is to be provided to the State pursuant to this section and section 366;

"(IV) provide information to State residents, on request, about the manner in which assistance under designated rural development programs is to be provided to the State pursuant to this section and section 366; and

"(V) coordinate the efforts of interested rural residents with the State rural economic development review panel.

"(iii) **DESIGNATED AGENCY TO PROVIDE ADMINISTRATIVE SUPPORT TO PANEL.**—The State has designated an agency to provide the panel and the State coordinator with support for the daily operation of the panel described in clause (i).

"(B) **GOOD FAITH EXCEPTION.**—Notwithstanding the requirements of subparagraph (A), the Secretary of Agriculture may determine, no later than the first day of the fiscal year, a State to be an eligible State under this paragraph for the fiscal year if the Secretary determines that the State has made a good faith effort to meet, and has substantially met, such requirements.

"(4) **QUALIFIED PROJECT.**—The term 'qualified project' means any project—

"(A) for which the agency described in paragraph (3)(C) of the State has identified—

"(i) the alternative Federal, State, local, or private sources of assistance; and

"(ii) the related activities in the State; and

"(B) to which the Secretary is required by subsection (c)(4) to provide assistance.

"(5) **STATE COORDINATOR.**—The term 'State coordinator' means the individual appointed by the Governor of the State to carry out the activities described in paragraph (3)(B).

"(6) **STATE RURAL ECONOMIC DEVELOPMENT REVIEW PANEL.**—The term 'State rural economic development review panel' or

'panel' means an advisory panel that meets the requirements of section 366.

**"(c) DUTIES OF THE SECRETARY.**—The Secretary shall, with respect to each eligible State—

"(1) review the list, if any, transmitted pursuant to subsection 366(b)(6) by any State coordinator;

"(2) determine whether each project described in an application in the list meets the requirements of the rural development program under which the application seeks assistance;

"(3) remove from the list any application for a project that does not meet the requirements;

"(4) provide assistance, subject to available funds, to the projects in the applications remaining in the list after the list has (if necessary) been modified pursuant to paragraph (3), giving consideration to the order in which the applications for such projects are ranked by the respective State panel, and, if assistance is provided to any project without providing assistance to all projects ranked higher in priority by the panel than such project, report to the panel, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate within ten days of determining to fund such lower ranked project on the reasons for that determination;

"(5) within thirty days after the date of the enactment of any Act providing appropriations for any designated rural development program for any fiscal year, notify each State of the amounts to be made available to such State under such program for such fiscal year, and the aggregate for such fiscal year of such amounts under all the designated rural development programs;

"(6) pay per diem or otherwise reimburse each full-time officer or employee of the United States who is a member of a State rural economic development review panel for expenses incurred each day (including travel time) during which the officer or employee is engaged in the actual performance of a duty of the panel;

"(7) from amounts appropriated for grants under any provision of section 306(a), make grants not to exceed \$100,000 annually to each eligible State for the administrative costs associated with the State rural economic development review panel meeting the requirements of section 366; and

"(8) appoint a member to the State rural economic development review panel as provided under section 366(c)(1)(P).

**"(d) OFFICIAL INFORMATION.**—The Secretary may appoint as non-voting members, temporarily and for specific purposes, personnel from any department or agency of the United States, with the consent of the head of such department or agency, with expertise not available among the members of any State rural economic development review panel as may be necessary to enable the panel to perform a duty described in section 366(b).

**"(e) ALLOCATION OF APPROPRIATED FUNDS.**—

"(1) **INITIAL ALLOCATION.**—The Secretary shall allocate the sums appropriated for direct loans, loan guarantees, or grants for any designated rural development program made available



to any eligible State under such program for any fiscal year to the projects specified in subsection (c)(4) giving great weight to the order in which the applications for such projects are ranked on the list specified in subsection (c)(1).

"(2) **EQUITABLE REALLOCATION OF UNOBLIGATED FUNDS.**—Notwithstanding paragraph (1), the Secretary shall, on July 15 of each year, and from time to time thereafter during the fiscal year as the Secretary determines appropriate, pool from among the eligible States any unobligated funds appropriated for direct loans, loan guarantees, or grants for each designated rural development program and reallocate such funds among the eligible States according to need, as determined by the Secretary.

"(f) **INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act shall not apply to any State rural economic development review panel.

"(g) **NO LIABILITY OF MEMBERS OF STATE RURAL ECONOMIC DEVELOPMENT REVIEW PANELS.**—The members of a State rural economic development review panel shall not be liable to any person with respect to any determination made by the panel.

"(h) **ELIGIBILITY FOR WATER AND WASTE FACILITY LOANS.**—

"(1) **RURAL ELECTRIFICATION PROGRAM BORROWERS.**—Notwithstanding any other provision of law, a borrower under title III of the Rural Electrification Act of 1936 shall be eligible to receive loans and grants under section 306 on an equal basis with any other applicant for such assistance, and the terms and conditions, rules, criteria and other provisions of section 306 shall apply to such a borrower. In the case of applications from such a borrower, the Administrator of the Rural Electrification Administration shall provide technical assistance with respect to water and waste facilities and loans and grants for such facilities.

"(2) **PROHIBITION ON RESTRICTING WATER AND WASTE FACILITY SERVICES TO ELECTRIC CUSTOMERS.**—The Secretary shall establish rules and procedures that prohibit borrowers under title III of the Rural Electrification Act of 1936 from conditioning or limiting access to, or the use of, water and waste facility services financed under the Consolidated Farm and Rural Development Act if such conditioning or limiting is based on whether individuals or entities in the area served or proposed to be served by such facility receive, or will accept, electric service from such borrower.

#### **"SEC. 366. STATE RURAL ECONOMIC DEVELOPMENT REVIEW PANEL.**

"(a) **IN GENERAL.**—In order for a State to become or remain an eligible State, the State must have a State rural economic development review panel that meets all of the requirements of this section.

"(b) **DUTIES.**—The panel must be required to advise the Secretary on the desirability of funding applications for funding from designated rural development programs, and, in developing such advice, the panel must have the following duties:

"(1) **REVIEW RURAL DEVELOPMENT PLANS OF LOCAL AREAS.**—To review each area plan submitted by a local or regional area.

**"(2) EVALUATE AREA PLANS AND APPLICATIONS FOR ASSISTANCE.—(A) AREA PLANS.**—To evaluate, pursuant to a written policy and criteria, each area plan submitted by a local or regional area and either—

"(i) accept any area plan that is technically and economically adequate, feasible, and likely to succeed in meeting the stated goals of the plan, unless the plan is incompatible with any other area plan for that area that has been accepted by the panel; or

"(ii) return any plan that is technically or economically inadequate, infeasible, unlikely to be successful, or incompatible with any other area plan for that area that has been accepted by the panel, with an explanation of the reasons for the return with suggested alternative proposals.

In evaluating area plans under this subparagraph, the panel must give great weight to the area plans or other comments submitted by intergovernmental development councils, or similar organizations made up of local elected officials, charged with the responsibility for rural or regional development.

**"(B) APPLICATIONS FOR ASSISTANCE.**—To evaluate each application for assistance to determine whether the project to be carried out in any area is compatible with the area plan for the area in which the project described in the application is proposed, and either—

"(i) accept any application that the panel determines to be compatible with such area plan; or

"(ii) return to the Rural Development Administration any application that the panel determines to be incompatible with such area plan.

**"(3) REVIEW AND RANK APPLICATIONS FOR ASSISTANCE UNDER DESIGNATED RURAL DEVELOPMENT PROGRAMS FROM AREAS WITH ACCEPTED AREA PLANS.**—To review applications for assistance, that have been accepted pursuant to paragraph (2)(B), for projects to be carried out in any area the area plan for which has been accepted pursuant to paragraph (2)(A), taking into account the sources of assistance and related activities identified pursuant to section 365(b)(4)(A), and to rank such applications, subject to paragraphs (4) and (5), pursuant to a written policy and criteria, in an order that takes into account—

"(A) in the case of business projects described in the application—

"(i) the extent to which a project would—

"(I) stimulate rural development by creating new jobs of a permanent nature or retaining existing jobs by enabling new small businesses to be started, or existing businesses to be expanded by local or regional area residents who own and operate the businesses,

"(II) contribute to the enhancement and the diversification of the local or regional area economy,

"(III) generate or retain jobs for local or regional area residents,

"(IV) be carried out by persons with sufficient managerial capability,

"(V) be likely to become financially viable, and

"(VI) assist a local or regional area in overcoming severe economic distress;

"(ii) the distribution of assistance to projects in as many areas as possible in the State, with sensitivity to geographical distribution;

"(iii) the technical aspect of the projects;

"(iv) the market potential and marketing arrangements for the projects; and

"(v) the potential of such project to promote the growth of a rural community by improving the ability of the community to increase the number of persons residing therein and by improving the quality of life of such persons; and

"(B) in the case of infrastructure and community facility projects described in the applications the extent to which a project would—

"(i) have the potential to promote the growth of a rural community by improving the quality of life for local or regional area residents;

"(ii) affect the health and safety of local or regional area residents;

"(iii) affect business productivity and efficiency;

"(iv) enhance commercial business activity;

"(v) have the potential to promote long-term growth, including by increasing the number of persons residing in a rural community;

"(vi) address a severe loss or lack of water quality or quantity;

"(vii) bring a community into compliance with Federal or State water or waste water standards; and

"(viii) consolidate water and waste systems and utilize management efficiencies in new systems.

"(4) **PRIORITY RANKING FOR PROJECTS ADDRESSING HEALTH EMERGENCIES.**—To give priority in reviewing and ranking, notwithstanding the criteria established in paragraph (3), to applications for projects designed to address a health emergency declared to be such by the appropriate Federal or State government agency.

"(5) **PRIORITY BASED ON NEED.**—If in ranking applications pursuant to paragraphs (3) and (4), 2 or more applications are determined to have comparable strengths in their feasibility and potential for growth, to give priority to the applications for projects for which there is the greatest need.

"(6) **TRANSMIT LIST OF RANKED APPLICATIONS.**—To transmit to the State coordinator a list of all applications received and indicate on the list—

"(A) for all applications accepted, the rank of such applications in accordance with paragraphs (3), (4) and (5); and

"(B) for all applications returned, the fact that the application was returned pursuant to paragraph (2) and instruct the State coordinator to transmit the list to the Secretary.

"(7) **AVAILABILITY OF LIST OF RANKED APPLICATIONS.**—To make available to the public the list of ranked applications sub-

mitted under paragraph (6) and to provide a brief explanation and justification of why the project applications received their prioritization.

"(8) **ESTABLISHMENT AND REVIEW OF WRITTEN POLICY AND CRITERIA FOR EVALUATING AND RANKING APPLICATIONS.**—To establish and annually review the written policy and criteria used by the panel in evaluating and ranking applications in accordance with this subsection to ensure that the policy and criteria are consistent with current rural developmental needs, and to provide for public input during the development of the initial policy and criteria.

"(c) **MEMBERSHIP.**—

"(1) **VOTING MEMBERS.**—The panel must be composed of not more than sixteen voting members who are representatives of rural areas—

"(A) one of whom is the Governor of the State or the person designated by the Governor to serve on the panel on behalf of the Governor for that year;

"(B) one of whom is the director of the State agency responsible for economic and community development or the person designated by the director to serve on the panel on behalf of the director for that year;

"(C) one of whom is appointed by a statewide association of banking organizations;

"(D) one of whom is appointed by a statewide association of investor-owned utilities;

"(E) one of whom is appointed by a statewide association of rural telephone cooperatives;

"(F) one of whom is appointed by a statewide association of noncooperative telephone companies;

"(G) one of whom is appointed by a statewide association of rural electric cooperatives;

"(H) one of whom is appointed by a statewide association of health care organizations;

"(I) one of whom is appointed by a statewide association of existing local government-based planning and development organizations;

"(J) one of whom is appointed by the Governor of the State from either a statewide rural development organization or a statewide association of publicly-owned electric utilities, neither of which is described in any of subparagraphs (C) through (I);

"(K) one of whom is appointed by a statewide association of counties;

"(L) one of whom is appointed by a statewide association of towns and townships, or by a statewide association of municipal leagues, as determined by the Governor;

"(M) one of whom is appointed by a statewide association of rural water districts;

"(N) the State director of the Federal small business development center (or, if there is no small business development center in place with respect to the State, the director of the State office of the Small Business Administration);

"(O) the representative for that State of the Economic Development Administration of the Department of Commerce; and

"(P) one of whom is appointed by the Secretary from among the officers and employees of the Federal Government.

"(2) **NONVOTING MEMBERS.**—The panel must have not more than four nonvoting members who must serve in an advisory capacity and are representatives of rural areas—

"(A) one of whom is appointed by the Governor, from names submitted by the dean, or the equivalent official, of each school or college of business of the colleges and universities in the State;

"(B) one of whom is appointed by the Governor, from names submitted by the dean, or the equivalent official, of each school or college of engineering of the colleges and universities in the State;

"(C) one of whom is appointed by the Governor, from names submitted by the dean, or the equivalent official, of each school or college of agriculture of the colleges or universities in the State; and

"(D) the director of the State agency responsible for extension services for the State.

"(3) **APPOINTMENT OF REPRESENTATIVES OF STATEWIDE ORGANIZATIONS BY THE GOVERNOR IN CERTAIN CASES.**—

"(A) **NO STATEWIDE ORGANIZATION.**—If there is no statewide association or organization described in subparagraph (C), (D), (E), (F), (G), (H), (I), (K), (L), or (M) of paragraph (1) of the entities described in such subparagraph, the Governor of the State will appoint an individual to fill the position or positions, as the case may be, described in the applicable subparagraph from among nominations submitted by local groups of such entities.

"(B) **MULTIPLE STATEWIDE ORGANIZATIONS.**—If there is more than one of the statewide associations or organizations described in subparagraph (C), (D), (E), (F), (G), (H), (I), (K), (L), or (M) of paragraph (1) of the entities described in such subparagraph, the Governor must select which organization is to name a member. The Governor must rotate such selection among such associations or organizations such that a representative of the selected association or organization serves no more than two years before another such association or organization is selected by the Governor.

"(4) **FAILURE TO APPOINT PANEL MEMBERS.**—The failure of the Governor, the Secretary of Agriculture, or an association or organization described in subparagraph (C), (D), (E), (F), (G), (H), (I), (K), (L), or (M) of paragraph (1) to appoint a member to the panel as required under this subsection shall not prevent a State from being determined to be an eligible State.

"(d) **NOTIFICATION.**—Each statewide organization that selects an individual to represent the organization on the panel must have notified the Governor of the State of the selection.

"(e) **QUALIFICATIONS OF PANEL MEMBERS APPOINTED BY THE GOVERNOR.**—Each individual appointed to the panel by the Governor of the State will be specially qualified to serve on the panel by virtue of the individual's technical expertise in business and community development.

"(f) **VACANCIES.**—A vacancy on the panel must be filled in the manner in which the original appointment was made.

"(g) **CHAIRPERSON AND VICE CHAIRPERSON.**—The panel must have selected two members of the panel who are not officers or employees of the United States to serve as the chairperson and vice chairperson of the panel for a term of one year.

"(h) **NO COMPENSATION FOR FEDERAL MEMBERS.**—Except as provided in section 365(c)(6), each member of the panel who is an officer or employee of the Federal Government may not receive any compensation or benefits, in addition to that which such officer or employee receives for performance of such officer or employee's regular employment, by reason of service on the panel.

"(i) **RULES GOVERNING PANEL MEETINGS.**—

"(1) **QUORUM.**—A majority of the members of the panel must constitute a quorum for the purpose of conducting business of the panel.

"(2) **FREQUENCY OF MEETINGS.**—The panel must meet not less frequently than quarterly.

"(3) **FIRST MEETING.**—The State coordinator must schedule the first panel meeting.

"(4) **RECORDS OF MEETINGS.**—The panel must keep records of the minutes of the meetings, deliberations, and evaluations of the panel, in sufficient detail to enable the panel to provide to interested persons the reasons for its actions."

(b) **CONFORMING AMENDMENT.**—Section 306(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(3)) is amended by striking "and not inconsistent" and all that follows through "undertaken for the area".

#### **SEC. 2317. LOAN AND LOAN GUARANTEE ALLOCATION AND TRANSFER.**

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding after the sections added by the preceding provisions of this subtitle the following:

#### **"SEC. 367. LIMITED TRANSFER AUTHORITY OF LOAN AMOUNTS.**

"(a) **TRANSFER OF FUNDS.**—If the sums appropriated for direct loans for the water and waste or community facility program authorized under section 306(a) and made available to any eligible State (within the meaning of section 365(b)(3)) under such program for the fiscal year are insufficient to enable the Secretary to provide the full amount of the assistance requested for a project specified in section 365(c)(4), the Secretary may transfer, subject to subsection (b) of this section, to one program from the other such program part or all of the sums appropriated for loans made available to the State for such other program.

"(b) **LIMITATION ON LOAN AMOUNTS TRANSFERRED.**—

"(1) **AMOUNTS TRANSFERRED WITHIN CERTAIN STATES.**—With regard to each eligible State (within the meaning of section 365(b)(3)), the amount of direct loan funds transferred from a program under this section shall not exceed the amount for

such program left unobligated after obligating to each project in an application ranked higher in priority on the list described in section 365(b)(6) the full amount of assistance requested for each such project.

"(2) AMOUNTS TRANSFERRED ON A NATIONAL BASIS.—With regard to all such eligible States, the amount of direct loan funds transferred in a fiscal year from a program under this section (after accounting for any offsetting transfers into such program) shall not exceed \$9,000,000.

**"SEC. 368. ALLOCATION AND TRANSFER OF LOAN GUARANTEE AUTHORITY.**

"(a) ALLOCATION OF LOAN GUARANTEE AUTHORITY.—The Secretary shall allocate among all States the amounts appropriated for loan guarantees under the water and waste or community facility program authorized under section 306(a), and the business and industry loan program authorized under section 310B, in a manner similar to that used for the allocation of direct loan and grant funds appropriated for such programs, and that the Secretary determines to be fair, reasonable, and appropriate.

**"(b) TRANSFER OF LOAN GUARANTEE AUTHORITY.—**

"(1) IN GENERAL.—If the sums appropriated for loan guarantees and made available to any eligible State (within the meaning of section 365(b)(3)) under a program specified in subsection (a) for the fiscal year are insufficient to enable the Secretary to provide the full amount of the assistance requested for a project specified in section 365(c)(4), the Secretary may transfer to the program from the other such programs part or all of the sums appropriated for loan guarantees made available to such eligible State for such other program for such fiscal year.

"(2) LIMITATION ON GUARANTEE AMOUNTS TRANSFERRED.—With regard to each such eligible State, the amount of loan guarantees transferred from a program under this section shall not exceed the amount for such program left unobligated after obligating to each project in an application ranked higher in priority on the list described in section 366(b)(6) the full amount of assistance requested for each such project."

## **Subtitle C—Water and Waste Facilities**

**SEC. 2321. INCREASE ON LIMITATION OF AUTHORIZATION FOR WATER AND WASTE GRANTS.**

Section 306(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(2)) is amended by striking "": Provided, That for fiscal years commencing after September 30, 1981, such grants may not exceed \$154,900,000 in any fiscal year".

**SEC. 2322. WATER AND WASTE FACILITY FINANCING.**

(a) AUTHORITY.—The Secretary of Agriculture shall make loans to individuals or entities who are borrowers under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.) (in this section referred to as the "borrower"), to the extent of qualifying applications therefor, to enable such borrowers to provide water and waste facility services in areas served by such borrowers.

(b) *LIMITATION.*—Loans made under subsection (a) shall not, unless otherwise specified by law, exceed an amount equal to 10 per cent of the total amount of insured loans under the Rural Electrification Act of 1936 authorized during the fiscal year in which such loan is made for rural electrification and telephone purposes, or \$40,000,000, whichever is less. Such limitations shall be in addition to the total amount of insured loans authorized for electrification and telephone purposes.

(c) *PRIORITY.*—In reviewing applications for loans under this section, the Secretary shall consider—

(1) whether the loan is necessary to enable the communities to be served to comply with applicable Federal or State environmental laws;

(2) whether the individuals residing in the area for which service is proposed, and any local government entities, are in favor of the borrower providing such services in the area;

(3) the income, unemployment, and other characteristics of the area to be served;

(4) the degree of deprivation faced by residents of the area to be served as a result of the lack of safe drinking water, adequate water supplies, sewage treatment and other waste disposal facilities;

(5) the impact that the availability of safe water supplies, waste disposal and similar services would be likely to have on enhancing the prospects for economic growth within the area to be served;

(6) the degree to which a loan that may be provided under this subsection is necessary to ensure that water and waste disposal services are available in the area to be served by such loan at costs that do not exceed those charged in other nearby areas;

(7) the impact of the proposed loan on the retention of the property and service territory of the borrower, or in protecting the security given on outstanding loans provided to the borrower; and

(8) whether the water and waste facility projects described in the application will duplicate any existing facilities, and whether the borrower will coordinate its water and waste facility operations with similar operations in the area, including efforts to achieve economies of scale through joint billing, collection, or other operations with nearby systems in order to reduce the costs, improve the operations, or otherwise assist such systems.

(d) *COORDINATION.*—

(1) *OTHER PROGRAMS AND REQUIREMENTS.*—

(A) *OTHER PROGRAMS.*—The Secretary shall ensure that the program established under this section is coordinated with the programs authorized and established under section 306 of the Consolidated Farm and Rural Development Act, and will attempt to coordinate the lending activities under this section with similar activities conducted by other entities.

(B) *REQUIREMENTS.*—Loans made under this section shall be subject, in the same manner as loans made under



section 306 of the Consolidated Farm and Rural Development Act, to the provisions of section 306(a)(9) and 306(a)(10) of such Act (which require approvals by State water pollution control agencies), sections 306(a)(19)(A) and (B) of such Act (which include certain requirements in connection with the technical design and choice of materials for water and waste systems), and section 306(b) of such Act (which concerns the curtailment or limitation of service).

(2) **ASSIGNMENT OF DUTIES.**—The Secretary shall determine whether the Rural Electrification Administration possesses greater expertise, as compared with the Farmers Home Administration, in the areas of utility accounting, utility management and financial analysis, advice and assistance, and other aspects of utility operations and engineering. If the Secretary determines that the Rural Electrification Administration possesses greater expertise in such areas, the Secretary shall require the Rural Electrification Administration to provide technical assistance, and assist in the processing of applications under this section.

(3) **PROHIBITION ON LIMITING ACCESS.**—The Secretary shall establish rules and procedures that prohibit borrowers from conditioning or limiting access to, or the use of, any water and waste facility services that are financed under this section. Such rules and procedures shall be based on whether individuals or entities in the area for which such facility is proposed receive, or will accept, electric service from such borrower.

(e) **TERMS.**—

(1) **IN GENERAL.**—Loans made under this section shall be for the same repayment period as insured loans made by the Administrator of the Rural Electrification Administration to such borrowers under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.) and interest rates on loans made under this section shall not exceed 5 percent.

(2) **INTEREST RATE.**—The Secretary shall determine the interest rate to be charged on loans made under this section on the basis of—

(A) ensuring that the cost to consumers for water and waste disposal services financed with loans provided under this section does not, to the extent possible, exceed rates charged in areas that are near the area served by the borrower;

(B) the income and other characteristics of the individuals to be served through the provision of such loans; and

(C) encouraging borrowers to obtain private sector capital, as provided for in subsection (f), to supplement loans made under this section.

(f) **PRIVATE SECTOR CAPITAL.**—

(1) **MATCHING FUNDS REQUIRED.**—The Secretary shall not provide assistance to a borrower under this section unless the borrower has made a commitment to the Secretary, and demonstrates to the Secretary that the borrower is able, to invest from its own funds an amount equal to the amount of assistance to be so provided.

(2) **INTEREST RATE REDUCTION AUTHORIZED.**—In order to facilitate the obtaining of private sector capital, the Secretary may, on a case-by-case basis, reduce the interest rate on loans provided under this section when such reduction is appropriate and will enable the borrower to obtain such private capital.

(g) **APPROPRIATIONS.**—The Secretary may make loans under this section to the extent provided for in appropriations Acts, except that during any fiscal year the amount of such loans, unless otherwise provided by law, shall not exceed 10 percent of the amount authorized for all insured loans under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.), or \$40,000,000, whichever amount is less. Funds appropriated under this subsection shall remain available until expended.

(h) **REPAYMENT.**—Appropriations made for purposes of this section shall be placed in a separate account. Advances on loans made under this section shall be made from such account, and payments on such loans shall be returned to the account for use by the account in making advances on future loans.

(i) **FULL USE.**—

(1) **IN GENERAL.**—Subject to paragraph (2) and (3) and any other limitations that may be imposed by law, during each fiscal year the Secretary shall undertake all reasonable efforts to make full use of any funds held by the account established under subsection (h).

(2) **CEILING ON LOANS.**—During any particular fiscal year the aggregate amount of the loans the Secretary may make under this section, from amounts in the account established under subsection (h) that are not attributable to repayments, shall be the lesser of—

(A) 10 percent of the amount of loans made under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.) during the fiscal year; or

(B) \$40,000,000.

(j) **REPLENISHMENT OF WATER AND WASTE FACILITY FUND.**—

(1) **CALCULATION OF TOTAL AMOUNT OF LOANS.**—At the end of each fiscal year the Secretary shall calculate—

(A) the total amount of loans made under this section during such fiscal year; and

(B) the amount of water or waste facility loans made under section 306 of the Consolidated Farm and Rural Development Act to borrowers described in subsection (a) of this section.

(2) **TRANSFER OF AMOUNTS.**—Notwithstanding subsections (g) and (i), if any amount appropriated under subsection (g) remains available at the end of any fiscal year—

(A) the Secretary shall transfer such available amount to the fund used to make water or waste facility loans under section 306 of the Consolidated Farm and Rural Development Act, to the extent not exceeding the amount of any loans made under such section 306 to borrowers under the Rural Electrification Act of 1936; and

(B) any such loan to such borrower made under such section 306 shall be—

- (i) subject to the terms, conditions and other requirements of section 306A; and
- (ii) repaid to the account established by subsection (h).

**SEC. 2323. WATER AND WASTE LENDING BY BANKS FOR COOPERATIVES.**

(a) **AUTHORIZATION.**—Section 3.7 of the Farm Credit Act of 1971 (12 U.S.C. 2128) is amended by adding at the end the following new subsection:

“(f) The banks for cooperatives may, for the purpose of the installation, expansion, or improvement of water and waste disposal facilities in rural areas, make and participate in loans and commitments and to extend other technical and financial assistance to—

“(1) cooperatives formed specifically for the purpose of establishing or operating such facilities; and

“(2) public and quasi-public agencies and bodies, and other public and private entities that, under authority of State or local law, establish or operate such facilities.

For purposes of this subsection, the term ‘rural area’ means all territory of a State that is not within the outer boundary of any city or town having a population of more than 20,000 based on the latest decennial census of the United States.”

(b) **CONFORMING AMENDMENT.**—Section 3.8(b)(1) of the Farm Credit Act of 1971 (12 U.S.C. 2129(b)(1)) is amended by adding at the end the following new subparagraph:

“(D) Any cooperative or other entity described in section 3.7(f).”

**SEC. 2324. RURAL WASTEWATER TREATMENT CIRCUIT RIDER PROGRAM.**

(a) **ESTABLISHMENT.**—The Secretary shall establish a national rural wastewater circuit rider grant program that shall be modeled after the existing National Rural Water Association Rural Water Circuit Rider Program that receives funding from the Farmers Home Administration.

(b) **LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$4,000,000 for each fiscal year to carry out the program established under subsection (a).

**SEC. 2325. TECHNICAL ASSISTANCE FOR CERTAIN SOLID WASTE MANAGEMENT.**

Section 310B(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(b)) is amended—

(1) by inserting “(1)” before “The Secretary”; and

(2) by adding at the end the following new paragraph:

“(2) The Secretary may make grants to nonprofit organizations for the provision of regional technical assistance to local and regional governments and related agencies for the purpose of reducing or eliminating pollution of water resources and improving the planning and management of solid waste disposal facilities. Grants made under this paragraph for the provision of technical assistance shall be made for 100 percent of the cost of such assistance.”

**SEC. 2326. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM.**

(a) **ESTABLISHMENT OF PROGRAM.**—Subtitle A of the Consolidated Farm and Rural Development Act is amended by inserting after section 306A (7 U.S.C. 1926a) the following new section:

**"SEC. 306B. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM.**

**"(a) IN GENERAL.**—The Secretary shall make grants in accordance with this section to assist the residents of rural areas and small communities to secure adequate quantities of safe water—

"(1) after a significant decline in the quantity or quality of water available from the water supplies of such rural areas and small communities; or

"(2) when repairs, partial replacement, or significant maintenance efforts on established water systems would remedy an acute shortage of quality water or would remedy a significant decline in the quantity or quality of water that is available.

**"(b) PRIORITY.**—In carrying out subsection (a), the Secretary shall give priority to projects described in subsection (a)(1), and provide at least 70 percent of all such grants to such projects.

**"(c) ELIGIBILITY.**—To be eligible to obtain a grant under this section, an applicant shall—

"(1) be a public or private nonprofit entity; and

"(2) in the case of a grant made under subsection (a)(1), demonstrate to the Secretary that the decline referred to in such subsection occurred within 2 years of the date the application for such grant was made.

**"(d) USES.**—

"(1) **IN GENERAL.**—Grants made under this section may be used for waterline extensions from existing systems, laying of new waterlines, repairs, significant maintenance, digging of new wells, equipment replacement, hook and tap fees, and any other appropriate purpose associated with developing sources of, or treating, storing, or distributing water, and to assist communities in complying with the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

"(2) **JOINT PROPOSALS.**—This section shall not preclude rural communities from submitting joint proposals for emergency water assistance, subject to the restrictions of subsection (e). Such restrictions should be considered in the aggregate, depending on the number of communities involved.

**"(e) RESTRICTIONS.**—Grants made under this section shall not be used to assist any rural area or community that—

"(1) includes any area in any city or town with a population in excess of 5,000 inhabitants according to the most recent decennial census of the United States; or

"(2) has a median household income in excess of the State nonmetropolitan median household income according to the most recent decennial census of the United States.

Not less than 75 percent of the funds allocated under this section shall be allocated to rural communities with populations that do not exceed 3,000 inhabitants.

**"(f) MAXIMUM GRANTS.**—Grants made under this section may not exceed—

"(1) in the case of each grant made under subsection (a)(1), \$500,000; and

"(2) in the case of each grant made under subsection (a)(2), \$75,000.

"(g) **FULL FUNDING.**—Subject to subsection (e), each grant under this section shall be made in an amount equal to 100 percent of the costs of the projects with respect to which the grant is made.

"(h) **APPLICATION.**—The Secretary shall develop a nationally competitive application process to award grants under this section. Such process shall include criteria for evaluating applications, including population, median household income, and the severity of the decline in quantity or quality of water. The Secretary shall make every effort to review and act on applications within 60 days of the date that such applications are submitted.

"(i) **LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.**—To carry out this section, there are authorized to be appropriated \$25,000,000 for fiscal year 1991, and \$10,000,000 for fiscal year 1992. To the extent the amount authorized to be appropriated for a fiscal year under this subsection exceeds the amount so appropriated, such excess amount shall remain authorized to be appropriated for succeeding fiscal years until fully appropriated."

(b) **IMPLEMENTATION.**—

(1) **REGULATIONS.**—The Secretary shall publish—

(A) interim final regulations to carry out section 306B of the Consolidated Farm and Rural Development Act not later than 45 days after the date of enactment of this Act; and

(B) final regulations to carry out section 306B not later than 90 days after such date of enactment.

(2) **FUNDS.**—

(A) **OBLIGATION.**—The Secretary shall obligate 70 percent of the funds made available for the first fiscal year for which appropriations are made under section 306B(i) of the Consolidated Farm and Rural Development Act not later than 5 months after the date such funds are appropriated.

(B) **RELEASE.**—The Secretary may make grants under section 306B(a)(1) of Consolidated Farm and Rural Development Act before final regulations are issued under paragraph (1)(B) of this subsection.

#### **SEC. 2327. WATER AND WASTE FACILITY LOANS AND GRANTS TO ALLEVIATE HEALTH RISKS.**

Subtitle A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922 et seq.) is amended by adding after the section added by section 2326 of this Act the following new section:

#### **"SEC. 306C. WATER AND WASTE FACILITY LOANS AND GRANTS TO ALLEVIATE HEALTH RISKS.**

"(a) **LOANS AND GRANTS TO PERSONS OTHER THAN INDIVIDUALS.**—

"(1) **IN GENERAL.**—The Secretary shall make or insure loans and make grants to rural water supply corporations, cooperatives, or similar entities, Indian tribes on Federal and State reservations and other federally recognized Indian tribes, and public agencies, to provide for the conservation, development, use, and control of water (including the extension or improvement of existing water supply systems), and the installation or improvement of drainage or waste disposal facilities and essential community facilities including necessary related equipment. Such loans and grants shall be available only to provide such

water and waste facilities and services to communities whose residents face significant health risks, as determined by the Secretary, due to the fact that a significant proportion of the community's residents do not have access to, or are not served by, adequate affordable—

“(A) water supply systems; or

“(B) waste disposal facilities.

“(2) CERTAIN COUNTIES TARGETED.—Loans and grants under paragraph (1) shall be made only if the loan or grant funds will be used primarily to provide water or waste services, or both, to residents of a county—

“(A) the per capita income of the residents of which is not more than 70 percent of the national average per capita income, as determined by the Department of Commerce; and

“(B) the unemployment rate of the residents of which is not less than 125 percent of the national average unemployment rate, as determined by the Bureau of Labor Statistics.

“(b) LOANS AND GRANTS TO INDIVIDUALS.—

“(1) IN GENERAL.—The Secretary shall make or insure loans and make grants to individuals who reside in a community described in subsection (a)(1) for the purpose of extending water supply and waste disposal systems or connecting such systems to the residences of such individuals. Such loans shall be at a rate of interest no greater than the Federal Financing Bank rate on loans of a similar term at the time such loans are made. The repayment of such loans shall be amortized over the expected life of the water supply or waste disposal system to which the residence of the borrower will be connected.

“(2) MANNER IN WHICH LOANS AND GRANTS ARE TO BE MADE.—Loans and grants to individuals under paragraph (1) shall be made—

“(A) directly to such individuals by the Secretary; or

“(B) to such individuals through the rural water supply corporation, cooperative, or similar entity, or public agency, providing such water supply or waste disposal services, pursuant to regulations issued by the Secretary.

“(c) PREFERENCE.—The Secretary shall give preference in the awarding of loans and grants—

“(1) under subsection (a) to rural water supply corporations, cooperatives, or similar entities, or public agencies, that propose to provide water supply or waste disposal services to the residents of those rural subdivisions commonly referred to as colonias, that are characterized by substandard housing, inadequate roads and drainage, and a lack of adequate water or waste facilities; and

“(2) under subsection (b) to individuals who reside in a rural subdivision commonly referred to as a colonia, that is characterized by substandard housing, inadequate roads and drainage, and a lack of adequate water or waste facilities.

“(d) COOPERATIVE DEFINED.—For purposes of this section, the term ‘cooperative’ means a cooperative formed specifically for the purpose of the installation, expansion, improvement, or operation of water supply or waste disposal facilities or systems.

*"(e) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—*

*"(1) for grants under this section, \$30,000,000 for each fiscal year; and*

*"(2) for loans under this section, \$30,000,000 for each fiscal year."*

**SEC. 2328. WATER OR WASTE DISPOSAL LOANS TO BENEFIT RURAL BUSINESSES.**

*Section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) is amended by inserting "rural businesses," after "farm laborers,".*

**SEC. 2329. LIMITATION ON CONDITIONS FOR WATER AND SEWER GRANTS AND LOANS.**

*Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended by adding at the end the following new paragraph:*

*"(20) In making or insuring loans or making grants under this subsection, the Secretary may not condition approval of such loans or grants upon any requirement, condition or certification other than those specified under this Act."*

## **Subtitle D—Enhancing Human Resources**

### **CHAPTER 1—DISTANCE LEARNING AND MEDICAL LINK PROGRAMS**

**SEC. 2331. PURPOSE.**

*The purposes of this chapter are to provide incentives for local telephone exchange carriers, rural community facilities and rural residents to improve the quality of phone service, to provide access to advanced telecommunications services and computer networks, and to improve rural opportunities.*

**SEC. 2332. GOAL.**

*It is a goal of the Federal government to make affordable advanced telecommunications available to rural residents, including services such as reliable facsimile document and data transmission, multifrequency tone signaling services, 911 emergency service with automatic number identification, interactive audio and visual transmissions, voicemail services designed to record, store, and retrieve voice messages, and other advanced telecommunications services.*

**SEC. 2333. DEFINITIONS.**

*As used in this chapter:*

*(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Rural Electrification Administration.*

*(2) COMMUNICATION SATELLITE GROUND STATION COMPLEX.—The term "communication satellite ground station complex" includes transmitters, receivers, and communications antennas at the Earth station site together with the interconnecting terrestrial transmission facilities (cables, line, or microwave facilities) and modulating and demodulating equipment necessary for processing traffic received from the terrestrial distribution*

system prior to transmission via satellite and the traffic received from the satellite prior to transfer to terrestrial distribution systems.

(3) **COMPREHENSIVE RURAL TELECOMMUNICATIONS PLAN.**—The term "comprehensive rural telecommunications plan" means a plan submitted by an applicant for a grant under this chapter. Each such plan shall include—

(A) a detailed explanation of the proposed rural telecommunications system, how such system is to be funded, and a description of the intended uses for grants received from the Administrator under this chapter;

(B) an explanation of the manner in which such plan complies with any requirements imposed by the Administrator under this chapter or otherwise imposed under section 2334;

(C) a listing of the proposed purchases or leases of telecommunications terminal equipment, telecommunications transmission facilities, data terminal equipment, interactive video equipment, computer hardware and software systems, and components that process data for transmission via telecommunications, computer network components, communication satellite ground station equipment, or any other elements of the telecommunications system designed to further the purposes of this chapter, that the applicant intends to build or fund using the grant funds;

(D) an explanation of the special financial or other needs of the affected rural communities and of the applicants for such grant assistance;

(E) an analysis of the relative costs and benefits of proposals for leasing or purchasing of facilities, equipment, components, hardware and software, or other items; and

(F) a description of the consultations with the appropriate local telephone exchange carrier or carriers and with a wide variety of additional telecommunications service providers (including other interexchange carriers, cable television operators, enhanced service providers, providers of satellite services and telecommunications equipment manufacturers and distributors), and the anticipated role of such providers in the proposed telecommunications system.

(4) **COMPUTER NETWORKS.**—The term "computer networks" refers to computer hardware and software, terminals, signal conversion equipment including both modulators and demodulators, or related devices, used to communicate with other computers to process and exchange data through a telecommunications network in which signals are generated, modified, or prepared for transmission, or received, via telecommunications terminal equipment and telecommunications transmission facilities.

(5) **DATA TERMINAL EQUIPMENT.**—The term "data terminal equipment" refers to equipment that converts user information into data signals for transmission, or reconverts the received data signals into user information, and is normally found on the terminal of a circuit and on the premises of the end user.



(6) **END USER.**—The term “end user” means rural community facilities or persons associated with those facilities who participate in the programs established under this chapter.

(7) **FIBER-OPTIC CABLE.**—The term “fiber-optic cable” means a bundle of optical transmission elements or waveguides usually consisting of a fiber core and fiber cladding that can guide a lightwave and that are incorporated into an assembly of materials that provide tensile strength and external protection.

(8) **INTERACTIVE VIDEO EQUIPMENT.**—The term “interactive video equipment” refers to equipment used to produce and prepare for transmission audio and visual signals from at least two distant locations such that individuals at such locations can verbally and visually communicate with each other, and such equipment includes monitors, other display devices, cameras or other recording devices, audio pickup devices, and other related equipment.

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

(10) **TELECOMMUNICATIONS TRANSMISSION FACILITIES.**—The term “telecommunications transmission facilities” refers to those facilities that transmit, receive, or carry data between the telecommunications terminal equipment at each end of a telecommunications circuit or path. Such facilities include microwave antennae, relay stations and towers, other telecommunications antennae, fiber-optic cables and repeaters, coaxial cables, communication satellite ground station complexes, copper cable electronic equipment associated with telecommunications transmissions, and similar items as defined by the Administrator.

(11) **TELECOMMUNICATIONS TERMINAL EQUIPMENT.**—The term “telecommunications terminal equipment” refers to the assembly of telecommunications equipment at the end of a circuit, normally located on the premises of the end user, that interfaces with telecommunications transmission facilities, and that is used to modify, convert, encode, or otherwise prepare signals to be transmitted via such telecommunications facilities, or that is used to modify, reconvert or carry signals received from such facilities, the purpose of which is to accomplish the goal for which the circuit was established.

#### **SEC. 2334. PROVISIONS RELEVANT TO TELECOMMUNICATIONS PROGRAMS.**

(a) **ADMINISTRATION.**—The Administrator shall be responsible for the administration of this chapter.

(b) **RULEMAKING.**—Not later than 160 days after the date of enactment of this Act, the Administrator shall promulgate final regulations, under the notice and comment rulemaking requirements described in section 553 of title 5, United States Code, that establish the telecommunications programs authorized in this chapter.

(c) **PRIORITY.**—The Administrator shall establish procedures to target the benefits of this chapter to the rural areas and grant applicants that demonstrate the need for such assistance, taking into consideration the relative needs of all applicants, the needs of the affected rural communities, and the financial ability of the applicants to otherwise secure or create telecommunications systems.

(d) **WAIVERS.**—If the Administrator determines that a compelling need is present, the Administrator may modify any of the definitions in section 2333.

(e) **EXPEDITING COORDINATED TELEPHONE LOANS.**—The Administrator shall establish and implement procedures to ensure that expedited consideration and determination is given to applications, for loans and advances of funds submitted by local exchange carriers under this chapter—

(1) to enable such exchange carriers to provide advanced telecommunications services in rural areas; and

(2) that contain elements of any telecommunications project approved by the Administrator under this chapter that will be completed by such local telephone exchange carriers but that is not covered by any grant made under this chapter.

(f) **GRANT APPROVAL PROCESS.**—

(1) **MODIFICATIONS.**—The Administrator may request modifications or changes in any proposal described in a grant application submitted under this chapter.

(2) **LEVELS OF FUNDING.**—

(A) **IN GENERAL.**—The Administrator may offer to fund grant applications under this chapter at any levels that the Administrator considers appropriate but not exceeding any percentage levels described in this chapter.

(B) **CONSIDERATIONS.**—After taking into consideration the nationwide demands for grant assistance and the costs and benefits of any proposed purchases or leases of telecommunications transmission facilities, telecommunications terminal equipment, computer network components, and other equipment or facilities, the Administrator shall make grants based on—

- (i) the worthiness of the application;
- (ii) the financial needs of the applicant;
- (iii) the need of the affected rural communities for the proposed projects; and
- (iv) other factors determined appropriate by the Administrator.

(g) **JOINT USE OF TELECOMMUNICATIONS TRANSMISSIONS FACILITIES.**—In issuing regulations implementing this chapter, and in requesting changes in, or approving applications for grants, the Administrator shall give a priority, to the extent reasonable and appropriate, to provide funding for such facilities that can be jointly shared by projects established under this chapter.

(h) **EXPEDITED LOANS FOR TELEPHONE TRANSMISSION FACILITIES.**—

(1) **IN GENERAL.**—Grants to cover the costs of installing telecommunication transmission facilities shall not be provided to approved end users if the local telephone exchange carrier providing telephone service, as defined in section 203(a) of the Rural Electrification Act of 1936 (7 U.S.C. 924(a)), will install such facilities through the use of expedited telephone loans as described in subsection (e) under the conditions and deadlines described in this section or through other financing procedures.

(2) **NOTIFICATION OF LOCAL EXCHANGE CARRIER.**—Each applicant for a grant for a rural telecommunications program estab-

lished under this chapter shall notify the appropriate local telephone exchange carrier regarding the application filed with the Administrator for such grant and shall attempt to work with such carrier in developing the rural telecommunications project. The Administrator shall publish notice of applications received for grants under this chapter for rural telecommunications programs and shall make such applications available for inspection by any provider described in section 2333(3)(F).

(3) **DEADLINE IMPOSED ON THE ADMINISTRATOR.**—Not later than 45 days after the receipt of a completed application for an expedited telephone loan, the Administrator shall respond to the application. The Administrator shall notify the applicant in writing of its decision regarding each such expedited loan application.

#### **SEC. 2335. RURAL COMMUNITY ACCESS TO ADVANCED TELECOMMUNICATIONS.**

##### **(a) PURPOSE.—**

(1) **IN GENERAL.**—It is the purpose of the program established under this chapter to encourage and improve the use of telecommunications, computer networks, and related advanced technologies, by persons associated with end users, including students and teachers, medical professionals, small businesses, and other residents living in rural areas associated with rural community facilities in rural areas.

(2) **GRANTS.**—Grants shall be made under this chapter to end users to fund up to 100 percent of each comprehensive rural telecommunications plan as approved by the Administrator.

##### **(b) GRANTS.—**

(1) **GENERAL AUTHORIZATION.**—The Administrator may make grants to accomplish the purposes of the program established under this chapter in amounts that shall not exceed the levels set forth in paragraph (3).

(2) **DISBURSEMENT.**—In order to facilitate appropriate planning for, and continuity of, the program established under this chapter, the Administrator may obligate funds appropriated during a particular year for disbursement in a subsequent year or years, and the total of funds so appropriated and obligated during a year may exceed the limitations described in paragraph (1).

(3) **LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.**—To carry out this chapter, there are authorized to be appropriated \$25,000,000 for fiscal year 1991, \$50,000,000 for each of fiscal years 1992 and 1993, and \$60,000,000 for each of the fiscal years 1994 and 1995. Amounts appropriated under this paragraph shall remain available until expended.

(4) **USE OF FUNDS.**—Grants under this chapter shall be made available to end users to be used for facilities, equipment, activities, and other uses as described in the approved rural telecommunications plan to achieve the purpose of this chapter, including—

(A) the development and acquisition of instructional programming;

(B) the development and acquisition, through lease or purchase, of computer hardware and software, audio and visual equipment, computer network components, telecommunications terminal equipment, telecommunications transmission facilities, data terminal equipment, or interactive video equipment, and other facilities that would further the purposes of the programs authorized by this chapter;

(C) providing technical assistance and instruction for the development or use of such programming, equipment, or facilities; or

(D) other uses that are consistent with achieving the purposes of this chapter as approved by the Administrator.

(5) **LOCAL EXCHANGE CARRIERS.**—Under the conditions described in section 2334(h), expedited loans may also be made, to carry out any project authorized in this chapter, to local exchange carriers providing telephone service (as defined in section 2333(a) of the Rural Electrification Act of 1936 (7 U.S.C. 924(a))), to cover the costs of telecommunications transmission facilities.

(6) **INFORMATIONAL EFFORTS.**—The Administrator shall establish and implement procedures to carry out informational efforts to advise potential end users located in rural areas of each State about the program authorized by this chapter.

(7) **LIMITS ON GRANTS.**—Grants awarded under this chapter for an end user shall not be used for the salaries or expenses of an end user.

(c) **REGULATIONS.**—Not later than 160 days after the date of enactment of this Act, the Administrator shall, in addition to promulgating the regulations described in section 2334(b), establish a priority system for awarding grants to end users located in rural areas that are most in need of enhanced communications to carry out the purposes of this chapter.

## **CHAPTER 2—RURAL BUSINESS DEVELOPMENT**

### **SEC. 2336. PURPOSES.**

The purposes of this chapter are to—

(1) provide funds to improve telecommunications service in rural areas; and

(2) provide access to advanced telecommunications services and computer networks to improve job opportunities and the business environment in rural areas.

### **SEC. 2337. LOANS FOR BUSINESS TELECOMMUNICATIONS PARTNERSHIPS.**

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by adding after the subsections added by section 2347(a) of this Act the following:

“(i) **LOANS FOR BUSINESS TELECOMMUNICATIONS PARTNERSHIPS.**—

“(1) **IN GENERAL.**—The Secretary may make loans under this subsection at low interest rates and at market rates to 1 or more businesses, local governments, or public agencies in rural areas to fund facilities in which the recipients of such loans share telecommunications terminal equipment, computers, computer software, and computer hardware.

**"(2) GENERAL REQUIREMENTS.—**

**"(A) APPLICATION PROCESS.—**

**"(i) SUBMISSION OF APPLICATION.—**Any entity desiring a loan under this subsection shall submit an application therefor to the Secretary.

**"(ii) CONTENTS OF APPLICATION.—**Each application for a loan under this subsection shall include—

**"(I)** a detailed explanation of the proposed rural telecommunications system, including the general telecommunications transmission services and facilities required, and a list of the specific equipment that the applicant proposes to purchase or lease, to implement the system;

**"(II)** a description of the manner in which the proposed project is to be funded;

**"(III)** a copy of a binding commitment entered into between the applicant and each entity which is legally permitted to provide, and from which the applicant is to obtain, the telecommunications services and facilities required for the project, which stipulates that if the applicant receives the loan requested in the application the entity will provide such telecommunications services and facilities in the area served by the entity within a reasonable time and at a charge which is in accordance with State law;

**"(IV)** a description of the manner in which the applicant intends to use the loan requested in the application;

**"(V)** a description of how the proposed project will be evaluated; and

**"(VI)** such other information as the Secretary may reasonably require.

**"(B) CONSIDERATION OF APPLICATIONS.—**

**"(i) REVIEW BY SECRETARY.—**The Secretary shall—

**"(I)** review each application submitted pursuant to subparagraph (A)(i);

**"(II)** determine whether or not the application meets the requirements of subparagraph (A)(ii);

**"(III)** approve each application which meets such requirements;

**"(IV)** disapprove each application which fails to meet such requirements; and

**"(V)** in the case of an approved application that proposes a project to be implemented in an eligible State (within the meaning of section 365(b)(3)), transmit the approved application to the review panel of the eligible State.

**"(ii) REVIEW BY CERTAIN STATE REVIEW PANELS.—**

**"(I) IN GENERAL.—**The review panel shall examine each application transmitted to the review panel pursuant to clause (i)(V) to determine the technical and economic adequacy and feasibility of

the project described in the application and the likelihood that the project will succeed.

**"(II) AUTHORITY TO OBTAIN INFORMATION FROM APPLICANTS.**—Each entity which submits an application for a loan under this subsection shall provide the review panel of any eligible State in which the partnership intends to implement the project described in the application such information as the review panel may reasonably request to assist in reviewing the application.

**"(III) AUTHORITY TO REQUEST APPLICANTS TO MODIFY PROJECTS.**—The review panel may, before final consideration of an application of an entity for a loan under this subsection, request the entity to modify the project described in the application.

**"(iii) RANKING OF APPLICATIONS.**—

**"(I) IN GENERAL.**—The review panel shall rank, pursuant to a written policy and criteria, the applications that the review panel receives during any fiscal year for a loan under this subsection, in an order which takes into account—

**"(aa)** the results of the review conducted under clause (i);

**"(bb)** the extent to which the projects described in the applications would promote any area plan (as defined in section 365(b)(1)) developed for the areas in which the projects are to be implemented; and

**"(cc)** in the case of a project which would duplicate existing services, the reasons therefor.

**"(II) GROUPING OF APPLICATIONS.**—The review panel shall separate into 2 groups the applications for a loan under this subsection received by the review panel during a fiscal year. The 1st group shall consist of the applications received during the 1st 6 months of the fiscal year. The 2nd group shall consist of the applications received during the 2nd 6 months of the fiscal year.

**"(III) COMPETITION AMONG APPLICATIONS.**—The review panel shall consider each application in a group to be competing only with the other applications in the group.

**"(IV) WRITTEN POLICY AND CRITERIA.**—

**"(aa) IN GENERAL.**—Subject to subdivision (bb), the review panel shall develop the written policy and criteria to be used to rank applications, in the same manner as the review panel develops the written policy and criteria used for purposes of section 366(b)(3).

**"(bb) PROHIBITION AGAINST DEVELOPMENT OR ACQUISITION OF TELECOMMUNICATIONS TRANSMISSION FACILITIES.**—The policy and criteria developed under subdivision (aa) shall

require that the project described in an application not include the development or acquisition of telecommunications transmission facilities.

"(iv) **TRANSMITTAL OF RANKED APPLICATIONS.**—The review panel shall transmit to the State coordinator appointed pursuant to section 365(b)(3)(A)(ii) each list of applications ranked pursuant to clause (ii) of this subsection, in the same manner in which lists of applications ranked pursuant to section 366(b) are transmitted to the State coordinator pursuant to section 366. The State coordinator shall transmit to the Secretary each such list received by the State coordinator.

"(C) **PRIORITY.**—The Secretary shall establish procedures to target loans under this subsection to the rural areas and applicants that demonstrate the need for such loans, taking into consideration—

"(i) the relative needs of all applicants;

"(ii) the needs of the affected rural areas;

"(iii) the financial ability of the applicants, without such loans, to use telecommunications for the business purposes for which such loans may be made; and

"(iv) the recommendations of the review panels for the eligible States (within the meaning of section 365(b)(3)) in which such areas are located.

"(D) **REPORT REQUIRED IF THE SECRETARY INTENDS TO FUND PROJECTS OTHER THAN AS RECOMMENDED BY REVIEW PANEL.**—If the Secretary determines to provide loans under this subsection to projects in an eligible State (within the meaning of section 365(b)(3)) other than in the manner recommended by the review panel of the State, the Secretary—

"(i) within 10 days after making such determination, shall submit to the review panel of the eligible State, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the reasons for providing loans to projects other than in the manner so recommended; and

"(ii) shall not provide such loans before the end of the 7-day period beginning on the date the review panel and such committees have received such report.

"(E) **MONITORING OF USE OF LOANS.**—The Secretary shall take such steps as may be necessary to ensure that loans provided under this subsection are used in accordance with the approved application therefor.

"(3) **RELATIONSHIP TO STATE LAW.**—This subsection shall not be construed to affect in any manner the applicability of the Communications Act of 1934, the regulations and orders prescribed thereunder, or any State or local law relating to the regulation or provision of telecommunications facilities or services.

"(4) **REGULATIONS.**—Not later than 120 days after the date of the enactment of this subsection, the Secretary shall prescribe final regulations governing the loan program established under this subsection other than with respect to agency management

and personnel, in accordance with the notice and comment rule-making requirements described in section 553 of title 5, United States Code, notwithstanding subsection (a)(2) of such section 553.

"(5) DEFINITIONS.—As used in this subsection:

"(A) REVIEW PANEL.—The term 'review panel' means, with respect to an eligible State (within the meaning of section 365(b)(3)), the rural economic development review panel of the State, as established pursuant to section 366.

"(B) RURAL AREA.—The term 'rural area' has the meaning given such term in section 306(a)(7) for purposes of loans for essential community facilities under section 306(a)(1).

"(C) TELECOMMUNICATIONS TERMINAL EQUIPMENT.—The term 'telecommunications terminal equipment' means telecommunications equipment (excluding telecommunications transmission facilities) that—

"(i) interconnects with telecommunications transmission facilities; and

"(ii) modifies, converts, encodes, or otherwise prepares signals to be transmitted through, or modifies, reconverts, or carries signals received from, the facilities.

"(D) TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The term 'telecommunications transmission facilities' means facilities (other than telecommunications terminal equipment) that transmit, receive, or carry signals between the telecommunications terminal equipment at each end of a telecommunications circuit or path.

"(6) TREATMENT OF LOAN PROGRAM AS DESIGNATED RURAL DEVELOPMENT PROGRAM.—For purposes of this title, the loan program established under this subsection shall, with respect to eligible States (within the meaning of section 365(b)(3)), be treated as a designated rural development program (within the meaning of section 365(b)(2)).

"(7) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—For loans under this subsection, there are authorized to be appropriated to the Secretary \$15,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995.

"(B) AVAILABILITY.—Amounts appropriated pursuant to subparagraph (A) shall remain available until expended."

## **Subtitle E—Rural Business and Emergency Assistance**

### **SEC. 2341. LOCAL TECHNICAL ASSISTANCE GRANTS.**

Section 306(a)(11) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)) is amended to read as follows:

"(11)(A)(i) The Secretary may make grants, not to exceed \$15,000,000 annually, to public bodies, private nonprofit community development corporations or entities, or such other agencies as the Secretary may select to enable such recipients—



"(I) to identify and analyze business opportunities, including opportunities in export markets, that will use local rural economic and human resources;

"(II) to identify, train, and provide technical assistance to existing or prospective rural entrepreneurs and managers;

"(III) to establish business support centers and otherwise assist in the creation of new rural businesses, the development of methods of financing local businesses, and enhancing the capacity of local individuals and entities to engage in sound economic activities; and

"(IV) to conduct regional, community, and local economic development planning and coordination, and leadership development.

"(ii) In awarding such grants, the Secretary shall consider, among other criteria to be established by the Secretary—

"(I) the extent to which the applicant provides development services in its rural service area; and

"(II) the capability of the applicant to carry out the purposes of this section.

"(iii) The Secretary shall ensure, to the extent practicable, that assistance provided under this subsection is coordinated with and delivered in cooperation with similar services or assistance provided to rural residents by the Extension Service or other Federal agencies.

"(iv) For grants under this subparagraph, there are authorized to be appropriated to the Secretary \$7,500,000 in each fiscal year."

#### SEC. 2342. RURAL EMERGENCY ASSISTANCE LOANS.

Section 306(a)(11) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)) is amended by inserting after the matter added by section 2341 of this Act the following new subparagraph:

"(B)(i) The Secretary shall establish and implement a program to make loans for the benefit of any town or city that—

"(I) has a population of less than 20,000 individuals; and

"(II) is financially unable to obtain funds as quickly as needed to correct emergency conditions or situations needing urgent attention.

"(ii) The Secretary shall promulgate regulations—

"(I) targeting the program established under this subparagraph toward needy communities in rural areas;

"(II) defining the term 'emergency conditions or situations needing urgent attention'; and

"(iii) The Secretary shall approve or reject applications for loans under this subparagraph within 30 days after receipt.

"(iv) The Secretary shall not loan more than \$50,000 to a single borrower under this subparagraph, and all loans under this subparagraph shall be for not more than 2 years.

"(v) The Secretary may respond to the credit needs of rural towns or cities eligible to participate in the program authorized under this subparagraph by making loans that are eligible for refinancing after the expiration of the 2-year period described in clause (iv), and payments under such loans may be set at a level that is sufficiently low during such 2-year period so that the financially troubled town or city can participate in the program established under this sub-

paragraph. The Secretary shall assist such borrowers in obtaining financing through existing Farmers Home Administration programs so that such borrowers are able to pay the balance due on each loan at the end of such 2-year period.

"(vi) To carry out the emergency lending program authorized by the program established under this subparagraph, there are authorized to be appropriated \$2,500,000 for fiscal year 1991, and \$5,000,000 for fiscal year 1992 and for each subsequent fiscal year."

#### SEC. 2343. REA TECHNICAL ASSISTANCE UNIT.

Title I of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended by adding at the end the following:

##### "SEC. 17. TECHNICAL ASSISTANCE UNIT.

"(a) **ESTABLISHMENT.**—The Administrator shall establish a technical assistance unit to perform the duties described in subsection (b).

"(b) **DUTIES.**—The technical assistance unit established under subsection (a) shall—

"(1) provide advice and guidance to electric and telephone borrowers under this Act concerning the effective and prudent use by such borrowers of the investment authority under section 312 to promote rural development;

"(2) provide technical advice, troubleshooting, and guidance concerning the operation of programs or systems that receive assistance under this Act;

"(3) establish and administer various pilot projects through electric and telephone borrowers that the Administrator determines are useful or necessary, and recommend specific rural development projects for rural areas;

"(4) act as an information clearinghouse (using, to the extent practicable, the resources of the National Agricultural Library) and conduit to provide information to electric and telephone borrowers under this Act concerning useful and effective rural development efforts that such borrowers may wish to apply in their areas of operation and concerning State, regional, or local plans for long-term rural economic development;

"(5) provide information to electric and telephone borrowers under this Act concerning the eligibility of such borrowers to apply for financial assistance, loans, or grants from other Federal agencies and non-Federal sources to enable such borrowers to expand their rural development efforts; and

"(6) promote local partnerships and other coordination between borrowers under this Act and community organizations, States, counties, or other entities, to improve rural development.

"(c) **FUNDING.**—Not less than 2 percent of the salaries and expenses of the Rural Electrification Administration shall be made available during each fiscal year to the technical assistance unit established under this section."

#### SEC. 2344. DEFERMENT OF PAYMENT ON ECONOMIC DEVELOPMENT LOANS.

Section 12 of the Rural Electrification Act of 1936 (7 U.S.C. 912) is amended—

(1) by inserting "(a)" before "The Administrator"; and

(2) by adding at the end the following new subsection:

*"(b)(1) Subject to limitations established in appropriations Acts, the Administrator shall permit any borrower to defer the payment of principal and interest on any insured or direct loan made under this Act under circumstances described in this subsection, notwithstanding any limitation contained in subsection (a), except that such deferment shall not be permitted based on the determination of the Administrator of the financial hardship of the borrower.*

*"(2)(A) In the case of deferments made to enable the borrower to provide financing to local businesses, the deferment shall be repaid in equal installments, without the accrual of interest, over the 60-month period beginning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred.*

*"(B) In the case of deferments made to enable the borrower to provide community development assistance, technical assistance to businesses, and for other community, business, or economic development projects not included under subparagraph (A), the deferment shall be repaid in equal installments, without the accrual of interest, over the 120-month period beginning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred.*

*"(3)(A) A borrower may defer its debt service payments only in an amount equal to an investment made by such borrower as described in paragraph (2).*

*"(B) The amount of the deferment shall not exceed 50 percent of the total cost of a community or economic development project for which a deferment is provided under this subsection.*

*"(C) The total amount of deferments under this subsection during each of the fiscal years 1990 through 1993 shall not exceed 3 percent of the total payments due during such fiscal year from all borrowers on direct and insured loans made under this Act and shall not exceed 5 percent of such total payments due in each subsequent fiscal year.*

*"(D) At the time of a deferment, the borrower shall make a payment to a cushion of credit account established and maintained pursuant to section 313 in an amount equal to the amount of the payment deferred. The balance of such account shall not be reduced by the borrower below the level of the unpaid balance of the payment deferred. Subject to limitations established in annual appropriations Acts, such cushion of credit amounts and any other cushion of credit and advance payments of any borrower shall be included in the interest differential calculation under section 313(b)(2)(A).*

*"(4) The Administrator shall undertake all reasonable efforts to permit the full amount of deferments authorized by this subsection during each fiscal year."*

#### **SEC. 2345. RURAL ECONOMIC DEVELOPMENT.**

*The Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended by adding at the end the following new title:*

## **"TITLE V—RURAL ECONOMIC DEVELOPMENT**

### **"SEC. 501. ADDITIONAL POWERS AND DUTIES OF REA ADMINISTRATOR.**

*"The Administrator shall—*

*"(1) provide advice and guidance to electric borrowers under this Act concerning the effective and prudent use by such borrowers of the investment authority under section 312 to promote rural development;*

*"(2) provide technical advice, troubleshooting, and guidance concerning the operation of programs or systems that receive assistance under this Act;*

*"(3) establish and administer various pilot projects through electric and telephone borrowers that the Administrator determines are useful or necessary, and recommend specific rural development projects for rural areas;*

*"(4) act as an information clearinghouse and conduit to provide information to electric and telephone borrowers under this Act concerning useful and effective rural development efforts that such borrowers may wish to apply in their areas of operation and concerning State, regional, or local plans for long-term rural economic development;*

*"(5) provide information to electric and telephone borrowers under this Act concerning the eligibility of such borrowers to apply for financial assistance, loans, or grants from other Federal agencies and non-Federal sources to enable such borrowers to expand their rural development efforts;*

*"(6) promote local partnerships and other coordination between borrowers under this Act and community organizations, States, counties, or other entities, to improve rural development;*

*"(7) review the advice and recommendations of the Rural Educational Opportunities Board as established under section 601(f); and*

*"(8) administer a Rural Business Incubator Fund (as established under section 502) that shall provide technical assistance, advice, loans, or capital to business incubator programs or for the creation or operation of small business incubators in rural areas.*

### **"SEC. 502. RURAL BUSINESS INCUBATOR FUND.**

*"(a) ESTABLISHMENT AND USE.—*

*"(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund to be known as the Rural Business Incubator Fund (in this title referred to as the 'Incubator Fund') to be administered by the Administrator.*

*"(2) USE.—The Incubator Fund shall be used to make grants and reduced interest loans to electric and telephone borrowers under this Act or to other nonprofit entities that meet the requirements of this section, to promote business incubator programs or for the creation or operation of business incubators in rural areas as defined in this Act, and the interest rate on such loans shall not exceed 5 percent.*

**"(3) BUSINESS INCUBATOR.**—Any business incubator that receives assistance under this title shall be a facility in which small businesses can share premises, support staff, computers, software, hardware, telecommunications terminal equipment, machinery, janitorial services, utilities, or other overhead expenses, and where such businesses can receive technical assistance, financial advice, business planning services, or other support. Business incubator programs that provide assistance of the type described in this paragraph shall be eligible for assistance under this title even if such programs do not involve the sharing of premises.

**"(b) APPLICATION FOR ASSISTANCE.**—

**"(1) ELIGIBILITY TO SUBMIT.**—Borrowers under this Act that operate business incubators or that desire to operate such incubators or business incubator programs, and that meet the requirements established by the Administrator for obtaining grants or reduced interest loans under this section, may submit applications for such grants or loans at such time, in such form, and containing such information as the Administrator shall require. Nonprofit entities that are not borrowers under title III shall be considered eligible borrowers for the purpose of this section if such entities are located in a State in which not more than one electric borrower is headquartered in such State.

**"(2) REQUIREMENTS.**—Applications submitted under paragraph (1) shall, at a minimum—

**"(A)** contain an assurance that any incubator established or operated pursuant to this section will be operated on a not-for-profit basis; and

**"(B)** contain an assurance that the policy of such incubator is to encourage and assist businesses in graduating from the incubator and becoming viable business entities in the community and to inform participating businesses of this policy.

**"(3) REVIEW.**—In reviewing applications for assistance, the Administrator shall consider—

**"(A)** how effectively the incubator project will assist in the formation, growth, or improved efficiency of small businesses that will help diversify and develop the local economy; and

**"(B)** the amount of local support likely to exist for the incubator and the businesses to be assisted by such incubator, taking into account local contributions of business, financial, technical, technological, or managerial expertise, and contributions of equipment or materials, local financial assistance, and other factors as determined appropriate by the Administrator.

**"(c) FUNDING OF LOCAL INCUBATORS.**—

**"(1) BY BORROWER ESTABLISHING INCUBATOR.**—

**"(A) IN GENERAL.**—A borrower that establishes or assists a business incubator under this section shall purchase Capital Term Certificates issued by the Incubator Fund in amounts equal to 10 percent of the amount of the grant, or 5 percent of the amount of the reduced interest loan, provided by the Administrator under this section.

**"(B) REDEMPTION OF CERTIFICATES.**—Each calendar year for the 10-year period beginning on the date that a grant or reduced interest loan is provided under this section, the Administrator shall redeem an amount equal to 10 percent of the Capital Term Certificates purchased by the borrower under subparagraph (A), without any payment of interest.

**"(2) BY THE SECRETARY OF THE TREASURY.**—The Secretary of the Treasury shall, subject to the limitations contained in annual appropriations Acts, provide funds for the capitalization of the Incubator Fund, and there are authorized to be appropriated for such capitalization not to exceed \$10,000,000 annually until the total of such capitalization equals \$60,000,000. Such amounts shall remain available until expended by the Incubator Fund for the purposes of this section.

**"(d) REPAYMENTS TO INCUBATION FUND.**—All payments made on loans under this section, and all amounts provided under subsection (c), shall be placed in the Incubator Fund established by subsection (a) and shall be available to carry out the purposes of this section.

**"(e) FULL USE.**—The Administrator shall undertake all reasonable efforts to make full use, during each fiscal year, of any funds contained in the Incubator Fund established under subsection (a), consistent with the requirement that the Incubator Fund redeem Capital Term Certificates as provided by subsection (c). During each fiscal year, 10 percent of the amount contained in the Incubator Fund shall be made available to nonprofit entities described in subsection (b) that are not borrowers under title III, except that if qualified applications from such entities are not received in an amount or at such times sufficient to use such 10 percent amount during any fiscal year, the Administrator shall make the remainder of such amount available to other eligible borrowers during such fiscal year."

#### **SEC. 2346. EXTENSION SERVICE.**

Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended by adding at the end the following new subsection:

**"(g) RURAL ECONOMIC AND BUSINESS DEVELOPMENT.**—

**"(1) IN GENERAL.**—The Secretary shall establish an Extension Service rural economic and business development program to enable States or counties to employ specialists as Cooperative Extension Service staff of the State or county to assist individuals in creating new businesses, including cooperatives, or to assist existing businesses, and to assist such businesses regarding advanced telecommunications, computer technologies, technical or management assistance, business and financial planning, and other related matters, and to assist community leaders in community economic analysis and strategic planning.

**"(2) FUNCTION OF SPECIALISTS.**—Specialists employed under paragraph (1) shall provide economic development information and assistance concerning business creation, business planning and advice, advanced telecommunications, business management, computer operations, and other technical assistance to community leaders and private sector entrepreneurs and cooperatives operating in the State or county that employs such specialists.

"(3) **PROCEDURES AND LIMITATIONS.**—The Secretary shall establish policies, procedures, and limitations that shall apply to States and counties that desire to participate in the program established under this subsection. States and counties shall determine the types of rural economic and business development specialists that are needed by such States and counties. In States with land-grant colleges and universities eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301 et seq.), and the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, such eligible institutions shall determine the types of rural economic and business development specialists needed.

"(4) **PAYMENT OF SALARY.**—The Secretary shall make grants to States and counties that participate in the program established under this section in an amount equal to 60 percent of the total amount of the salary paid to any specialists employed under such program, and the State or county shall provide funds for the remaining 40 percent of such salary. Land-grant colleges and universities eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, shall be exempt from the 40 percent salary matching requirement.

"(5) **LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.**—To carry out this section, there are authorized to be appropriated \$5,000,000 in fiscal year 1991, \$10,000,000 in fiscal year 1992, \$15,000,000 in fiscal year 1993, and \$20,000,000 in fiscal year 1994 and each subsequent fiscal year. Amounts appropriated under this section shall remain available until expended.

"(6) **COORDINATION.**—The Secretary shall ensure that the activities of the Extension Service rural economic and business development program established under this subsection are coordinated with the Small Business Administration to ensure that there is no duplication of activities in any local area, county or region.

"(b) **RURAL DEVELOPMENT EXTENSION WORK.**—

"(1) **NATIONAL PROGRAM.**—The Secretary of Agriculture shall establish a national program, to be administered by the Extension Service, to provide rural citizens with training in, technical and management assistance regarding, and educational opportunities to enhance their knowledge of—

"(A) beginning businesses through entrepreneurship;

"(B) the procedures necessary to establish new businesses in rural areas;

"(C) self-employment opportunities in rural areas;

"(D) the uses of modern telecommunications and computer technologies;

"(E) business and financial planning; and

"(F) such other training, assistance, and educational opportunities as the Secretary determines are necessary to carry out the program established under this subsection.

"(2) **LEADERSHIP ABILITIES.**—The program established under this subsection shall provide assistance designed to increase the leadership abilities of residents in rural areas. Such assistance shall include—

"(A) information relevant to the development of community goals;

"(B) instruction regarding the methods by which State or Federal funding for rural development projects might be obtained;

"(C) instruction regarding the successful writing of applications for loan or grant funds from government and private sources;

"(D) an updated listing of State, Federal, and other economic development programs available to rural areas; and

"(E) such other training, information, and assistance as the Secretary determines necessary to increase the leadership abilities of residents in rural areas.

"(3) **CATALOG OF PROGRAMS.**—The National Rural Information Center Clearinghouse of the National Agricultural Library, in cooperation with the Extension Service in each State, should develop, maintain, and provide to each community, and make accessible to any other interested party, a catalog of available State, Federal, or private programs that provide leadership training or other information or services similar or complementary to the training or services required by this subsection. Such catalog should include, at a minimum, the following entities within the State that provide such training or services:

"(A) Any rural electric cooperative.

"(B) Any nonprofit company development corporation.

"(C) Any economic development district that serves a rural community.

"(D) Any nonprofit subsidiary of any private entity.

"(E) Any nonprofit organization whose principal purpose is to promote economic development in rural areas.

"(F) Any investor or publicly owned electric utility.

"(G) Any small business development center or small business investment company.

"(H) Any regional development organization.

"(I) Any vocational or technical school.

"(J) Any Federal, State, or local government agency or department.

"(K) Any other entity that the Secretary deems appropriate.

The extension service in each State should include in the catalog information on the specific training or services provided by each entity in the catalog.

"(4) **EMPLOYEE TRAINING.**—The Secretary shall provide training for appropriate State extension service employees, assigned to programs other than rural development, to ensure that such employees understand the availability of rural development programs in their respective States and the availability of Extension Service staff qualified to provide to rural citizens and to State extension staff training and materials for technical, management, and educational assistance.

"(5) **COORDINATION OF ASSISTANCE.**—The Secretary shall ensure, to the extent practicable, that assistance provided under this subsection is coordinated with and delivered in cooperation



*with similar services or assistance provided by other Federal agencies or programs for rural residents."*

**SEC. 2347. RURAL TECHNOLOGY GRANTS.**

*(a) IN GENERAL.—Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by striking subsection (f) and inserting the following:*

*"(f)(1) The Secretary shall make grants under this subsection to nonprofit institutions for the purpose of enabling such institutions to establish and operate centers for rural technology or cooperative development.*

*"(2) Any nonprofit institution seeking a grant under paragraph (1) shall submit to the Secretary an application containing a plan for the establishment and operation by such institution of a center for rural technology or cooperative development. The Secretary may approve such application if such plan contains the following:*

*"(A) A provision that substantiates that such center will effectively serve rural areas in the United States.*

*"(B) A provision that the primary objective of such center will be to improve the economic condition of rural areas by promoting the development (through technological innovation, cooperative development, and adaptation of existing technology) and commercialization of—*

*"(i) new services and products that can be produced or provided in rural areas;*

*"(ii) new processes that can be utilized in the production of products in rural areas; and*

*"(iii) new enterprises that can add value to on-farm production through processing or marketing.*

*"(C) A description of the activities that such center will carry out to accomplish such objective. Such activities may include the following:*

*"(i) Programs for technology research, investigations, and basic feasibility studies in any field or discipline for the purpose of generating principles, facts, technical knowledge, new technology, or other information that may be useful to rural industries, cooperatives, agribusinesses, and other persons or entities in rural areas served by such centers in the development and commercialization of new products, processes, or services.*

*"(ii) Programs for the collection, interpretation, and dissemination of principles, facts, technical knowledge, new technology, or other information that may be useful to rural industries, cooperatives, agribusinesses, and other persons in rural areas served by the center in the development and commercialization of new products, processes, or services.*

*"(iii) Programs providing training and instruction for individuals residing in rural areas served by the center with respect to the development (through technological innovation, cooperative development, and adaptation of existing technology) and commercialization of new products, processes, or services.*

*"(iv) Programs providing loans and grants to individuals, small businesses, and cooperatives in rural areas served by the center for purposes of generating, evaluating, developing, and commercializing new products, processes, or services.*

*"(v) Programs providing technical assistance and advisory services to individuals, small businesses, cooperatives, and industries in rural areas served by the center for purposes of developing and commercializing new products, processes, or services.*

*"(vi) Programs providing research and support to individuals, small businesses, cooperatives, and industries in rural areas served by the center for purposes of developing new agricultural enterprises to add value to on-farm production through processing or marketing.*

*"(D) A description of the contributions that such activities are likely to make to the improvement of the economic conditions of the rural areas for which such center will provide services.*

*"(E) Provisions that such center, in carrying out such activities, will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the Federal Government, and State and local governments.*

*"(F) Provisions that such center—*

*"(i) will consult with any college or university administering any program under title V of the Rural Development Act of 1972 in the State in which such center is located; and*

*"(ii) will cooperate with such college or university in the coordination of such activities and such program.*

*"(G) Provisions that such center will take all practicable steps to develop continuing sources of financial support for such center, particularly from sources in the private sector.*

*"(H) Provisions for—*

*"(i) monitoring and evaluating such activities by the institution operating such center; and*

*"(ii) accounting for money received by such institution under this section.*

*"(I) Provisions that such center will provide for the optimal application of such technology and cooperative development in rural areas, especially those areas adversely affected by adverse agricultural economic conditions, through the establishment of demonstration projects and subcenters for—*

*"(i) rural technology development where the technology can be implemented by communities, community colleges, businesses, cooperatives, and other institutions; or*

*"(ii) cooperative development where such development can be implemented by cooperatives to improve local economic conditions.*

*"(3) Grants made under paragraph (1) shall be made on a competitive basis. In making grants under paragraph (1), the Secretary shall give preference to grant applications providing for the estab-*

lishment of centers for rural technology or cooperative development that—

“(A) can demonstrate the capability to transfer for practical application in rural areas the technology generated at such centers and the ability to commercialize products, processes, services, and enterprises in such rural areas;

“(B) will effectively serve in rural areas that have—

“(i) few rural industries and agribusinesses;

“(ii) high levels of unemployment or underemployment;

“(iii) high rates of outmigration of people, businesses, and industries; and

“(iv) low levels of per capita income; and

“(C) will contribute the most to the improvement of economic conditions of rural areas.

“(4) As used in this subsection:

“(A) The term ‘nonprofit institution’ means any organization or institution, including an accredited institution of higher education, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

“(B) The term ‘United States’ means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the other territories and possessions of the United States.

“(g) In carrying out subsection (f), the Secretary may provide technical assistance to alleviate or prevent conditions of excessive unemployment or underemployment of persons residing in economically distressed rural areas that the Secretary determines have a substantial need for such assistance. Such assistance shall include planning and feasibility studies, management and operational assistance, and studies evaluating the needs for development potential of projects that increase employment and improve economic growth in such areas.

“(h) The Secretary may make grants to defray not to exceed 75 percent of the administrative costs incurred by organizations and public bodies to carry out projects for which grants or loans are made under subsection (f). For purposes of determining the non-Federal share of such costs, the Secretary shall consider contributions in cash and in kind, fairly evaluated, including but not limited to premises, equipment, and services.”

(b) **LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.**—To carry out subsections (f) and (h) of section 310B of the Consolidated Farm and Rural Development Act, there are authorized to be appropriated to the Secretary not to exceed \$50,000,000 for each of the fiscal years 1992, 1993, and 1994.

#### **SEC. 2348. DEMONSTRATION PROJECTS.**

The Secretary shall establish a program of competitive grants to rural areas to serve as demonstration areas for rural economic development and as models of such development for other areas. In awarding such grants, the Secretary shall favorably consider a request for funds from a rural area that the Secretary determines—

(1) demonstrates the ability to supplement the grant funds provided under this section with other funds from State, local, or private sources;

(2) demonstrates the ability to use the grant funds to increase employment in the area; and

(3) can successfully serve as a demonstration area to share the results of the project to the benefit of other rural areas in the region.

#### **SEC. 2349. RURAL DEVELOPMENT RESEARCH ASSISTANCE.**

Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended by adding after the subsection added by section 2346 of this Act the following:

##### **"(h) RESEARCH GRANTS.—**

**"(1) IN GENERAL.**—In addition to the programs already conducted under this section, the Secretary shall also establish and carry out a program to award competitive research grants to land-grant colleges and universities, research foundations, and centers established by land-grant universities, State agricultural experiment stations, and to all colleges and universities having demonstrable capability in rural development research, as determined by the Secretary, to carry out research to—

**"(A)** determine factors which impact upon rural economic development whether favorably or unfavorably;

**"(B)** estimate the relative impacts of these factors;

**"(C)** develop methodologies to investigate policy options for rural economic development;

**"(D)** evaluate the impact of Federal and State economic development policies and programs designed to improve economic competitiveness and diversification;

**"(E)** support strategic planning for economic investments;

**"(F)** improve human resources; and

**"(G)** improve the data base for rural development decisionmaking in rural areas.

**"(2) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.**—To carry out this subsection, there are authorized to be appropriated to the Secretary not to exceed \$3,000,000 in each fiscal year. Amounts appropriated under this subsection shall remain available until expended."

#### **SEC. 2350. ASSISTANT ADMINISTRATOR FOR ECONOMIC DEVELOPMENT.**

The Rural Electrification Act of 1936 is amended by inserting after section 11 (7 U.S.C. 911) the following new section:

##### **"SEC. 11A. ASSISTANT ADMINISTRATOR FOR ECONOMIC DEVELOPMENT.**

**"(a) APPOINTMENT.**—The Administrator shall appoint an Assistant Administrator for Economic Development (in this Act referred to as the 'Assistant Administrator') to carry out the programs of the Rural Electrification Administration concerning the involvement of rural electric and telephone systems in community and economic development.

**"(b) APPOINTMENT FACTORS.**—In appointing the Assistant Administrator, the Administrator shall consider the degree to which candidates possess—

"(1) knowledge of and experience in community and economic development programs and strategies;

"(2) the ability to develop and manage the specific programs and responsibilities of this office, as described in this Act;

"(3) the ability to work effectively with officials of Federal, State, and local governments, private, and other officials of development programs, as well as with borrowers of the Rural Electrification Administration and their associations; and

"(4) other factors determined by the Administrator to be important in the successful execution of the responsibilities of the office of Assistant Administrator.

"(c) **RESPONSIBILITIES AND COMPENSATION.**—The Assistant Administrator shall be—

"(1) responsible, unless otherwise provided by law, for the administration of the programs of the Rural Electrification Administration not directly related to the providing of electric or telephone service; and

"(2) compensated at a salary level that is not less than that of the Assistant Administrator for Electric and the Assistant Administrator for Telephone of the Rural Electrification Administration.

"(d) **FUNDING.**—The Assistant Administrator shall use not less than 10 percent nor more than 20 percent of the salaries and expenses provided to the Administration during any fiscal year to carry out the responsibilities described in subsection (c)(1), and such amounts shall remain available until expended.

"(e) **TECHNICAL ASSISTANCE UNIT.**—The Administrator shall establish a technical assistance unit to provide advice and guidance to borrowers concerning community and economic development activities permitted under this Act. From the amounts made available to the Assistant Administrator under subsection (d), not less than 1 percent of the salaries and expenses of the Rural Electrification Administration shall be made available to such technical assistance unit established under this subsection."

## **Subtitle F—Rural Electrification Provisions**

### **SEC. 2351. SHORT TITLE; AMENDMENT OF RURAL ELECTRIFICATION ACT OF 1936.**

(a) **SHORT TITLE.**—This subtitle may be cited as the "Rural Telecommunications Improvements Act of 1990".

(b) **AMENDMENT OF RURAL ELECTRIFICATION ACT OF 1936.**—Except as otherwise expressly provided, wherever in this subtitle an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Rural Electrification Act of 1936.

### **SEC. 2352. FINDINGS; STATEMENT OF POLICY.**

(a) **FINDINGS.**—The Congress finds that—

(1) making modern telecommunications technology and services available in rural areas in the United States promotes economic development and improves the quality of life in rural areas; and

(2) the efficient operation of the Rural Telephone Bank and the Rural Electrification Administration telephone loan programs is essential to the continued development of the telecommunications infrastructure in rural areas in the United States.

(b) **STATEMENT OF POLICY.**—It is the policy of the Congress that the Rural Telephone Bank and the Rural Electrification Administration make loans that facilitate the development and enhancement of the rural telecommunications infrastructure in order to make modern telecommunications technology and services available at reasonable rates to the greatest practicable number of people in rural areas in the United States.

## **CHAPTER 1—AMENDMENT TO TITLE I OF THE RURAL ELECTRIFICATION ACT OF 1936**

### **SEC. 2353. GENERAL PROHIBITIONS.**

Title I (7 U.S.C. 901 et seq.) is amended by adding after the section added by section 2343 of this Act the following new section:

#### **“SEC. 18. GENERAL PROHIBITIONS.**

“The Administrator and the Governor of the telephone bank shall not deny or reduce any loan or loan advance under this Act based on a borrower’s level of general funds.”.

## **CHAPTER 2—AMENDMENTS RELATING TO TITLE II OF THE RURAL ELECTRIFICATION ACT OF 1936**

### **SEC. 2354. UPDATED DEFINITION OF TELEPHONE SERVICE.**

Section 203(a) (7 U.S.C. 924(a)) is amended—

- (1) by inserting “or reception” after “transmission”;
- (2) by inserting “data,” after “voice,”; and
- (3) by striking “through the use of electricity between the transmitting and receiving apparatus” and inserting “by wire, fiber, radio, light, or other visual or electromagnetic means”.

### **SEC. 2355. LOAN FEASIBILITY.**

Title II (7 U.S.C. 922 et seq.) is amended by adding at the end the following new section:

#### **“SEC. 204. LOAN FEASIBILITY.**

“The Administrator and the Governor of the telephone bank may not, as a condition of making a telephone loan to an applicant therefor, require the applicant to—

“(1) increase the rates charged to the applicant’s customers or subscribers; or

“(2) increase the applicant’s ratio of—

“(A) net income or margins before interest; to

“(B) the interest requirements on all of the applicant’s outstanding and proposed loans.”.

### **SEC. 2356. ENCOURAGEMENT OF INVESTMENT BY TELEPHONE BORROWERS IN RURAL DEVELOPMENT PROJECTS.**

Title II (7 U.S.C. 922 et seq.) is amended by adding after the section added by section 2355 of this Act the following new section:

**"SEC. 205. CERTAIN RURAL DEVELOPMENT INVESTMENTS BY QUALIFIED TELEPHONE BORROWERS NOT TREATED AS DIVIDENDS OR DISTRIBUTIONS.**

**"(a) IN GENERAL.**—The Administrator and the Governor of the telephone bank shall not—

"(1) treat any amount invested by any qualified telephone borrower for any purpose described in section 607(c)(2) of the Rural Development Act of 1972 (including any investment in, or extension of credit, guarantee, or advance made to, an affiliated company of the borrower, that is used by such company for such a purpose) as a dividend or distribution of capital to the extent that, immediately after such investment, the aggregate of such investments does not exceed  $\frac{1}{3}$  of the net worth of the borrower; or

"(2) require a qualified telephone borrower to obtain the approval of the Administrator or the Governor of the telephone bank in order to make an investment described in paragraph (1).

**"(b) QUALIFIED TELEPHONE BORROWER DEFINED.**—As used in subsection (a), the term 'qualified telephone borrower' means a person—

"(1) to whom a telephone loan has been made or guaranteed under this Act; and

"(2) whose net worth is at least 20 percent of the total assets of such person."

**SEC. 2357. IMPROVEMENTS IN TELEPHONE PROGRAM.**

Title II (7 U.S.C. 922 et seq.) is amended by adding after the sections added by sections 2355 and 2356 of this Act the following new section:

**"SEC. 206. GENERAL DUTIES AND PROHIBITIONS.**

**"(a) DUTIES.**—The Administrator and the Governor of the telephone bank shall—

"(1) notwithstanding section 553(a)(2) of title 5, United States Code, cause to be published in the Federal Register, in accordance with subsections (b) through (e) of section 553 of such title, all rules, regulations, bulletins, and other written policy standards governing the operations of the telephone loan and loan guarantee programs administered under this Act other than those relating to agency management and personnel;

"(2) in evaluating the feasibility of a telephone loan to be made to a borrower for telephone services, use—

"(A) with respect to items for which the regulatory authority with jurisdiction over the provision of such services has approved the depreciation rates used by the borrower, such approved rates; and

"(B) with respect to other items, the average of the depreciation rates used by borrowers of telephone loans made under this Act;

"(3) annually determine and publish the average described in paragraph (2)(B); and

"(4) make loans for all purposes for which telephone loans are authorized under section 201 or 408, to the extent of qualifying applications therefor.

**"(b) PROHIBITIONS.**—The Administrator and the Governor of the telephone bank shall not—

"(1) rescind an insured telephone loan, or a Rural Telephone Bank loan, made under this Act without the consent of the borrower, unless all of the purposes for which telephone loans have been made to the borrower under this Act have been accomplished with funds provided under this Act;

"(2) regulate the order or sequence of advances of funds under telephone loans made under this Act to any borrower who has received any combination of telephone loans from the Rural Electrification Administration, the Rural Telephone Bank, or the Federal Financing Bank; or

"(3) deny a loan or advance to, or take any other adverse action against, an applicant for, or a borrower of, a telephone loan under this Act for any reason that is not based on a rule, regulation, bulletin, or other written policy standard that has not been published pursuant to section 553 of title 5, United States Code."

#### **SEC. 2358. PROMPT PROCESSING OF TELEPHONE LOANS.**

Title II (7 U.S.C. 922 et seq.) is amended by adding after the sections added by sections 2355, 2356, and 2357 of this Act the following new section:

#### **"SEC. 207. PROMPT PROCESSING OF TELEPHONE LOANS.**

"Within ten days after the end of the second and fourth calendar quarters of each year, the Administrator shall submit to the Committee on Agriculture and the Committee on Appropriations of the House of Representatives, and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate, a report—

"(1) identifying each completed application for a telephone loan under section 305, a guarantee of a telephone loan under section 306, or a loan under section 408, that has not been finally acted upon within ninety days after the date the completed application is submitted; and

"(2) stating the reasons for the failure to finally act upon the completed applications within such ninety-day period."

### **CHAPTER 3—AMENDMENTS RELATING TO TITLE III OF THE RURAL ELECTRIFICATION ACT OF 1936**

#### **SEC. 2359. CREATION OF SEPARATE ELECTRIC AND TELEPHONE ACCOUNTS WITHIN RURAL ELECTRIC AND TELEPHONE REVOLVING FUND.**

Section 302 (7 U.S.C. 932) is amended by adding at the end the following new subsection:

"(c)(1) The Administrator shall maintain two separate accounts within the fund, which shall be known as the electric account and the telephone account, respectively.

"(2)(A) The Administrator shall account for the assets, liabilities, income, expenses, and equity of the fund attributable to electrification loan operations in the electric account.

"(B) The Administrator shall account for the assets, liabilities, income, expenses, and equity of the fund attributable to telephone loan operations in the telephone account.



"(3)(A) The assets accounted for in the electric account shall be available solely for electrification loan operations under this Act.

"(B) The assets accounted for in the telephone account shall be available solely for telephone loan operations under this Act (other than under title IV)."

**SEC. 2360. BORROWERS TO DETERMINE AMORTIZATION PERIOD FOR INSURED TELEPHONE LOANS.**

Section 309 (7 U.S.C. 940) is amended—

(1) by striking "SEC. 309. LOAN TERMS AND CONDITIONS.—Loans made from or" and inserting the following:

"SEC. 309. LOAN TERMS AND CONDITIONS.

"(a) **IN GENERAL.**—Loans made from or"; and

(2) by adding at the end the following new subsection:

"(b) **TELEPHONE LOANS UNDER THIS TITLE.**—The term of any telephone loan made under this title shall be determined by the borrower at the time the loan application is submitted."

**SEC. 2361. TIER REQUIREMENT FOR INSURED TELEPHONE LOANS.**

Section 305 (7 U.S.C. 935) is amended by adding at the end the following new subsection:

"(d) The Administrator shall make a telephone loan under this title to an applicant therefor who is otherwise qualified to receive such a loan at the highest interest rate (but not less than the lowest interest rate, nor higher than the highest interest rate, specified in subsection (b)) at which the borrower would be capable of producing net income or margins before interest payments of at least 100 percent (but not more than 150 percent) of the interest requirements on all of the applicant's outstanding and proposed loans."

**SEC. 2362. CLARIFICATION OF TELEPHONE LOAN GUARANTEE AUTHORITY.**

Section 306 (7 U.S.C. 936) is amended by inserting after the first sentence the following new sentence: "The Administrator shall not provide such assistance to any borrower of a telephone loan under this Act unless the borrower specifically applies for such assistance."

**CHAPTER 4—AMENDMENTS RELATING TO TITLE IV OF THE RURAL ELECTRIFICATION ACT OF 1936**

**SEC. 2363. MODIFICATION OF RURAL TELEPHONE BANK BOARD.**

(a) **IN GENERAL.**—Section 405 (7 U.S.C. 945) is amended by striking all that precedes subsection (g) and inserting the following:

"SEC. 405. BOARD OF DIRECTORS.

"(a) **IN GENERAL.**—The management of the telephone bank, within the limitations prescribed by law, shall be vested in a board of directors (in this title referred to as the 'Telephone Bank Board').

"(b) **MEMBERSHIP.**—The Telephone Bank Board shall consist of thirteen individuals, as follows:

"(1) **PRESIDENTIAL APPOINTEES.**—The President shall appoint seven individuals to serve on the Telephone Bank Board who shall serve at the pleasure of the President—

"(A) five of whom shall be officers or employees of the Department of Agriculture and not officers or employees of the Rural Electrification Administration; and

"(B) two of whom shall be from the general public and not officers or employees of the Federal Government.

"(2) COOPERATIVE MEMBERS.—The cooperative-type entities, and organizations controlled by such entities, that hold class B or class C stock shall elect three individuals to serve on the Telephone Bank Board for a term of two years, by a plurality vote of the stockholders voting in the election.

"(3) COMMERCIAL MEMBERS.—The commercial-type entities, and the organizations controlled by such entities, that hold class B or class C stock shall elect three individuals to serve on the Telephone Bank Board for a term of two years, by a plurality vote of the stockholders voting in the election.

"(c) ELECTIONS.—

"(1) VALIDITY.—An election under paragraph (2) or (3) of subsection (b) shall not be considered valid unless a majority of the stockholders eligible to vote in the election have voted in the election.

"(2) BALLOTING.—Balloting in an election under paragraph (2) or (3) of subsection (b) shall be conducted by mail pursuant to the procedures authorized in the bylaws of the telephone bank.

"(3) NO CUMULATIVE VOTING.—Cumulative voting shall not be permitted in any election under paragraph (2) or (3) of subsection (b).

"(d) COMPENSATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each member of the Telephone Bank Board shall receive \$100 per day for each day or part thereof, not to exceed fifty days per year, spent in the performance of their official duties, and shall be reimbursed for travel and other expenses in such manner and subject to such limitations as the Telephone Bank Board may prescribe.

"(2) EXCEPTIONS.—The five members of the Telephone Bank Board appointed under subsection (b)(1)(A) shall not receive compensation by reason of their service on the Telephone Bank Board.

"(e) SUCCESSION.—A member of the Telephone Bank Board may serve after the expiration of the term of office of such member until the successor for such member has taken office.

"(f) CHAIRPERSON.—The members of the Telephone Bank Board shall elect one of such members to be the Chairperson of the Board, in accordance with the bylaws of the telephone bank. The Chairperson shall preside at all meetings of the Board and may vote on a matter before the Board unless the vote would result in a tie vote on the matter."

(b) CONFORMING AMENDMENTS.—

(1) SECTION 405 AMENDMENTS.—Section 405 (7 U.S.C. 945) is amended—

(A) in subsection (g) by striking "(g) The" and inserting "(g) BYLAWS.—The";

(B) in subsection (h) by striking "(h) The" and inserting "(h) MEETINGS.—The"; and

(C) in subsection (i) by striking "(i) The" and inserting "(i) ANNUAL REPORT.—The".

(2) **SECTION 410(a)(2) AMENDMENT.**—Section 410(a)(2) (7 U.S.C. 950(a)(2)) is amended by striking “405(b)” and inserting “405(b)(1)(A)”.

(c) **APPLICABILITY OF SUNSHINE ACT.**—Section 405 (7 U.S.C. 945) is amended by adding at the end the following:

“(j) **OPEN MEETINGS.**—For purposes of section 552b of title 5, United States Code, the Telephone Bank Board shall be treated as an agency within the meaning of subsection (a)(1) of such section.”.

**SEC. 2364. PRO RATA PURCHASE OF RURAL TELEPHONE BANK STOCK BY RURAL TELEPHONE BANK BORROWERS.**

The second sentence of section 406(d) (7 U.S.C. 946(d)) is amended by inserting “, by paying an amount equal to 5 per centum of the amount of each loan advance, at the time of such advance” before the period.

**SEC. 2365. CLARIFICATION OF AUTHORITY TO SET RURAL TELEPHONE BANK LOAN LEVELS.**

Section 408(a) (7 U.S.C. 948(a)) is amended by striking “is authorized on behalf of the telephone bank to make loans,” and inserting “shall make loans on behalf of the telephone bank, to the extent that there are qualifying applications therefor, subject only to limitations as to amounts authorized for loans and advances as may be imposed by law enacted by the Congress of the United States for loans to be made in any one year, and”.

**SEC. 2366. BORROWERS TO DETERMINE AMORTIZATION PERIOD FOR RURAL TELEPHONE BANK LOANS.**

Section 408 (7 U.S.C. 948) is amended by adding at the end the following new subsection:

“(d)(1) Except as provided in paragraph (2), the term of any loan made under this title shall be determined by the borrower at the time the application for the loan is submitted.

“(2) The term of any loan made under this title shall not exceed the maximum term for which a loan may be made under section 4.”.

**SEC. 2367. TECHNICAL AMENDMENTS RELATING TO THE RURAL TELEPHONE BANK PROVISIONS OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987.**

(a) **SECTION 406(h) AMENDMENTS.**—Section 406(h) (7 U.S.C. 946(h)) is amended—

(1) by inserting after the second sentence “All amounts so transferred shall not be transferred, directly or indirectly, to the reserve for contingencies.”; and

(2) by striking “Rural Telephone Bank Borrowers Fairness” and inserting “Omnibus Budget Reconciliation”.

(b) **SECTION 408(b)(3) AMENDMENTS.**—Section 408(b)(3) (7 U.S.C. 948(b)(3)) is amended—

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

(2) in subparagraph (D)(ii), by adding at the end the following: “For purposes of the calculation under this subparagraph, such rate shall be zero.”; and

(3) in subparagraph (E), by striking “subparagraph” the second place such term appears and inserting “paragraph”.

## CHAPTER 5—EFFECTIVE DATE

### SEC. 2368. EFFECTIVE DATE.

(a) *IN GENERAL.*—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect on the date of enactment of this Act.

(b) *TECHNICAL AMENDMENTS.*—The amendments made by section 2367 shall take effect as if such amendments had been included in chapter 2 of subtitle D of title I of the Omnibus Budget Reconciliation Act of 1987 on the date of enactment of such chapter.

## Subtitle G—Rural Revitalization Through Forestry

### CHAPTER 1—FORESTRY RURAL REVITALIZATION

#### SEC. 2371. FORESTRY RURAL REVITALIZATION.

(a) *ESTABLISHMENT OF ECONOMIC DEVELOPMENT AND GLOBAL MARKETING PROGRAM.*—The Secretary of Agriculture, acting through the Extension Service and the Cooperative Extension System, and in consultation with the Forest Service, shall establish and implement educational programs and provide technical assistance to assist businesses, industries, and policymakers to create jobs, raise incomes, and increase public revenues in manners consistent with environmental concerns.

(b) *ACTIVITIES.*—Each program established under subsection (a) shall—

(1) transfer technologies to natural resource-based industries in the United States to make such industries more efficient, productive, and competitive;

(2) assist businesses to identify global marketing opportunities, conduct business on an international basis, and market themselves more effectively; and

(3) train local leaders in strategic community economic development.

(c) *TYPES OF PROGRAMS.*—The Secretary of Agriculture shall establish specific programs under subsection (a) to—

(1) deliver educational services focused on community economic analysis, economic diversification, economic impact analysis, retention and expansion of existing commodity and noncommodity industries, amenity resource and tourism development, and entrepreneurship focusing on forest lands and rural communities;

(2) use Cooperative Extension System databases and analytical tools to help communities diversify their economic bases, add value locally to raw forest product materials, and retain revenues by helping to develop local businesses and industries to supply forests products locally; and

(3) use the full resources of the Cooperative Extension Service, including land-grant universities and county offices, to promote economic development that is sustainable and environmentally sound.

## CHAPTER 2—NATIONAL FOREST-DEPENDENT RURAL COMMUNITIES

### SEC. 2372. SHORT TITLE.

This chapter may be cited as the "National Forest-Dependent Rural Communities Economic Diversification Act of 1990".

### SEC. 2373. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—The Congress finds that—

(1) the economic well-being of rural America is vital to our national growth and prosperity;

(2) the economic well-being of many rural communities depends upon the goods and services that are derived from national forests;

(3) the economies of many of these communities suffer from a lack of industrial and business diversity;

(4) this lack of diversity is particularly serious in communities whose economies are predominantly dependent on timber and recreation resources and where management decisions made on the national forests by Federal and private organizations may disrupt the supply of those resources;

(5) the Forest Service has expertise and resources that could be directed to promote modernization and economic diversification of existing industries and services based on forest resources;

(6) the Forest Service has the technical expertise to provide leadership, in cooperation with other governmental agencies and the private sector, to assist rural communities dependent upon national forest resources to upgrade existing industries and diversify by developing new economic activity in non-forest-related industries; and

(7) technical assistance, training, education, and other assistance provided by the Department of Agriculture can be targeted to provide immediate help to those rural communities in greatest need.

(b) **PURPOSES.**—The purposes of this chapter are—

(1) to provide assistance to rural communities that are located in or near national forests and that are economically dependent upon forest resources or are likely to be economically disadvantaged by Federal or private sector land management practices;

(2) to aid in diversifying such communities' economic bases; and

(3) to improve the economic, social, and environmental well-being of rural America.

### SEC. 2374. DEFINITIONS.

As used in this chapter:

(1) The term "action team" means a rural forestry and economic diversification action team established by the Secretary pursuant to section 2375(b).

(2) The term "economically disadvantaged" means economic hardship due to the loss of jobs or income (labor or proprietor) derived from forestry, the wood products industry, or related commercial enterprises such as recreation and tourism in the national forest.

(3) The term "rural community" means—

(A) any town, township, municipality, or other similar unit of general purpose local government having a population of not more than 10,000 individuals (according to the latest decennial census) that is located in a county where at least 15 percent of the total primary and secondary labor and proprietor income is derived from forestry, wood products, and forest-related industries such as recreation and tourism; or

(B) any county or similar unit of general purpose local government having a population of not more than 22,550 individuals (according to the latest decennial census) in which at least 15 percent of the total primary and secondary labor and proprietor income is derived from forestry, wood products, and forest-related industries such as recreation and tourism,

that is located within the boundary, or within 100 miles of the boundary, of a national forest.

(4) The term "Secretary" means the Secretary of Agriculture.

#### **SEC. 2375. RURAL FORESTRY AND ECONOMIC DIVERSIFICATION ACTION TEAMS.**

(a) **REQUESTS FOR ASSISTANCE.**—Economically disadvantaged rural communities may request assistance from the Secretary in identifying opportunities that will promote economic improvement and diversification and revitalization.

(b) **ESTABLISHMENT.**—Upon request, the Secretary may establish rural forestry and economic diversification action teams to prepare an action plan to provide technical assistance to economically disadvantaged communities. The action plan shall identify opportunities to promote economic diversification and enhance local economies now dependent upon national forest resources. The action team may also identify opportunities to use value-added products and services derived from national forest resources.

(c) **ORGANIZATION.**—The Secretary shall design and organize any action team established pursuant to subsection (b) to meet the unique needs of the requesting rural community. Each action team shall be directed by an employee of the Forest Service and may include personnel from other agencies within the Department of Agriculture, from other Federal and State departments and agencies, and from the private sector.

(d) **COOPERATION.**—In preparing action plans, the Secretary may cooperate with State and local governments, universities, private companies, individuals, and nonprofit organizations for procurement of services determined necessary or desirable.

(e) **ELIGIBILITY.**—The Secretary shall ensure that no substantially similar geographical or defined local area in a State receives a grant for technical assistance to an economically disadvantaged community under this chapter and a grant for assistance under a designated rural development program, as defined in section 365(b)(2) of the Consolidated Farm and Rural Development Act, during any continuous five-year period.

(f) **APPROVAL.**—After reviewing requests under this section for financial and economic feasibility and viability, the Secretary shall

approve and implement in accordance with section 2376 those action plans that will achieve the purposes of this chapter.

#### SEC. 2376. ACTION PLAN IMPLEMENTATION.

(a) *IN GENERAL.*—Action plans shall be implemented, insofar as practicable, to upgrade existing industries to use forest resources more efficiently and to expand the economic base of rural communities so as to alleviate or reduce their dependence on national forest resources.

(b) *ASSISTANCE.*—To implement action plans, the Secretary may make grants and enter into cooperative agreements and contracts to provide necessary technical and related assistance. Such grants, cooperative agreements, and contracts may be with the affected rural community, State and local governments, universities, corporations, and other persons.

(c) *LIMITATION.*—The Federal contribution to the overall implementation of an action plan shall not exceed 80 percent of the total cost of the plan, including administrative and other costs. In calculating the Federal contribution, the Secretary shall take into account the fair market value of equipment, personnel, and services provided.

(d) *AVAILABLE AUTHORITY.*—The Secretary may use the Secretary's authority under the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) and other Federal, State, and local governmental authorities in implementing action plans.

(e) *CONSISTENCY WITH FOREST PLANS.*—The implementation of action plans shall be consistent with land and resource management plans.

#### SEC. 2377. TRAINING AND EDUCATION.

(a) *PROGRAMS.*—In furtherance of an action plan, the Secretary may use the Extension Service and other appropriate agencies of the Department of Agriculture to develop and conduct education programs that assist businesses, elected or appointed officials, and individuals in rural communities to deal with the effects of a transition from being economically disadvantaged to economic diversification. These programs may include—

- (1) community economic analysis and strategic planning;
- (2) methods for improving and retooling enterprises now dependent on national forest resources;
- (3) methods for expanding enterprises and creating new economic opportunities by emphasizing economic opportunities in other industries or services not dependent on national forest resources; and
- (4) assistance in the evaluation, counseling, and enhancement of vocational skills, training in basic and remedial literacy skills, assistance in job seeking skills, and training in starting or operating a business enterprise.

(b) *EXISTING EDUCATIONAL AND TRAINING PROGRAMS.*—Insofar as practicable, the Secretary shall use existing Federal, State, and private education resources in carrying out these programs.

#### SEC. 2378. LOANS TO ECONOMICALLY DISADVANTAGED RURAL COMMUNITIES.

(a) *IN GENERAL.*—The Secretary, under such terms and conditions as the Secretary shall establish, may make loans to economically

disadvantaged rural communities for the purposes of securing technical assistance and services to aid in the development and implementation of action plans, including planning for—

(1) improving existing facilities in the community that may generate employment or revenue;

(2) expanding existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies now dependent on national forest resources; and

(3) supporting the development of new industries or commercial ventures unrelated to national forest resources.

(b) **INTEREST RATES.**—The interest rates on a loan made pursuant to this section shall be as determined by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such loan, plus not to exceed 1 percent, as determined by the Secretary, and rounded to the nearest one-eighth of 1 percent.

#### **SEC. 2379. AUTHORIZATION OF APPROPRIATIONS AND SPENDING AUTHORITY.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Except as provided in subsection (b), there are authorized to be appropriated—

(1) an amount not to exceed 5 percent of the sum of—

(A) the sums received by the Secretary from sales of timber and other products of the forests; and

(B) user fees paid in connection with the use of forest lands; and

(2) such additional sums as may be necessary to carry out the purposes of this chapter.

(b) **LIMITATION ON AUTHORIZATION.**—Subsection (a) shall not in any way affect payments to the States pursuant to chapter 192 of the Act of May 23, 1908 (16 U.S.C. 500).

(c) **SPENDING AUTHORITY.**—Any spending authority (as defined in section 401 of the Congressional Budget Act of 1974) provided in this chapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

## **Subtitle H—Miscellaneous Provisions**

#### **SEC. 2381. NATIONAL RURAL INFORMATION CENTER CLEARINGHOUSE.**

(a) **ESTABLISHMENT.**—The Secretary shall establish, within the National Agricultural Library, in coordination with the Extension Service, a National Rural Information Center Clearinghouse (in this section referred to as the "Clearinghouse") to perform the functions specified in subsection (b).

(b) **FUNCTIONS.**—The Clearinghouse shall provide and distribute information and data to any industry, organization, or Federal, State, or local government entity, on request, about programs and services provided by Federal, State, and local agencies and private nonprofit organizations and institutions under which individuals residing in, or organizations and State and local government entities operating in, a rural area may be eligible for any kind of assistance, including job training, education, health care, and economic development assistance, and emotional and financial counseling. To



the extent possible, the National Agricultural Library shall use telecommunications technology to disseminate information to rural areas.

(c) **FEDERAL AGENCIES.**—On request of the Secretary, the head of a Federal agency shall provide to the Clearinghouse such information as the Secretary may request to enable the Clearinghouse to carry out subsection (b).

(d) **STATE AND LOCAL AGENCIES AND NONPROFIT ORGANIZATIONS.**—The Secretary shall request State and local governments and private nonprofit organizations and institutions to provide to the Clearinghouse such information as such agencies and organizations may have about any program or service of such agencies, organizations, and institutions under which individuals residing in a rural area may be eligible for any kind of assistance, including job training, educational, health care, and economic development assistance, and emotional and financial counseling.

(e) **LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.**—To carry out this section, there are authorized to be appropriated \$500,000 for each of the fiscal years 1991 through 1995.

#### **SEC. 2382. MONITORING THE ECONOMIC PROGRESS OF RURAL AMERICA.**

(a) **BUREAU OF THE CENSUS.**—The Director of the Bureau of the Census shall expand the data collection efforts of the Bureau to enable the Bureau to collect statistically significant data concerning the changing economic condition of rural counties and communities in the United States, including data on rural employment, poverty, income, and other information concerning the rural labor force.

(b) **LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.**—To carry out subsection (a), there are authorized to be appropriated \$1,000,000 for each fiscal year.

#### **SEC. 2383. LOAN RATES APPLICABLE TO CERTAIN LOANS UNDER THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.**

Section 307(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)) is amended—

(1) in subparagraph (A), by striking “guaranteed” and inserting “guaranteed”; and

(2) by adding at the end the following new subparagraph:

“(C) Notwithstanding subparagraph (A), the Secretary shall establish loan rates for health care and related facilities based solely on the income of the area to be served, and such rates shall be otherwise consistent with such subparagraph.”.

#### **SEC. 2384. ASSISTANCE FOR CERTAIN DISTRESSED COMMUNITY FACILITY PROGRAM BORROWERS.**

(a) **AMENDMENT.**—The Consolidated Farm and Rural Development Act is amended by inserting after section 353 (7 U.S.C. 2001) the following new section:

##### **“SEC. 353A. DEBT RESTRUCTURING AND LOAN SERVICING FOR COMMUNITY FACILITY LOANS.**

“The Secretary shall establish and implement a program that is similar to the program established under section 353, except that the debt restructuring and loan servicing procedures shall apply to delinquent community facility program loans (rather than delinquent farmer program loans) made by the Farmers Home Administration to a hospital or health care facility under section 306(a).”.

(b) **REGULATIONS.**—Not later than 120 days after the date of enactment of this Act, the Secretary shall promulgate regulations, modeled after those promulgated under such section 353, that implement the program established under section 353A of the Consolidated Farm and Rural Development Act.

**SEC. 2385. ANALYSIS BY OFFICE OF TECHNOLOGY ASSESSMENT.**

(a) **IN GENERAL.**—The Office of Technology Assessment shall include, in a study of the effects of information age technology on rural America, an analysis of the feasibility of ensuring that rural citizens in their homes and schools have the ability to acquire, by computer, information in a national library.

(b) **CONTENTS.**—In conducting the analysis under subsection (a), the Office of Technology Assessment shall—

(1) evaluate, in consultation with the Librarian of Congress, the costs and benefits of establishing a national library whose volumes, periodicals, instructional materials, sound and video resources, and other data are accessible to individuals through their personal computers;

(2) assess the technological, regulatory, or other impediments to the establishment of the library and information retrieval system described in paragraph (1), and the length of time required to establish such a library and retrieval system;

(3) describe the potential for the library and information described in paragraph (1) to provide rural citizens the opportunity to study and explore foreign languages, geography, math, science, history, or other interests, and to exchange scholarly information and ideas with other users, and otherwise to engage in interactive study; and

(4) recommend to the Congress the measures that should be taken to establish the library and retrieval system described in paragraph (1).

**SEC. 2386. GRANTS TO BROADCASTING SYSTEMS.**

Section 310B(f) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(f)) is amended by adding at the end the following new paragraph:

“(4) The Secretary may make grants to statewide private nonprofit public television systems, whose coverage area is predominately rural, for the purpose of demonstrating the effectiveness of such systems in providing information on agriculture and other issues of importance to farmers and other rural residents. Grants available under this paragraph may be used for capital equipment expenditures, start-up and program costs, and other costs necessary to the operation of such demonstrations.”

**SEC. 2387. MERGER OF CERTAIN RURAL ELECTRIC COOPERATIVES.**

Section 306B of the Rural Electrification Act of 1936 (7 U.S.C. 936b) is amended—

(1) by inserting “(a)” before “A direct”; and

(2) by adding at the end the following new subsection:

“(b) Notwithstanding subsection (a), a direct or insured loan may be prepaid by an electric borrower at the lesser of the outstanding principal balance due thereon or the present value thereof discounted from the face value at maturity at the rate set by the Adminis-

trator if the borrower is an electrical organization which resulted from a merger or consolidation between a borrower and an organization which, prior to October 1, 1987, prepaid its direct or insured loans pursuant to this section. Prepayments by a borrower hereunder shall be made not later than one year after the effective date of the merger, consolidation, or other transaction. The discount rate to be set by the Administrator for direct or insured loans prepayments hereunder shall be based on the current cost of funds to the Department of the Treasury for obligations of comparable maturity to those being prepaid. If a borrower prepays using tax exempt financing, the discount shall be adjusted to make the discount equivalent to fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Administrator may establish which are reasonable and necessary to implement this provision. As used in this section, the term 'direct loan' means a loan made under section 4."

**SEC. 2388. TECHNICAL CORRECTIONS.**

(a) **SECTION 308 AMENDMENTS.**—Section 308 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1928) is amended—

(1) in paragraph (a), by striking "prescribe,;" and inserting "prescribe;"; and

(2) by redesignating paragraphs (a) and (b), as paragraphs (1) and (2), respectively.

(b) **AMENDMENT TO SECTION 310B(a).**—Section 310B(a) of such Act (7 U.S.C. 1932(a)) is amended by striking "subsections (a) and (c)" and inserting "paragraphs (1) and (3)".

(c) **SECTION 310B(d) AMENDMENTS.**—Section 310B(d) of such Act (7 U.S.C. 1932(d)) is amended—

(1) by moving paragraphs (4), (5), and (6) two ems to the left so that the left margin of such paragraphs is aligned with the left margin of paragraph (3);

(2) in paragraph (3), by striking "paragraph (1) and (2)" and inserting "paragraphs (2) and (3)";

(3) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively; and

(4) by inserting "(1)" after "(d)".

(d) **AMENDMENTS RELATING TO SECTION 331.**—

(1) **SECTION 331 AMENDMENTS.**—Section 331 of such Act (7 U.S.C. 1981) is amended—

(A) in the second undesignated subsection—

(i) by moving paragraphs (f), (g), (h), and (i) two ems to the right so that the left margin of each of such paragraphs is aligned with the left margin of paragraph (e);

(ii) in paragraph (f), by striking "Release" and inserting "release";

(iii) in paragraph (g), by striking "Obtain" and inserting "obtain";

(iv) in paragraph (h), by striking "Not" and inserting "not";

(v) in paragraph (i)—

(I) by striking "Consent" and inserting "consent"; and

(II) by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(vi) in paragraph (d), by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(vii) by redesignating paragraphs (a) through (j) as paragraphs (1) through (10), respectively; and

(B) by redesignating the first and second undesignated subsections as subsections (a) and (b), respectively.

(2) **CONFORMING AMENDMENTS.**—Section 357(b) of such Act (7 U.S.C. 2005(b)) is amended by striking "331(d)" each place such term appears and inserting "331(b)(4)".

(e) **AMENDMENTS TO SECTION 333.**—Section 333 of such Act (7 U.S.C. 1983), as amended by section 1810 of this Act, is amended—

(1) in paragraph (a), by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) in paragraph (b)—

(A) in subparagraph (1), by redesignating clauses (A), (B), and (C) as clauses (1), (2), and (3), respectively; and

(B) by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(3) in paragraphs (c) and (e), by striking "of this title" each place such term appears; and

(4) by redesignating paragraphs (a), (b), (c), (d), and (e) as paragraphs (1), (2), (3), (4), and (5), respectively.

(f) **SECTION 333A(c) AMENDMENT.**—Section 333A(c) of such Act (7 U.S.C. 1983a(c)) is amended by striking "In" and inserting "If".

(g) **SECTION 335(c)(2)(D) AMENDMENT.**—Section 335(c)(2)(D) Of such Act (7 U.S.C. 1985(c)(2)(D)) is amended by striking "caused" and inserting "cause".

(h) **SECTION 343(a) AMENDMENTS.**—Section 343(a) of such Act (7 U.S.C. 1991(a)) is amended—

(1) in paragraph (1), by striking "and";

(2) in paragraph (3), by striking "and" the third place such term appears; and

(3) in paragraph (5), by striking "contract of insurance" and inserting "contract of insurance".

(i) **SECTION 346(b) AMENDMENTS.**—Section 346(b) of such Act (7 U.S.C. 1994(b)) is amended—

(1) in paragraph (1)(B), by striking "subparagraph (C)" and inserting "paragraph (3)";

(2) in paragraph (1)(C), by striking "subparagraph (A)" and inserting "paragraph (1)";

(3) by redesignating paragraphs (1) (A), (B), (C), (D)(i), and (E) as paragraphs (1), (2), (3), (4), and (5), respectively;

(4) in paragraph (2) (as so redesignated by paragraph (3) of this subsection), by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively;

(5) in each of the subparagraphs redesignated as such by paragraph (4) of this subsection, by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(6) in paragraph (5) (as so redesignated by paragraph (3) of this subsection), by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively.

(j) **SECTION 349(a) AMENDMENT.**—Section 349(a) of such Act (7 U.S.C. 1997(a)) is amended by redesignating paragraph (5) as paragraph (4).

**SEC. 2389. GRANTS FOR FINANCIALLY STRESSED FARMERS, DISLOCATED FARMERS, AND RURAL FAMILIES.**

(a) **EXTENSION OF GRANT PROGRAM.**—Section 502(f)(2) of the Rural Development Act of 1972 (7 U.S.C. 2662(f)(2)) is amended—

(1) by striking “1990” and inserting “1995”; and

(2) by inserting after “under paragraph (1)” the following: “to eligible applicants in any State applying for such grants”.

(b) **CHANGES TO GRANT PROGRAM.**—Section 502(f)(1) of such Act (7 U.S.C. 2662(f)(1)) is amended—

(1) in subparagraph (A), by striking “special grants” and all that follows through “counseling” and inserting the following: “competitive grants for programs that meet the criteria specified in subparagraph (B) to develop counseling, retraining, and educational”;

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

(3) in subparagraph (B)—

(A) by striking “(B) Services to be provided”, the matter preceding the clauses, and clause (i); and

(B) by redesignating clauses (ii) through (viii) as clauses (i) through (vii) of subparagraph (D);

(4) by inserting after subparagraph (A) the following new subparagraphs:

“(B) **GRANT CRITERIA.**—In order to be eligible to receive a grant under this subsection, an applicant must provide suitable assurances that—

“(i) not less than one-half of the grant funds to the applicant will be used for clinical outreach counseling and crisis management assistance, as required by subparagraph (C);

“(ii) a significant number of farms within the State have a ratio of debts to assets of 40 percent or more, the State’s rural economy has been facing adverse economic conditions for a period of years, or such other conditions exist, as determined by the Secretary, such that the assistance provided under this subsection is necessary or appropriate;

“(iii) the planning and implementation of the provision of services under this subsection will be coordinated with the appropriate State agency for mental health, department of health, office of rural health, and any other State agency or department responsible for assisting persons in rural areas of the State; and

“(iv) the planning and implementation of the provision of services under this subsection will be coordinated with the appropriate local governments and other public and private nonprofit agencies and organiza-

tions located in rural areas and involved in addressing problems related to the mental health of rural residents.

"(C) **COUNSELING AND OUTREACH REQUIRED.**—Not less than 50 percent of the grant funds to a State under this subsection shall be used to provide clinical outreach counseling and crisis management assistance.

"(D) **OTHER SERVICES TO BE PROVIDED.**—In addition to the counseling and outreach services required under subparagraph (C), the following services may also be provided through programs funded under this section:"

(5) by adding at the end of subparagraph (D) (as added by paragraph (4) of this subsection) the following new clause:

"(viii) Assistance for local officials and groups in developing income and employment alternatives."; and

(6) in subparagraph (F) (as so redesignated by paragraph (2) of this subsection)—

(A) by striking "is encouraged to work with" and inserting "shall work with the appropriate State office of rural health, State department or agency of mental health, and other";

(B) by striking "a comprehensive plan" and inserting "an annual comprehensive plan";

(C) by striking "special"; and

(D) by adding at the end the following: "For recipients in a State to be eligible for a grant under this subsection in any fiscal year, the Cooperative Extension Service within the State must develop and sign a Memorandum of Agreement with the appropriate State department or agency of mental health and other State agencies as may be appropriate to carry out the comprehensive plan. Such agreement and plan must emphasize the development and delivery of counseling and outreach programs as provided under subparagraph (B)."

(c) **CONFORMING AMENDMENTS.**—

(1) Such section is further amended by striking "(f) Special" and inserting "(f) Competitive".

(2) Section 503(c) of such Act (7 U.S.C. 2663(c)) is amended—

(A) by inserting "ADDITIONAL DISTRIBUTIONS.—(1)" after "(c)";

(B) by striking "and section 502(f)" each place such term appears; and

(C) by adding at the end the following new paragraph:

"(2) The Secretary shall distribute the amounts appropriated to carry out section 502(f) to colleges and universities in accordance with the requirements of such subsection."

(d) **EFFECT OF AMENDMENTS ON CURRENT GRANT RECIPIENTS.**—The eight States receiving grants under section 502(f) of the Rural Development Act of 1972 (7 U.S.C. 2662(f)) during fiscal year 1990 shall continue to be eligible to receive grants (in an amount not to exceed the amount received during that fiscal year) under that section notwithstanding that such grants be awarded competitively, so long as such States comply with the requirement under subparagraph (C) that not less than one-half of such grant amount shall be

used for clinical outreach counseling and crisis management assistance.

**SEC. 2390. RURAL HEALTH AND SAFETY EDUCATION.**

(a) **SHORT TITLE.**—This section may be cited as the “Rural Health and Safety Education Act of 1990”.

(b) **RURAL HEALTH AND SAFETY EDUCATION PROGRAMS.**—

(1) **IN GENERAL.**—Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2661) is amended by adding after the subsection added by section 2346 of this Act the following new subsection:

“(h) **RURAL HEALTH AND SAFETY EDUCATION PROGRAMS.**—

“(1) **PROGRAMS AUTHORIZED.**—

“(A) **INDIVIDUAL AND FAMILY HEALTH EDUCATION.**—The Secretary may make grants for the establishment of individual and family health education programs that shall provide individuals and families with—

“(i) information concerning the value of good health;

“(ii) information to increase the individual or families motivation to take more responsibility for their own health;

“(iii) access to health promotion activities; and

“(iv) training for volunteers and health services providers concerning health promotion and health care services, in cooperation with the Department of Health and Human Services.

“(B) **FARM SAFETY EDUCATION.**—The Secretary may make grants for the establishment of farm safety education programs that shall provide information and training to farm workers, timber harvesters, and farm families concerning safety in the work place, including information and training concerning—

“(i) the reduction of occupational injury and death rates;

“(ii) the reduction and prevention of exposure to farm chemicals;

“(iii) the reduction of agricultural respiratory diseases and dermatitis;

“(iv) the reduction and prevention of noise induced hearing loss;

“(v) the occupational rehabilitation of farmers and timber harvesters with physical disabilities; and

“(vi) farm accident rescue procedures.

“(2) **COORDINATION OF PROGRAMS.**—Educational programs conducted with grants awarded under this subsection shall be coordinated with the State offices of rural health and other appropriate programs of the Department of Health and Human Services.

“(3) **DISSEMINATION OF INFORMATION.**—Educational programs conducted with grants awarded under this subsection shall provide leadership within the State for the dissemination of appropriate rural health and safety information resources possessed by the Rural Information Center established at the National Agricultural Library.

**"(4) PROCEDURES AND LIMITATIONS.**—The Secretary shall establish policies, procedures and limitations that shall apply to States that desire to receive a grant under this subsection. In States with land-grant colleges and universities that are eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301 et seq.), and the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, and universities which receive Rural Health Research Center grants, such eligible institutions shall mutually determine the type of rural health and safety education program needed in the State within which such institutions reside.

**"(5) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.**—For grants under this subsection, there are authorized to be appropriated \$5,000,000 for fiscal year 1991, \$10,000,000 for fiscal year 1992, \$15,000,000 for fiscal year 1993, and \$20,000,000 for fiscal year 1994 and each subsequent fiscal year. Amounts appropriated under this subsection shall remain available until expended."

**(2) TECHNICAL AMENDMENT.**—Section 503(c) of such Act (7 U.S.C. 2663(c)) is amended by striking "and section 502(f)" and inserting "section 502(f), and section 502(h)".

#### **SEC. 2391. RURAL HEALTH INFRASTRUCTURE IMPROVEMENT.**

**(a) GRANT FOR DEMONSTRATION PROJECT.**—The Secretary of Agriculture shall award a grant for the establishment of a project to demonstrate a model approach to improving rural health infrastructure. The project established with such grant shall—

(1) carry out systematic, community-based rural health needs assessments;

(2) identify and coordinate available health services resources;

(3) improve community infrastructure through health education and information and leadership development and training; and

(4) develop community generated health improvement strategies.

**(b) PROJECT IMPLEMENTATION.**—The project established under subsection (a) shall be implemented through the cooperation of—

(1) an academic medical center with accredited health professions schools, including schools of medicine, dentistry, public health, nursing, and allied health;

(2) the Cooperative Extension System of a land-grant university; and

(3) county-based citizens' organizations concerned with rural health services.

**(c) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.**—To carry out subsection (a), there are authorized to be appropriated such sums as may be necessary in each fiscal year. Amounts appropriated under this subsection shall remain available until expended.

#### **SEC. 2392. CENSUS OF AGRICULTURE.**

The Secretary of Commerce shall include questions relating to agricultural accidents and farm safety in the 1992 Census of Agriculture.



### **SEC. 2393. LIMITATION ON CONDITIONS FOR WATER AND SEWER GRANTS AND LOANS.**

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended by adding after the paragraph added by section 2329 of this Act the following new paragraph:

"(21) In making or insuring loans or making grants under this subsection, the Secretary may not condition approval of such loans or grants upon any requirement, condition or certification other than those specified under this Act."

### **SEC. 2394. ENCOURAGEMENT OF PRIVATE CONTRACTING.**

(a) **IN GENERAL.**—For the purpose of promoting local job creation and private sector investment in rural communities, the Secretary of Agriculture is encouraged, where appropriate and feasible, to use private enterprise concerns located in rural areas, rather than government employees or government enterprises, to provide commercial activities or products to carry out the purposes of this title.

(b) **PLAN REQUIRED.**—The Secretary shall develop and implement a plan that will result in increasing the use of contracts awarded to private firms by the Department of Agriculture, and maximizing the use of grant, loan, or other financial assistance made for the purpose of rural development to provide the goods and services purchased to carry out the purposes of this title.

### **SEC. 2395. PRESERVATION OF ELIGIBILITY.**

Notwithstanding any other provision of law, this title shall not be construed to adversely affect the eligibility, as it existed on the date of enactment of this Act, of cooperatives and other entities for any other credit assistance under Federal law.

### **SEC. 2396. REGULATIONS.**

Except as otherwise provided in this title, no later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate such regulations as may be necessary to carry out this title and the amendments made by this title.

## **TITLE XXIV—GLOBAL CLIMATE CHANGE**

### **SEC. 2401. SHORT TITLE.**

This title may be cited as the "Global Climate Change Prevention Act of 1990".

### **SEC. 2402. GLOBAL CLIMATE CHANGE PROGRAM.**

(a) **ESTABLISHMENT.**—For the purpose of having within the Department of Agriculture a focal point for coordinating all issues of climate change, the Secretary of Agriculture (hereafter in this title referred to as the "Secretary") shall establish a Global Climate Change Program (hereafter in this section referred to as the "Program"). The Secretary shall designate a director of the Program who shall be responsible to the Secretary for carrying out the duties specified in subsections (b) and (c).

(b) **GENERAL DUTIES.**—The Director shall—

(1) coordinate policy analysis, long range planning, research, and response strategies relating to climate change issues;