



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

AUG 26 1997

The Honorable Eva M. Clayton
U.S. House of Representatives
2440 Rayburn House Office Building
Washington, D.C. 20515-3301

Dear Eva:

I appreciate your interest in and support for the work on civil rights that we are doing at the Department of Agriculture (USDA). This letter provides my comments on your legislation, H.R. 2185, "The USDA Accountability and Equity Act of 1997," as I said during the Committee's July 17, 1997, hearing I would furnish to you. Overall, your bill encompasses the main recommendations of the Civil Rights Action Team (CRAT) report that require legislative action and have my support. I do, nonetheless, want to continue working with you to make some of the refinements discussed below.

Conversion of County Committees. Section 101(1) would revise the Soil Conservation and Domestic Allotment Act to provide for the appointment to county committees of two additional members who would be demographically representative of groups of producers who would otherwise be under-represented. I agree with the basic thrust of this provision to ensure that the committees are representative and would appreciate the opportunity to work with you to refine this proposal.

Section 101(2) would add a new clause, (vii), to section 8(a)(5)(B) of the Soil Conservation and Domestic Allotment Act giving the Farm Service Agency (FSA) county executive director "sole responsibility for making loan determinations" under USDA credit programs in that county, subject to approval of the state director. The Secretary currently has the authority under the Consolidated Farm and Rural Development Act (CON ACT) to delegate authority for loan determinations to appropriate USDA employees. We need the flexibility to organize and assign functions to improve service delivery, and to title positions accordingly, particularly as we modify the existing field office delivery system to improve customer service and reduce administrative overhead. In the future there may not be a "county executive director" position, or there may be a different position which should more appropriately be assigned loan program determinations. Thus, we suggest that Section 101(2) be deleted from the bill. We would, however, support a broader provision to restrict decisionmaking on farm loans to Federal employees.

(42045)

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Conversion of County Committee Employees. Section 102 converts FSA county committee employees to Federal civil service status implementing one of the key management reforms of the CRAT report. While I support this provision, I recommend that this section be amended to include the following language that would:

- specify that county and area committees may not hire, contract for services, or appoint persons to perform services to carry out the committee's duties;
- for current county committee employees, credit an employee's current permanent county committee service when determining the 3 years of service necessary for converting the employee to career civil service status;
- permit FSA to rehire former permanent county committee employees who under current provisions have FSA reemployment rights due to being separated through a reduction-in-force; and
- specify that if implementation of these provisions results in a change to an existing bargaining unit, and if USDA and labor organizations reach voluntary agreement on an appropriate bargaining unit and the exclusive representative for the unit, then the Federal Labor Relations Authority must certify the terms of the agreement.

Access to Credit. Section 201 modifies restrictions enacted in the 1996 Farm Bill that prohibit a farmer from one, receiving a loan from FSA if he or she has received a debt forgiveness on a prior loan, and two, from receiving a direct operating loan if he or she is delinquent on an existing loan. While I am opposed to the unduly restrictive provisions in the 1996 Farm Bill and want to work with you to ensure that farmers continue to have access to credit, I have three concerns with respect to the provisions in this section as currently drafted.

- This section does not modify the lifetime prohibition against new loans to borrowers who have received a debt write-off, an issue that I know is of concern to you and I want modified.
- The provisions conflict with the Federal Debt Collection Act and General Accounting Office recommendations on improving the farm credit program. For example, they would allow new loans to borrowers who are delinquent on existing loans and borrowers whose farms are pending liquidation. This could reopen the farm credit program to abuse and increased risk of loss.

- The provisions prohibit FSA from making a direct operating loan, for 2 years, to a borrower who has received a write-down under Section 353 of the CON ACT which is more restrictive than current law.

Lease Back, Buy Back Opportunitiles. Section 202 provides \$10 million for 1998 and 1999 for leases or contracts to sell real property acquired under the CON ACT solely to beginning farmers. However, the lease back, buy back program allowed any farmer or rancher, who had lost his or her farm, to lease the property from the Department for a specified number of years, and those who successfully completed their lease agreement could repurchase the property.

The lease back, buy back program was eliminated by the 1996 Farm Bill. The CRAT report recommended that the Department fulfill its obligations to those farmers who had successfully completed their lease back agreement during the 1994-1996 fiscal years, but were denied the opportunity to repurchase their property due to the lack of funds. I look forward to working with you and other interested Members to develop language to implement this recommendation which would allow those qualified farmers and ranchers to complete their buy back agreements.

Debt Write-Downs Not Treated As Income For Tax Purposes. Section 203 proposes to amend the CON ACT so the write-down of farm debt is not included as income for tax purposes. Because this is a tax matter, I would prefer to work with you and the Secretary of the Treasury on this issue.

Accessibility of Housing Loans. Section 204 proposes to amend the Housing Act of 1949 to permit applicants with nonexistent or poor credit histories to be eligible for rural housing loan assistance. The Department has implemented these provisions by administrative action.

Advisory Committee. Section 207 establishes an advisory committee to examine whether land grant institutions are receiving equitable support to assist the Department in carrying out its mission, one of the issues examined in the 1996 report on agricultural research of the Board on Agriculture of the National Research Council. The Administration's recommendations for reauthorization of the research title of the Farm Bill incorporate the findings of that report by proposing to expand the eligibility for funds appropriated under Section 3(d) of the Smith-Lever Act for extension special focus programs and to phase in non-Federal matching requirements for the 1890 land grant institution formula

programs in support of extension and research. I believe that Congress should proceed with specific legislation on this matter as we have proposed rather than postponing action while another study is done, which will almost surely come to the same basic conclusion as in our recommendation on the research title.

Funding of Farm Ownership and Operating Loan Programs. Section 301 proposes to amend the CON ACT to provide funding for direct farm ownership and operating loans at the maximum level authorized in the 1996 Farm Bill, \$85 million for direct farm ownership and \$500 million for direct operating loans. However, the bill language appears to appropriate specific loan levels rather than appropriations to cover the subsidy costs consistent with the Federal Credit Reform Act of 1990. Further, as drafted, it is unclear whether this provision supersedes the existing authorizations of appropriations or whether this provision merely augments such authorizations. We are ready to work with you on refining and clarifying this provision.

Several other provisions of the bill provide direct spending: Section 202, for lease back and buy back arrangements between the Department and beginning farmers; Section 206, for 1890 colleges and institutions; Section 208, for the outreach program for socially disadvantaged farmers; and Section 209, for the Indian reservation extension program. Also, Section 205 increases the mandatory funding level for the Environmental Quality Incentives Program. All of these meritorious provisions relate to findings and are generally consistent with recommendations in the CRAT report.

I am providing the enclosed table showing that the estimated 5-year cost of the bill is \$905 million in budget authority. The scoring assumes the bill would provide the subsidy cost of loan levels; however, if direct spending for the entire loan level is provided as the bill is drafted, the 5-year cost of the bill would be \$3.6 billion. The "pay-as-you-go" provision of the Omnibus Budget Reconciliation Act of 1990 requires offsets for direct spending. H.R. 2185 does not contain provisions to offset the increased direct spending. Therefore, if the bill were enacted, its deficit effects could contribute to a sequester of mandatory programs. Particularly in light of the recently enacted bipartisan Budget Agreement, the Administration's support for these provisions depends on finding sufficient, acceptable offsets for any direct spending in the bill. In addition to the comments outlined above, I have some technical corrections that my staff will work with your office to delineate and we will assist you with other language drafting that you believe would be helpful.

The Honorable Eva M. Clayton

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The Office of Management and Budget has no objection to the presentation of this report from the standpoint of the Administration's programs.

With best personal regards.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Glickman". The signature is fluid and cursive, with a large initial "D" and a long, sweeping tail.

DAN GLICKMAN
Secretary

Enclosures

COST ANALYSIS - H.R. 2185, USDA ACCOUNTABILITY AND EQUITY ACT OF 1997

(Dollars in Millions)

Program	1998		1999		2000		2001		2002		Five-Year Totals	
	Program Level	Budget Authority	Program Level	Budget Authority								
Farm Service Agency:												
Sec. 202 Leases/Contracts to Sell												
Property to Beginning Ranchers/Farmers	\$10.0	\$10.0	\$10.0	\$10.0	0.0	0.0	0.0	0.0	0.0	0.0	\$20.0	\$20.0
Sec. 208 Outreach to Socially Disadvantaged Farmers	10.0	10.0	10.0	10.0	\$10.0	\$10.0	\$10.0	\$10.0	\$10.0	\$10.0	50.0	50.0
Sec. 301 Farm Ownership Loans	85.0	11.1 a/	425.0	55.5 a/								
Sec. 301 Operating Loans	500.0	32.9 a/	2,500.0	164.5 a/								
Natural Resources Conservation Service:												
Sec. 205 EQIP Program	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	500.0	500.0
Cooperative State Research, Education and Extension Service:												
Sec. 206 Grants to Upgrade 1890s Facilities	15.0	15.0	15.0	15.0	15.0	15.0	15.0	15.0	15.0	15.0	75.0	75.0
Sec. 207 Land Grant Advisory Committee and Study	(0.1)b/	(0.1)b/	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	(0.1)	(0.1)b/
Sec. 209 Indian Reservation Prog. Funding	8.0	8.0	8.0	8.0	8.0	8.0	8.0	8.0	8.0	8.0	40.0	40.0
Total	728.0	187.0	728.0	187.0	718.0	177.0	718.0	177.0	718.0	177.0	3,610.0	905.0

/ Program level is estimated at FY 1998 subsidy rate assumed in the FY 1998 President's Budget. The actual rate may be lower or higher due to changes in interest rates in the outyears, therefore, supporting a lower or higher program level.
 / Bill does not provide a specific funding level. This is an estimate of potential costs to operate the committee.

ote: FSA nonfederal to Federal Employee System conversion mandated in Section 102 may involve some eventual systems costs associated with the need to reclassify nonfederal employees as Federal, but these costs are unknown at this time.

ENCLOSURE

Suggested additional language for Section 102 of H.R. 2185:

1) Section 101:

The correct reference should be Section 8(b)(5)(B) of the Soil Conservation and Domestic Allotment Act.

2) Section 102(a)(1)

Insert "County and area committees may not hire, contract for services, or appoint persons to perform services in order to carry out duties authorized under subparagraph (D)." after "(ii) Employees performing services for county and area committees may be appointed only by the Secretary or the designee of the Secretary."

3) Section 102(a)(2)(A)

Delete section 102(a)(2)(A) and insert in its place, **"Employees who have completed 3 years of current permanent county committee service shall be given career civil service appointments."**

4) Section 102(a)(2)(B):

Insert "and the period of current permanent county committee service shall be counted when determining 3 years of service necessary for conversion to career civil service status." after "(B) Employees who have completed less than 3 years of service shall be given career-conditional civil service appointments."

5) Add Section 102(a)(5):

Insert "(5) COUNTY COMMITTEE EMPLOYEE REEMPLOYMENT RIGHTS. -- Subject to regulations of the Office of Personnel Management, except as otherwise provided in this section, a former permanent employee of a county committee employed pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) who, prior to the effective date of this Act, was provided reemployment priority rights as an employee of a county committee established pursuant to section 8(b) of the Soil and Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) due to being separated through reduction-in-force procedures established by the Secretary of Agriculture, may be appointed to a career civil service position in the Farm Service Agency pursuant to procedures developed by the Secretary of Agriculture."

6) Section 102(b)(2)(B):

Insert "5334(e)," after "sections 5306(a)(1)(C)" and before "8331(1)(F)."

7) Add Section 102(d) regarding successorship:

**(d) SUCCESSORSHIP PROVISIONS RELATING TO BARGAINING UNITS
AND EXCLUSIVE REPRESENTATIVES. --**

(1) VOLUNTARY AGREEMENTS. --

(A) IN GENERAL. -- If the implementation of the provisions in this section result in a change to an existing bargaining unit that has been certified under chapter 71 of title 5, United States Code, the affected parties shall attempt to reach a voluntary agreement on a new bargaining unit and an exclusive representative for such unit.

(B) CRITERIA. -- In carrying out the requirements of this subsection, the affected parties shall use criteria set forth in --

(i) sections 7103(a)(4) and 7103(a)(16), 7111(e) and 7111(f)(1), and 7120 of title 5, United States Code, relating to determining an exclusive representative; and

(ii) section 7112 of title 5, United States Code (disregarding subsections (b)(5) and (d) thereof), relating to determining appropriate units.

(2) EFFECT OF AN AGREEMENT. --

(A) IN GENERAL. -- If the affected parties reach agreement on the appropriate unit and the exclusive representative for such unit under paragraph (1), the Federal Labor Relations Authority shall certify the terms of such agreement, subject to paragraph (3)(A).

(B) HEARINGS OR ELECTIONS. -- Nothing in this subsection shall be considered to require the holding of any hearing or election as a condition for certification.

(3) RESTRICTIONS. --

(A) CONDITIONS FOR NON-CERTIFICATION. -- The Federal Labor Relations Authority may not certify the terms of an agreement under paragraph (2) if --

(i) the Authority determines that any of the criteria referred to in paragraph (1)(B) have not been met; or

(ii) a valid election under section 7111(b) of title 5, United States Code, is held covering any employees who would be included in the unit proposed for certification.

(B) WAIVER. -- Nothing in section 7111(f)(3) of title 5, United States Code, shall prevent the holding of an election under section 7111(b) of such title that covers employees within a unit certified under paragraph (2), or giving effect to the results of such an election (including a decision not to be represented by any labor

organization), if the election is held before the end of the 12-month period beginning on the date such unit is so certified.

(3) CLARIFICATION. -- The certification of a unit under paragraph (2) shall not, for purposes of the last sentence of section 7111(b) of title 5, United States Code, or section 7111(f)(4) of such title, be treated as if it had occurred pursuant to an election.

(4) DELEGATION. --

(A) IN GENERAL. -- The Federal Labor Relations Authority may delegate to any regional director (as referred to in section 7105(e) of title 5, United States Code) its authority under the preceding provisions of this subsection.

(5) DEFINITION. -- For purpose of this subsection, the term "affected party" means --

(A) any labor organization affected thereby; and

(B) the Department of Agriculture.