

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1367

To amend the Food Security Act of 1985 to strengthen the payment limitations, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 27 (legislative day, OCTOBER 26), 1995

Mr. LIEBERMAN introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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## A BILL

To amend the Food Security Act of 1985 to strengthen the payment limitations, and for other purposes.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Farm Fairness Act  
5 of 1995”.

6       **SEC. 2. PAYMENT LIMITATIONS.**

7       (a) IN GENERAL.—Section 1001 of the Food Security  
8 Act of 1985 (7 U.S.C. 1308) is amended by striking para-  
9 graphs (1) through (3) and inserting the following:

1       “(1)(A) Subject to sections 1001A through 1001C,  
2 for each of the 1996 and subsequent crops, the total  
3 amount of payments specified in subparagraph (B) that  
4 a person shall be entitled to receive under 1 or more of  
5 the annual programs established under the Agricultural  
6 Act of 1949 (7 U.S.C. 1421 et seq.) for wheat, feed grains,  
7 upland cotton, extra long staple cotton, rice, and oilseeds  
8 may not exceed \$35,000.

9       “(B) In subparagraph (A), the term ‘payments’  
10 means—

11           “(i) deficiency payments;

12           “(ii) land diversion payments;

13           “(iii) any part of any payment that is deter-  
14 mined by the Secretary of Agriculture to represent  
15 compensation for resource adjustment or public ac-  
16 cess for recreation;

17           “(iv) any gain realized by a producer from re-  
18 paying a loan for a crop of any commodity (other  
19 than honey) at a lower level than the original loan  
20 level established under the Agricultural Act of 1949;

21           “(v) any deficiency payment received for a crop  
22 of wheat or feed grains under the Agricultural Act  
23 of 1949 as the result of a reduction of the loan level  
24 for the crop under the Act;

1           “(vi) any loan deficiency payment received for  
2 a crop of wheat, feed grains, upland cotton, rice, or  
3 oilseeds under the Agricultural Act of 1949; and

4           “(vii) any inventory reduction payment received  
5 for a crop of wheat, feed grains, upland cotton, or  
6 rice under the Agricultural Act of 1949.

7           “(2) In applying the limitation specified in paragraph  
8 (1)(A) to payments specified in paragraph (1)(B):

9           “(A) The Secretary shall attribute the pay-  
10 ments directly to persons who receive the payments.

11           “(B) In the case of payments that are received  
12 by an entity, the Secretary shall attribute the pay-  
13 ments to individuals who own the entity in propor-  
14 tion to the ownership interest of the individuals in  
15 the entity.”.

16 **SEC. 3. DEFINITION OF PERSON.**

17           Section 1001(5)(B)(i)(II) of the Food Security Act  
18 of 1985 (7 U.S.C. 1308(5)(B)(i)(II)) is amended by in-  
19 serting “general partnership, joint venture,” after “limited  
20 partnership,”.

21 **SEC. 4. REMOVAL OF 3-ENTITY RULE.**

22           Subsection (a) of section 1001A of the Food Security  
23 Act of 1985 (7 U.S.C. 1308–1) is amended to read as  
24 follows:

1       “(a) PREVENTION OF CREATION OF ENTITIES TO  
2 QUALIFY AS SEPARATE PERSONS.—The Secretary shall  
3 attribute payments specified in section 1001(1)(B) to per-  
4 sons in accordance with section 1001(2).”.

5 **SEC. 5. ACTIVELY ENGAGED IN FARMING.**

6       (a) PERSONAL LABOR AND ACTIVE PERSONAL MAN-  
7 AGEMENT.—

8           (1) INDIVIDUALS.—Section 1001A(b)(2)(A)(i)  
9 of the Food Security Act of 1985 (7 U.S.C. 1308–  
10 1(b)(2)(A)(i)) is amended by striking subclause (II)  
11 and inserting the following:

12                           “(II) personal labor and active  
13                           personal management;”.

14           (2) CORPORATIONS OR OTHER ENTITIES.—Sec-  
15 tion 1001A(b)(2)(B) of the Act is amended to read  
16 as follows:

17                           “(B) CORPORATIONS OR OTHER ENTI-  
18                           TIES.—

19                           “(i) SIGNIFICANT CONTRIBUTION.—A  
20 corporation or other entity shall be consid-  
21 ered as actively engaged in farming with  
22 respect to a farming operation if—

23   “(I) the entity separately makes  
24 a significant contribution (based on

1 the total value of the farming oper-  
2 ation) of capital, equipment, or land;

3 “(II) stockholders or members  
4 who individually or collectively own at  
5 least a 50 percent interest in the oper-  
6 ation make a significant contribution  
7 of personal labor and active personal  
8 management to the operation; and

9 “(III) the standards provided in  
10 clauses (ii) and (iii) of subparagraph  
11 (A), as applied to the entity, are met  
12 by the entity.

13 “(ii) NO SIGNIFICANT CONTRIBU-  
14 TION.—Notwithstanding clause (i), if the  
15 stockholders or members who are not de-  
16 scribed in clause (i)(II) do not individually  
17 or collectively make a significant contribu-  
18 tion of personal labor or active personal  
19 management to the operation, the pay-  
20 ments to the entity shall be reduced by a  
21 percentage equal to the percentage owner-  
22 ship in the entity of the members.

23 “(iii) TRANSITION RULE.—A family  
24 farm corporation shall meet the require-

1           ments of clause (i)(II) during the 10-year  
2           period beginning on October 1, 1996, if—

3                   “(I) the corporation met the re-  
4                   quirements of this subparagraph (as  
5                   in effect prior to the amendment  
6                   made by section 5(a)(2) of the Farm  
7                   Fairness Act of 1995) during at least  
8                   the 5-year period ending on the date  
9                   of enactment of the Act;

10                   “(II) the corporation ceases as a  
11                   result of the death, disability, or re-  
12                   irement of a stockholder or member  
13                   of the corporation to meet the require-  
14                   ments of clause (i)(II); and

15                   “(III) stockholders or members  
16                   who individually or collectively own at  
17                   least a 10 percent interest in the oper-  
18                   ation make a significant contribution  
19                   of personal labor and active personal  
20                   management to the operation.”.

21                   (3) ENTITIES MAKING SIGNIFICANT CONTRIBU-  
22                   TIONS.—Section 1001A(b)(2) of the Act is amend-  
23                   ed—

24                   (A) by striking subparagraph (C); and

1 (B) by redesignating subparagraph (D) as  
2 subparagraph (C).

3 (4) FAMILY MEMBERS.—The first sentence of  
4 section 1001A(b)(3)(B) of the Act is amended by  
5 striking “active personal management or personal  
6 labor” and inserting “active personal management  
7 and personal labor”.

8 (b) LANDOWNERS.—Section 1001A(b)(3)(A) of the  
9 Act is amended to read as follows:

10 “(A) LANDOWNERS.—A person that is a  
11 landowner contributing the owned land to the  
12 farming operation, if the person demonstrates  
13 to the satisfaction of the Secretary that the per-  
14 son—

15 “(i) receives rent for the use of the  
16 land based on the production of the land  
17 or the operating results of the operation;

18 “(ii) rents the land only to persons  
19 who are considered actively engaged in  
20 farming under this section; and

21 “(iii) meets the standards provided in  
22 clauses (ii) and (iii) of paragraph (2)(A).”.

23 (c) DEFINITIONS.—Section 1001A(b) of the Act is  
24 amended by adding at the end the following:

1           “(7) DEFINITIONS.—In this subsection and sec-  
2           tion 1001(5)(D) (7 U.S.C. 1308(5)(D)):

3           “(A) ACTIVE PERSONAL MANAGEMENT.—

4           The term ‘active personal management’ means  
5           personally providing, on a daily basis as re-  
6           quired during the entire growing season for a  
7           crop—

8                   “(i) direct supervision and direction of  
9                   activities and labor involved in a farming  
10                  operation; or

11                  “(ii) on-site services that are directly  
12                  related and necessary to a farming oper-  
13                  ation.

14           “(B) CAPITAL.—The term ‘capital’ does  
15           not include any payment described in paragraph  
16           (1) or (2) of section 1001 (7 U.S.C. 1308). The  
17           Secretary shall establish procedures to ensure  
18           that the term is applied in a manner that does  
19           not include any such payment.

20           “(C) SIGNIFICANT CONTRIBUTION.—The  
21           term ‘significant contribution’ means—

22                   “(i) in the case of land, capital, or  
23                   equipment contributed by a person to an  
24                   operation, a percentage of the land, cap-  
25                   ital, or equipment, respectively, to the op-

1           eration that is at least equal to the per-  
2           centage interest of the person in the oper-  
3           ation; and

4                   “(ii) in the case of personal labor and  
5           personal active management contributed by  
6           a person to an operation, at least 1,000  
7           hours annually or 50 percent of the com-  
8           mensurate share, whichever is less.”.

9           (d) CONFORMING AMENDMENTS.—Section 1001(5)  
10 of the Act (7 U.S.C. 1308(5)) is amended—

11                   (1) by striking subparagraph (D); and

12                   (2) by redesignating subparagraph (E) as sub-  
13           paragraph (D).

14 **SEC. 6. SCHEMES OR DEVICES.**

15           Section 1001B of the Food Security Act of 1985 (7  
16 U.S.C. 1308–2) is amended by striking “applicable to”  
17 and all that follows through “succeeding crop year” and  
18 inserting “applicable to—

19                   “(1) the crop year for which the scheme or de-  
20           vice was adopted and the succeeding 5 crop years;  
21           and

22                   “(2) if fraud was committed in connection with  
23           a scheme or device involving a price support, produc-  
24           tion adjustment, or conservation program adminis-  
25           tered by the Secretary of Agriculture, the crop year

1       for which the scheme or device was adopted and the  
2       succeeding 10 crop years”.

3   **SEC. 7. EFFECTIVE DATE.**

4       This Act and the amendments made by this Act shall  
5   become effective on October 1, 1996.

