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110TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
110–627

FOOD, CONSERVATION, AND ENERGY ACT OF 2008

CONFERENCE REPORT

TO ACCOMPANY

H.R. 2419

MAY 13, 2008.—Ordered to be printed

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MAY 13, 2008.—Ordered to be printed

Mr. PETERSON of Minnesota, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 2419]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 2419), to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Food, Conservation, and Energy Act of 2008".

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

Sec. 1. Short title; table of contents.
Sec. 2. Definition of Secretary.

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In this Act, the term "Secretary" means the Secretary of Agriculture.

TITLE I—COMMODITY PROGRAMS

SEC. 1001. DEFINITIONS.

In this title (other than subtitle C):

(1) AVERAGE CROP REVENUE ELECTION PAYMENT.—The term "average crop revenue election payment" means a payment made to producers on a farm under section 1105.

(2) BASE ACRES.—

(A) IN GENERAL.—The term "base acres", with respect to a covered commodity on a farm, means the number of acres established under section 1101 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911) as in effect on September 30, 2007, subject to any adjustment under section 1101 of this Act.

(B) PEANUTS.—The term "base acres for peanuts" has the meaning given the term in section 1301.

(3) COUNTER-CYCLICAL PAYMENT.—The term "counter-cyclical payment" means a payment made to producers on a farm under section 1104.

(4) COVERED COMMODITY.—The term "covered commodity" means wheat, corn, grain sorghum, barley, oats, upland cotton, long grain rice, medium grain rice, pulse crops, soybeans, and other oilseeds.

(5) DIRECT PAYMENT.—The term "direct payment" means a payment made to producers on a farm under section 1103.

(6) EFFECTIVE PRICE.—The term "effective price", with respect to a covered commodity for a crop year, means the price calculated by the Secretary under section 1104 to determine whether counter-cyclical payments are required to be made for that crop year.

(7) EXTRA LONG STAPLE COTTON.—The term "extra long staple cotton" means cotton that—

(A) is produced from pure strain varieties of the Barbadense species or any hybrid of the species, or other similar types of extra long staple cotton, designated by the Secretary, having characteristics needed for various end uses for which United States upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary as suitable for the production of the varieties or types; and

(B) is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

(8) LOAN COMMODITY.—The term "loan commodity" means wheat, corn, grain sorghum, barley, oats, upland cotton, extra long staple cotton, long grain rice, medium grain rice, soybeans, other oilseeds, graded wool, nongraded wool, mohair, honey, dry peas, lentils, small chickpeas, and large chickpeas.

(9) MEDIUM GRAIN RICE.—The term "medium grain rice" includes short grain rice.

(10) OTHER OILSEED.—The term "other oilseed" means a crop of sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, or any oilseed designated by the Secretary.

(11) PAYMENT ACRES.—The term "payment acres" means, in the case of direct payments and counter-cyclical payments—

(A) except as provided in subparagraph (B), 85 percent of the base acres of a covered commodity on a farm on which direct payments or counter-cyclical payments are made; and

(B) in the case of direct payments for each of the 2009 through 2011 crop years, 83.3 percent of the base acres for the covered commodity on a farm on which direct payments are made.

(12) PAYMENT YIELD.—The term "payment yield" means the yield established for direct payments and the yield established for counter-cyclical payments under section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912) as in effect on September 30, 2007, or under section 1102 of this Act, for a farm for a covered commodity.

(13) PRODUCER.—

(A) IN GENERAL.—The term "producer" means an owner, operator, landlord, tenant, or sharecropper that shares in the risk of producing a crop and is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced.

(B) HYBRID SEED.—In determining whether a grower of hybrid seed is a producer, the Secretary shall—

(i) not take into consideration the existence of a hybrid seed contract; and

(ii) ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this title.

(14) PULSE CROP.—The term "pulse crop" means dry peas, lentils, small chickpeas, and large chickpeas.

(15) STATE.—The term "State" means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(16) TARGET PRICE.—The term "target price" means the price per bushel, pound, or hundredweight (or other appropriate unit) of a covered commodity used to determine the payment rate for counter-cyclical payments.

(17) UNITED STATES.—The term "United States", when used in a geographical sense, means all of the States.

(18) UNITED STATES PREMIUM FACTOR.—The term "United States Premium Factor" means the percentage by which the difference in the United States loan schedule premiums for Strict Middling (SM) 1 1/8-inch upland cotton and for Middling (M) 1 3/32-inch upland cotton exceeds the difference in the applicable premiums for comparable international qualities.

Subtitle A—Direct Payments and Counter-Cyclical Payments

SEC. 1101. BASE ACRES.

(a) ADJUSTMENT OF BASE ACRES.—

(1) IN GENERAL.—The Secretary shall provide for an adjustment, as appropriate, in the base acres for covered commodities for a farm whenever any of the following circumstances occurs:

(A) A conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) with respect to the farm expires or is voluntarily terminated, or was terminated or expired during the period beginning on October 1, 2007, and ending on the date of enactment of this Act.

(B) Cropland is released from coverage under a conservation reserve contract by the Secretary, or was released during the period beginning on October 1, 2007, and ending on the date of enactment of this Act.

(C) The producer has eligible pulse crop acreage, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(D) The producer has eligible oilseed acreage as the result of the Secretary designating additional oilseeds, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(2) SPECIAL CONSERVATION RESERVE ACREAGE PAYMENT RULES.—For the crop year in which a base acres adjustment under subparagraph (A) or (B) of paragraph (1) is first made, the owner of the farm shall elect to receive either direct payments and counter-cyclical payments with respect to the acreage added to the farm under this subsection or a prorated payment under the conservation reserve contract, but not both.

(b) PREVENTION OF EXCESS BASE ACRES.—

(1) REQUIRED REDUCTION.—If the sum of the base acres for a farm, together with the acreage described in paragraph (2) exceeds the actual cropland acreage of the farm, the Secretary shall reduce the base acres for 1 or more covered commodities for the farm or the base acres for peanuts for the farm so that the sum of the base acres and acreage described in paragraph (2) does not exceed the actual cropland acreage of the farm.

(2) OTHER ACREAGE.—For purposes of paragraph (1), the Secretary shall include the following:

(A) Any base acres for peanuts for the farm.

(B) Any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.).

(C) Any other acreage on the farm enrolled in a Federal conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

(D) Any eligible pulse crop acreage, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(E) If the Secretary designates additional oilseeds, any eligible oilseed acreage, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(3) SELECTION OF ACRES.—The Secretary shall give the owner of the farm the opportunity to select the base acres for a covered commodity or the base acres for peanuts for the farm against which the reduction required by paragraph (1) will be made.

(4) EXCEPTION FOR DOUBLE-CROPPED ACREAGE.—In applying paragraph (1), the Secretary shall make an exception in the case of double cropping, as determined by the Secretary.

(5) COORDINATED APPLICATION OF REQUIREMENTS.—The Secretary shall take into account section 1302(b) when applying the requirements of this subsection.

(c) REDUCTION IN BASE ACRES.—

(1) REDUCTION AT OPTION OF OWNER.—

(A) IN GENERAL.—The owner of a farm may reduce, at any time, the base acres for any covered commodity for the farm.

(B) EFFECT OF REDUCTION.—A reduction under subparagraph (A) shall be permanent and made in a manner prescribed by the Secretary.

(2) REQUIRED ACTION BY SECRETARY.—

(A) IN GENERAL.—The Secretary shall proportionately reduce base acres on a farm for covered commodities for land that has been subdivided and developed for multiple residential units or other nonfarming uses if the size of the tracts and the density of the subdivision is such that the land is unlikely to return to the previous agricultural use, unless the producers on the farm demonstrate that the land—

(i) remains devoted to commercial agricultural production; or

(ii) is likely to be returned to the previous agricultural use.

(B) REQUIREMENT.—The Secretary shall establish procedures to identify land described in subparagraph (A).

(3) REVIEW AND REPORT.—Each year, to ensure, to the maximum extent practicable, that payments are received only by producers, the Secretary shall submit to Congress a report that describes the results of the actions taken under paragraph (2).

(d) TREATMENT OF FARMS WITH LIMITED BASE ACRES.—

(1) PROHIBITION ON PAYMENTS.—Except as provided in paragraph (2) and notwithstanding any other provision of this title, a producer on a farm may not receive direct payments, counter-cyclical payments, or average crop revenue election payments if the sum of the base acres of the farm is 10 acres or less, as determined by the Secretary.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to a farm owned by—

(A) a socially disadvantaged farmer or rancher (as defined in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)); or

(B) a limited resource farmer or rancher, as defined by the Secretary.

(3) DATA COLLECTION AND PUBLICATION.—The Secretary shall—

(A) collect and publish segregated data and survey information about the farm profiles, utilization of land, and crop production; and

(B) perform an evaluation on the supply and price of fruits and vegetables based on the effects of suspension of base acres under this section.

SEC. 1102. PAYMENT YIELDS.

(a) ESTABLISHMENT AND PURPOSE.—For the purpose of making direct payments and counter-cyclical payments under this subtitle, the Secretary shall provide for the establishment of a yield for each farm for any designated oilseed or eligible pulse crop for which a payment yield was not established under section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912) in accordance with this section.

(b) PAYMENT YIELDS FOR DESIGNATED OILSEEDS AND ELIGIBLE PULSE CROPS.—

(1) DETERMINATION OF AVERAGE YIELD.—In the case of designated oilseeds and eligible pulse crops, the Secretary shall determine the average yield per planted acre for the designated oilseed or pulse crop on a farm for the 1998 through 2001 crop years, excluding any crop year in which the acreage planted to the designated oilseed or pulse crop was zero.

(2) ADJUSTMENT FOR PAYMENT YIELD.—

(A) IN GENERAL.—The payment yield for a farm for a designated oilseed or eligible pulse crop shall be equal to the product of the following:

(i) The average yield for the designated oilseed or pulse crop determined under paragraph (1).

(ii) The ratio resulting from dividing the national average yield for the designated oilseed or pulse crop for the 1981 through 1985 crops by the national average yield for the designated oilseed or pulse crop for the 1998 through 2001 crops.

(B) NO NATIONAL AVERAGE YIELD INFORMATION AVAILABLE.—To the extent that national average yield information for a designated oilseed or pulse crop is not available, the Secretary shall use such information as the Secretary determines to be fair and equitable to establish a national average yield under this section.

(3) USE OF PARTIAL COUNTY AVERAGE YIELD.—If the yield per planted acre for a crop of a designated oilseed or pulse crop for a farm for any of the 1998 through 2001 crop years was less than 75 percent of the county yield for that designated oilseed or pulse crop, the Secretary shall assign a yield for that crop year equal to 75 percent of the county yield for the purpose of determining the average under paragraph (1).

(4) NO HISTORIC YIELD DATA AVAILABLE.—In the case of establishing yields for designated oilseeds and eligible pulse crops, if historic yield data is not available, the Secretary shall use the ratio for dry peas calculated under paragraph (2)(A)(ii) in determining the yields for designated oilseeds and eligible pulse crops, as determined to be fair and equitable by the Secretary.

SEC. 1103. AVAILABILITY OF DIRECT PAYMENTS.

(a) PAYMENT REQUIRED.—For each of the 2008 through 2012 crop years of each covered commodity (other than pulse crops), the Secretary shall make direct payments to producers on farms for which base acres and payment yields are established.

(b) PAYMENT RATE.—Except as provided in section 1105, the payment rates used to make direct payments with respect to covered commodities for a crop year shall be as follows:

(1) Wheat, $0.52 per bushel.

(2) Corn, $0.28 per bushel.

(3) Grain sorghum, $0.35 per bushel.

(4) Barley, $0.24 per bushel.

(5) Oats, $0.024 per bushel.

(6) Upland cotton, $0.0667 per pound.

(7) Long grain rice, $2.35 per hundredweight.

(8) Medium grain rice, $2.35 per hundredweight.

(9) Soybeans, $0.44 per bushel.

(10) Other oilseeds, $0.80 per hundredweight.

(c) PAYMENT AMOUNT.—The amount of the direct payment to be paid to the producers on a farm for a covered commodity for a crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (b).

(2) The payment acres of the covered commodity on the farm.

(3) The payment yield for the covered commodity for the farm.

(d) TIME FOR PAYMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), in the case of each of the 2008 through 2012 crop years, the Secretary may not make direct payments before October 1 of the

calendar year in which the crop of the covered commodity is harvested.

(2) ADVANCE PAYMENTS.—

(A) OPTION.—

(i) IN GENERAL.—At the option of the producers on a farm, the Secretary shall pay in advance up to 22 percent of the direct payment for a covered commodity for any of the 2008 through 2011 crop years to the producers on a farm.

(ii) 2008 CROP YEAR.—If the producers on a farm elect to receive advance direct payments under clause (i) for a covered commodity for the 2008 crop year, as soon as practicable after the election, the Secretary shall make the advance direct payment to the producers on the farm.

(B) MONTH.—

(i) SELECTION.—Subject to clauses (ii) and (iii), the producers on a farm shall select the month during which the advance payment for a crop year will be made.

(ii) OPTIONS.—The month selected may be any month during the period—

(I) beginning on December 1 of the calendar year before the calendar year in which the crop of the covered commodity is harvested; and

(II) ending during the month within which the direct payment would otherwise be made.

(iii) CHANGE.—The producers on a farm may change the selected month for a subsequent advance payment by providing advance notice to the Secretary.

(3) REPAYMENT OF ADVANCE PAYMENTS.—If a producer on a farm that receives an advance direct payment for a crop year ceases to be a producer on that farm, or the extent to which the producer shares in the risk of producing a crop changes, before the date the remainder of the direct payment is made, the producer shall be responsible for repaying the Secretary the applicable amount of the advance payment, as determined by the Secretary.

SEC. 1104. AVAILABILITY OF COUNTER-CYCLICAL PAYMENTS.

(a) PAYMENT REQUIRED.—Except as provided in section 1105, for each of the 2008 through 2012 crop years for each covered commodity, the Secretary shall make counter-cyclical payments to producers on farms for which payment yields and base acres are established with respect to the covered commodity if the Secretary determines that the effective price for the covered commodity is less than the target price for the covered commodity.

(b) EFFECTIVE PRICE.—

(1) COVERED COMMODITIES OTHER THAN RICE.—Except as provided in paragraph (2), for purposes of subsection (a), the effective price for a covered commodity is equal to the sum of the following:

(A) The higher of the following:

(i) The national average market price received by producers during the 12-month marketing year for the covered commodity, as determined by the Secretary.

(ii) The national average loan rate for a marketing assistance loan for the covered commodity in effect for the applicable period under subtitle B.

(B) The payment rate in effect for the covered commodity under section 1103 for the purpose of making direct payments with respect to the covered commodity.

(2) RICE.—In the case of long grain rice and medium grain rice, for purposes of subsection (a), the effective price for each type or class of rice is equal to the sum of the following:

(A) The higher of the following:

(i) The national average market price received by producers during the 12-month marketing year for the type or class of rice, as determined by the Secretary.

(ii) The national average loan rate for a marketing assistance loan for the type or class of rice in effect for the applicable period under subtitle B.

(B) The payment rate in effect for the type or class of rice under section 1103 for the purpose of making direct payments with respect to the type or class of rice.

(c) TARGET PRICE.—

(1) 2008 CROP YEAR.—For purposes of the 2008 crop year, the target prices for covered commodities shall be as follows:

(A) Wheat, $3.92 per bushel.
(B) Corn, $2.63 per bushel.
(C) Grain sorghum, $2.57 per bushel.
(D) Barley, $2.24 per bushel.
(E) Oats, $1.44 per bushel.
(F) Upland cotton, $0.7125 per pound.
(G) Long grain rice, $10.50 per hundredweight.
(H) Medium grain rice, $10.50 per hundredweight.
(I) Soybeans, $5.80 per bushel.
(J) Other oilseeds, $10.10 per hundredweight.

(2) 2009 CROP YEAR.—For purposes of the 2009 crop year, the target prices for covered commodities shall be as follows:

(A) Wheat, $3.92 per bushel.
(B) Corn, $2.63 per bushel.
(C) Grain sorghum, $2.57 per bushel.
(D) Barley, $2.24 per bushel.
(E) Oats, $1.44 per bushel.
(F) Upland cotton, $0.7125 per pound.
(G) Long grain rice, $10.50 per hundredweight.
(H) Medium grain rice, $10.50 per hundredweight.
(I) Soybeans, $5.80 per bushel.
(J) Other oilseeds, $10.10 per hundredweight.
(K) Dry peas, $8.32 per hundredweight.
(L) Lentils, $12.81 per hundredweight.
(M) Small chickpeas, $10.36 per hundredweight.
(N) Large chickpeas, $12.81 per hundredweight.

(3) SUBSEQUENT CROP YEARS.—For purposes of each of the 2010 through 2012 crop years, the target prices for covered commodities shall be as follows:

(A) Wheat, $4.17 per bushel.
(B) Corn, $2.63 per bushel.
(C) Grain sorghum, $2.63 per bushel.
(D) Barley, $2.63 per bushel.

(E) Oats, $1.79 per bushel.
(F) Upland cotton, $0.7125 per pound.
(G) Long grain rice, $10.50 per hundredweight.
(H) Medium grain rice, $10.50 per hundredweight.
(I) Soybeans, $6.00 per bushel.
(J) Other oilseeds, $12.68 per hundredweight.
(K) Dry peas, $8.32 per hundredweight.
(L) Lentils, $12.81 per hundredweight.
(M) Small chickpeas, $10.36 per hundredweight.
(N) Large chickpeas, $12.81 per hundredweight.

(d) PAYMENT RATE.—The payment rate used to make counter-cyclical payments with respect to a covered commodity for a crop year shall be equal to the difference between—

(1) the target price for the covered commodity; and

(2) the effective price determined under subsection (b) for the covered commodity.

(e) PAYMENT AMOUNT.—If counter-cyclical payments are required to be paid under this section for any of the 2008 through 2012 crop years of a covered commodity, the amount of the counter-cyclical payment to be paid to the producers on a farm for that crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (d).

(2) The payment acres of the covered commodity on the farm.

(3) The payment yield for the covered commodity for the farm.

(f) TIME FOR PAYMENTS.—

(1) GENERAL RULE.—Except as provided in paragraph (2), if the Secretary determines under subsection (a) that counter-cyclical payments are required to be made under this section for the crop of a covered commodity, beginning October 1, or as soon as practicable thereafter, after the end of the marketing year for the covered commodity, the Secretary shall make the counter-cyclical payments for the crop.

(2) AVAILABILITY OF PARTIAL PAYMENTS.—

(A) IN GENERAL.—If, before the end of the 12-month marketing year for a covered commodity, the Secretary estimates that counter-cyclical payments will be required for the crop of the covered commodity, the Secretary shall give producers on a farm the option to receive partial payments of the counter-cyclical payment projected to be made for that crop of the covered commodity.

(B) ELECTION.—

(i) IN GENERAL.—The Secretary shall allow producers on a farm to make an election to receive partial payments for a covered commodity under subparagraph (A) at any time but not later than 60 days prior to the end of the marketing year for that covered commodity.

(ii) DATE OF ISSUANCE.—The Secretary shall issue the partial payment after the date of an announcement by the Secretary but not later than 30 days prior to the end of the marketing year.

(3) TIME FOR PARTIAL PAYMENTS.—When the Secretary makes partial payments for a covered commodity for any of the 2008 through 2010 crop years—

(A) the first partial payment shall be made after completion of the first 180 days of the marketing year for the covered commodity; and

(B) the final partial payment shall be made beginning October 1, or as soon as practicable thereafter, after the end of the applicable marketing year for the covered commodity.

(4) AMOUNT OF PARTIAL PAYMENT.—

(A) FIRST PARTIAL PAYMENT.—For each of the 2008 through 2010 crops of a covered commodity, the first partial payment under paragraph (3) to the producers on a farm may not exceed 40 percent of the projected counter-cyclical payment for the covered commodity for the crop year, as determined by the Secretary.

(B) FINAL PAYMENT.—The final payment for a covered commodity for a crop year shall be equal to the difference between—

(i) the actual counter-cyclical payment to be made to the producers for the covered commodity for that crop year; and

(ii) the amount of the partial payment made to the producers under subparagraph (A).

(5) REPAYMENT.—The producers on a farm that receive a partial payment under this subsection for a crop year shall repay to the Secretary the amount, if any, by which the total of the partial payments exceed the actual counter-cyclical payment to be made for the covered commodity for that crop year.

SEC. 1105. AVERAGE CROP REVENUE ELECTION PROGRAM.

(a) AVAILABILITY AND ELECTION OF ALTERNATIVE APPROACH.—

(1) AVAILABILITY OF AVERAGE CROP REVENUE ELECTION PAYMENTS.—As an alternative to receiving counter-cyclical payments under section 1104 or 1304 and in exchange for a 20-percent reduction in direct payments under section 1103 or 1303 and a 30-percent reduction in marketing assistance loan rates under section 1202 or 1307, with respect to all covered commodities and peanuts on a farm, during each of the 2009, 2010, 2011, and 2012 crop years, the Secretary shall give the producers on the farm an opportunity to make an irrevocable election to instead receive average crop revenue election (referred to in this section as "ACRE") payments under this section for the initial crop year for which the election is made through the 2012 crop year.

(2) LIMITATION.—

(A) IN GENERAL.—The total number of planted acres for which the producers on a farm may receive ACRE payments under this section may not exceed the total base acreage for all covered commodities and peanuts on the farm.

(B) ELECTION.—If the total number of planted acres to all covered commodities and peanuts of the producers on a farm exceeds the total base acreage of the farm, the producers on the farm may choose which planted acres to enroll in the program under this section.

(3) ELECTION; TIME FOR ELECTION.—

(A) IN GENERAL.—The Secretary shall provide notice to producers regarding the opportunity to make each of the elections described in paragraph (1).

(B) NOTICE REQUIREMENTS.—The notice shall include—

(i) notice of the opportunity of the producers on a farm to make the election; and

(ii) information regarding the manner in which the election must be made and the time periods and manner in which notice of the election must be submitted to the Secretary.

(4) ELECTION DEADLINE.—Within the time period and in the manner prescribed pursuant to paragraph (3), all of the producers on a farm shall submit to the Secretary notice of an election made under paragraph (1).

(5) EFFECT OF FAILURE TO MAKE ELECTION.—If all of the producers on a farm fail to make an election under paragraph (1), make different elections under paragraph (1), or fail to timely notify the Secretary of the election made, as required by paragraph (4), all of the producers on the farm shall be deemed to have made the election to receive counter-cyclical payments under section 1104 or 1304 for all covered commodities and peanuts on the farm, and to otherwise not have made the election described in paragraph (1), for the applicable crop years.

(b) PAYMENTS REQUIRED.—

(1) IN GENERAL.—In the case of producers on a farm who make an election under subsection (a) to receive ACRE payments for any of the 2009 through 2012 crop years for all covered commodities and peanuts, the Secretary shall make ACRE payments available to the producers on a farm in accordance with this subsection.

(2) ACRE PAYMENT.—

(A) IN GENERAL.—Subject to paragraph (3), in the case of producers on a farm described in paragraph (1), the Secretary shall make ACRE payments available to the producers on a farm for each crop year if—

(i) the actual State revenue for the crop year for the covered commodity or peanuts in the State determined under subsection (c); is less than

(ii) the ACRE program guarantee for the crop year for the covered commodity or peanuts in the State determined under subsection (d).

(B) INDIVIDUAL LOSS.—The Secretary shall make ACRE payments available to the producers on a farm in a State for a crop year only if (as determined by the Secretary)—

(i) the actual farm revenue for the crop year for the covered commodity or peanuts, as determined under subsection (e); is less than

(ii) the farm ACRE benchmark revenue for the crop year for the covered commodity or peanuts, as determined under subsection (f).

(3) TIME FOR PAYMENTS.—In the case of each of the 2009 through 2012 crop years, the Secretary shall make ACRE payments beginning October 1, or as soon as practicable thereafter,

after the end of the applicable marketing year for the covered commodity or peanuts.

(c) ACTUAL STATE REVENUE.—

(1) IN GENERAL.—For purposes of subsection (b)(2)(A), the amount of the actual State revenue for a crop year of a covered commodity or peanuts shall equal the product obtained by multiplying—

(A) the actual State yield for each planted acre for the crop year for the covered commodity or peanuts determined under paragraph (2); and

(B) the national average market price for the crop year for the covered commodity or peanuts determined under paragraph (3).

(2) ACTUAL STATE YIELD.—For purposes of paragraph (1)(A), the actual State yield for each planted acre for a crop year for a covered commodity or peanuts in a State shall equal (as determined by the Secretary)—

(A) the quantity of the covered commodity or peanuts that is produced in the State during the crop year; divided by

(B) the number of acres that are planted to the covered commodity or peanuts in the State during the crop year.

(3) NATIONAL AVERAGE MARKET PRICE.—For purposes of paragraph (1)(B), the national average market price for a crop year for a covered commodity or peanuts in a State shall equal the greater of—

(A) the national average market price received by producers during the 12-month marketing year for the covered commodity or peanuts, as determined by the Secretary; or

(B) the marketing assistance loan rate for the covered commodity or peanuts under section 1202 or 1307, as reduced under subsection (a)(1).

(d) ACRE PROGRAM GUARANTEE.—

(1) AMOUNT.—

(A) IN GENERAL.—For purposes of subsection (b)(2)(A) and subject to subparagraph (B), the ACRE program guarantee for a crop year for a covered commodity or peanuts in a State shall equal 90 percent of the product obtained by multiplying—

(i) the benchmark State yield for each planted acre for the crop year for the covered commodity or peanuts in a State determined under paragraph (2); and

(ii) the ACRE program guarantee price for the crop year for the covered commodity or peanuts determined under paragraph (3).

(B) MINIMUM AND MAXIMUM GUARANTEE.—In the case of each of the 2010 through 2012 crop years, the ACRE program guarantee for a crop year for a covered commodity or peanuts under subparagraph (A) shall not decrease or increase more than 10 percent from the guarantee for the preceding crop year.

(2) BENCHMARK STATE YIELD.—

(A) IN GENERAL.—For purposes of paragraph (1)(A)(i), subject to subparagraph (B), the benchmark State yield for each planted acre for a crop year for a covered commodity

or peanuts in a State shall equal the average yield per planted acre for the covered commodity or peanuts in the State for the most recent 5 crop year yields, excluding each of the crop years with the highest and lowest yields, using National Agricultural Statistics Service data.

(B) ASSIGNED YIELD.—If the Secretary cannot establish the benchmark State yield for each planted acre for a crop year for a covered commodity or peanuts in a State in accordance with subparagraph (A) or if the yield determined under subparagraph (A) is an unrepresentative average yield for the State (as determined by the Secretary), the Secretary shall assign a benchmark State yield for each planted acre for the crop year for the covered commodity or peanuts in the State on the basis of—

(i) previous average yields for a period of 5 crop years, excluding each of the crop years with the highest and lowest yields; or

(ii) benchmark State yields for planted acres for the crop year for the covered commodity or peanuts in similar States.

(3) ACRE PROGRAM GUARANTEE PRICE.—For purposes of paragraph (1)(A)(ii), the ACRE program guarantee price for a crop year for a covered commodity or peanuts in a State shall be the simple average of the national average market price received by producers of the covered commodity or peanuts for the most recent 2 crop years, as determined by the Secretary.

(4) STATES WITH IRRIGATED AND NONIRRIGATED LAND.—In the case of a State in which at least 25 percent of the acreage planted to a covered commodity or peanuts in the State is irrigated and at least 25 percent of the acreage planted to the covered commodity or peanuts in the State is not irrigated, the Secretary shall calculate a separate ACRE program guarantee for the irrigated and nonirrigated areas of the State for the covered commodity or peanuts.

(e) ACTUAL FARM REVENUE.—For purposes of subsection (b)(2)(B)(i), the amount of the actual farm revenue for a crop year for a covered commodity or peanuts shall equal the amount determined by multiplying—

(1) the actual yield for the covered commodity or peanuts of the producers on the farm; and

(2) the national average market price for the crop year for the covered commodity or peanuts determined under subsection (c)(3).

(f) FARM ACRE BENCHMARK REVENUE.—For purposes of subsection (b)(2)(B)(ii), the farm ACRE benchmark revenue for the crop year for a covered commodity or peanuts shall equal the sum obtained by adding—

(1) the amount determined by multiplying—

(A) the average yield per planted acre for the covered commodity or peanuts of the producers on the farm for the most recent 5 crop years, excluding each of the crop years with the highest and lowest yields; and

(B) the ACRE program guarantee price for the applicable crop year for the covered commodity or peanuts in a State determined under subsection (d)(3); and

(2) the amount of the per acre crop insurance premium required to be paid by the producers on the farm for the applicable crop year for the covered commodity or peanuts on the farm.

(g) PAYMENT AMOUNT.—If ACRE payments are required to be paid for any of the 2009 through 2012 crop years of a covered commodity or peanuts under this section, the amount of the ACRE payment to be paid to the producers on the farm for the crop year under this section shall be equal to the product obtained by multiplying—

(1) the lesser of—

(A) the difference between—

(i) the ACRE program guarantee for the crop year for the covered commodity or peanuts in the State determined under subsection (d); and

(ii) the actual State revenue from the crop year for the covered commodity or peanuts in the State determined under subsection (c); and

(B) 25 percent of the ACRE program guarantee for the crop year for the covered commodity or peanuts in the State determined under subsection (d);

(2)(A) for each of the 2009 through 2011 crop years, 83.3 percent of the acreage planted or considered planted to the covered commodity or peanuts for harvest on the farm in the crop year; and

(B) for the 2012 crop year, 85 percent of the acreage planted or considered planted to the covered commodity or peanuts for harvest on the farm in the crop year; and

(3) the quotient obtained by dividing—

(A) the average yield per planted acre for the covered commodity or peanuts of the producers on the farm for the most recent 5 crop years, excluding each of the crop years with the highest and lowest yields; by

(B) the benchmark State yield for the crop year, as determined under subsection (d)(2).

SEC. 1106. PRODUCER AGREEMENT REQUIRED AS CONDITION OF PROVISION OF PAYMENTS.

(a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—

(1) REQUIREMENTS.—Before the producers on a farm may receive direct payments, counter-cyclical payments, or average crop revenue election payments with respect to the farm, the producers shall agree, during the crop year for which the payments are made and in exchange for the payments—

(A) to comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(B) to comply with applicable wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.);

(C) to comply with the planting flexibility requirements of section 1107;

(D) to use the land on the farm, in a quantity equal to the attributable base acres for the farm and any base acres for peanuts for the farm under subtitle C, for an agricultural or conserving use, and not for a nonagricultural commercial, industrial, or residential use, as determined by the Secretary; and

(E) to effectively control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices, as determined by the Secretary, if the agricultural or conserving use involves the noncultivation of any portion of the land referred to in subparagraph (D).

(2) COMPLIANCE.—The Secretary may issue such rules as the Secretary considers necessary to ensure producer compliance with the requirements of paragraph (1).

(3) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the requirements of this subsection if the modifications are consistent with the objectives of this subsection, as determined by the Secretary.

(b) TRANSFER OR CHANGE OF INTEREST IN FARM.—

(1) TERMINATION.—

(A) IN GENERAL.—Except as provided in paragraph (2), a transfer of (or change in) the interest of the producers on a farm in base acres for which direct payments or counter-cyclical payments are made, or on which average crop revenue election payments are based, shall result in the termination of the direct payments, counter-cyclical payments, or average crop revenue election payments to the extent the payments are made or based on the base acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a).

(B) EFFECTIVE DATE.—The termination shall take effect on the date determined by the Secretary.

(2) EXCEPTION.—If a producer entitled to a direct payment, counter-cyclical payment, or average crop revenue election payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with rules issued by the Secretary.

(c) REPORTS.—

(1) ACREAGE REPORTS.—As a condition on the receipt of any benefits under this subtitle or subtitle B, the Secretary shall require producers on a farm to submit to the Secretary annual acreage reports with respect to all cropland on the farm.

(2) PRODUCTION REPORTS.—As a condition on the receipt of any benefits under this subtitle or subtitle B, the Secretary shall require producers on a farm that receive payments under section 1105 to submit to the Secretary annual production reports with respect to all covered commodities and peanuts produced on the farm.

(3) PENALTIES.—No penalty with respect to benefits under this subtitle or subtitle B shall be assessed against the producers on a farm for an inaccurate acreage or production report unless the producers on the farm knowingly and willfully falsified the acreage or production report.

(d) TENANTS AND SHARECROPPERS.—In carrying out this subtitle, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(e) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of direct payments, counter-cyclical payments, or average crop revenue election payments among the producers on a farm on a fair and equitable basis.

SEC. 1107. PLANTING FLEXIBILITY.

(a) PERMITTED CROPS.—Subject to subsection (b), any commodity or crop may be planted on base acres on a farm.

(b) LIMITATIONS REGARDING CERTAIN COMMODITIES.—

(1) GENERAL LIMITATION.—The planting of an agricultural commodity specified in paragraph (3) shall be prohibited on base acres unless the commodity, if planted, is destroyed before harvest.

(2) TREATMENT OF TREES AND OTHER PERENNIALS.—The planting of an agricultural commodity specified in paragraph (3) that is produced on a tree or other perennial plant shall be prohibited on base acres.

(3) COVERED AGRICULTURAL COMMODITIES.—Paragraphs (1) and (2) apply to the following agricultural commodities:

(A) Fruits.

(B) Vegetables (other than mung beans and pulse crops).

(C) Wild rice.

(c) EXCEPTIONS.—Paragraphs (1) and (2) of subsection (b) shall not limit the planting of an agricultural commodity specified in paragraph (3) of that subsection—

(1) in any region in which there is a history of double-cropping of covered commodities with agricultural commodities specified in subsection (b)(3), as determined by the Secretary, in which case the double-cropping shall be permitted;

(2) on a farm that the Secretary determines has a history of planting agricultural commodities specified in subsection (b)(3) on base acres, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such an agricultural commodity; or

(3) by the producers on a farm that the Secretary determines has an established planting history of a specific agricultural commodity specified in subsection (b)(3), except that—

(A) the quantity planted may not exceed the average annual planting history of such agricultural commodity by the producers on the farm in the 1991 through 1995 or 1998 through 2001 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(B) direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such agricultural commodity.

(d) PLANTING TRANSFERABILITY PILOT PROJECT.—

(1) PILOT PROJECT AUTHORIZED.—Notwithstanding paragraphs (1) and (2) of subsection (b) and in addition to the exceptions provided in subsection (c), the Secretary shall carry out a pilot project to permit the planting of cucumbers, green peas, lima beans, pumpkins, snap beans, sweet corn, and tomatoes grown for processing on base acres during each of the 2009 through 2012 crop years.

(2) PILOT PROJECT STATES AND ACRES.—The number of base acres eligible during each crop year for the pilot project under paragraph (1) shall be—

(A) 9,000 acres in the State of Illinois;

(B) 9,000 acres in the State of Indiana;

(C) 1,000 acres in the State of Iowa;

(D) 9,000 acres in the State of Michigan;

(E) 34,000 acres in the State of Minnesota;

(F) 4,000 acres in the State of Ohio; and

(G) 9,000 acres in the State of Wisconsin.

(3) CONTRACT AND MANAGEMENT REQUIREMENTS.—To be eligible for selection to participate in the pilot project, the producers on a farm shall—

(A) demonstrate to the Secretary that the producers on the farm have entered into a contract to produce a crop of a commodity specified in paragraph (1) for processing;

(B) agree to produce the crop as part of a program of crop rotation on the farm to achieve agronomic and pest and disease management benefits; and

(C) provide evidence of the disposition of the crop.

(4) TEMPORARY REDUCTION IN BASE ACRES.—The base acres on a farm for a crop year shall be reduced by an acre for each acre planted under the pilot program.

(5) DURATION OF REDUCTIONS.—The reduction in the base acres of a farm for a crop year under paragraph (4) shall expire at the end of the crop year.

(6) RECALCULATION OF BASE ACRES.—

(A) IN GENERAL.—If the Secretary recalculates base acres for a farm while the farm is included in the pilot project, the planting and production of a crop of a commodity specified in paragraph (1) on base acres for which a temporary reduction was made under this section shall be considered to be the same as the planting and production of a covered commodity.

(B) PROHIBITION.—Nothing in this paragraph provides authority for the Secretary to recalculate base acres for a farm.

(7) PILOT IMPACT EVALUATION.—

(A) IN GENERAL.—The Secretary shall periodically evaluate the pilot project conducted under this subsection to determine the effects of the pilot project on the supply and price of—

(i) fresh fruits and vegetables; and

(ii) fruits and vegetables for processing.

(B) DETERMINATION.—An evaluation under subparagraph (A) shall include a determination as to whether—

(i) producers of fresh fruits and vegetables are being negatively impacted; and

(ii) existing production capacities are being supplanted.

(C) REPORT.—As soon as practicable after conducting an evaluation under subparagraph (A), the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the evaluation.

SEC. 1108. SPECIAL RULE FOR LONG GRAIN AND MEDIUM GRAIN RICE.

(a) CALCULATION METHOD.—Subject to subsections (b) and (c), for the purposes of determining the amount of the counter-cyclical payments to be paid to the producers on a farm for long grain rice

and medium grain rice under section 1104, the base acres of rice on the farm shall be apportioned using the 4-year average of the percentages of acreage planted in the applicable State to long grain rice and medium grain rice during the 2003 through 2006 crop years, as determined by the Secretary.

(b) PRODUCER ELECTION.—As an alternative to the calculation method described in subsection (a), the Secretary shall provide producers on a farm the opportunity to elect to apportion rice base acres on the farm using the 4-year average of—

(1) the percentages of acreage planted on the farm to long grain rice and medium grain rice during the 2003 through 2006 crop years;

(2) the percentages of any acreage on the farm that the producers were prevented from planting to long grain rice and medium grain rice during the 2003 through 2006 crop years because of drought, flood, other natural disaster, or other condition beyond the control of the producers, as determined by the Secretary; and

(3) in the case of a crop year for which a producer on a farm elected not to plant to long grain and medium grain rice during the 2003 through 2006 crop years, the percentages of acreage planted in the applicable State to long grain rice and medium grain rice, as determined by the Secretary.

(c) LIMITATION.—In carrying out this section, the Secretary shall use the same total base acres, payment acres, and payment yields established with respect to rice under sections 1101 and 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911, 7912), as in effect on September 30, 2007, subject to any adjustment under section 1101 of this Act.

SEC. 1109. PERIOD OF EFFECTIVENESS.

This subtitle shall be effective beginning with the 2008 crop year of each covered commodity through the 2012 crop year.

Subtitle B—Marketing Assistance Loans and Loan Deficiency Payments

SEC. 1201. AVAILABILITY OF NONRECOURSE MARKETING ASSISTANCE LOANS FOR LOAN COMMODITIES.

(a) NONRECOURSE LOANS AVAILABLE.—

(1) AVAILABILITY.—For each of the 2008 through 2012 crops of each loan commodity, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm.

(2) TERMS AND CONDITIONS.—The marketing assistance loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under section 1202 for the loan commodity.

(b) ELIGIBLE PRODUCTION.—The producers on a farm shall be eligible for a marketing assistance loan under subsection (a) for any quantity of a loan commodity produced on the farm.

(c) COMPLIANCE WITH CONSERVATION AND WETLANDS REQUIREMENTS.—As a condition of the receipt of a marketing assistance loan under subsection (a), the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland

protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.) during the term of the loan.

SEC. 1202. LOAN RATES FOR NONRECOURSE MARKETING ASSISTANCE LOANS.

(a) 2008 CROP YEAR.—For purposes of the 2008 crop year, the loan rate for a marketing assistance loan under section 1201 for a loan commodity shall be equal to the following:

(1) In the case of wheat, $2.75 per bushel.

(2) In the case of corn, $1.95 per bushel.

(3) In the case of grain sorghum, $1.95 per bushel.

(4) In the case of barley, $1.85 per bushel.

(5) In the case of oats, $1.33 per bushel.

(6) In the case of base quality of upland cotton, $0.52 per pound.

(7) In the case of extra long staple cotton, $0.7977 per pound.

(8) In the case of long grain rice, $6.50 per hundredweight.

(9) In the case of medium grain rice, $6.50 per hundredweight.

(10) In the case of soybeans, $5.00 per bushel.

(11) In the case of other oilseeds, $9.30 per hundredweight for each of the following kinds of oilseeds:

(A) Sunflower seed.

(B) Rapeseed.

(C) Canola.

(D) Safflower.

(E) Flaxseed.

(F) Mustard seed.

(G) Crambe.

(H) Sesame seed.

(I) Other oilseeds designated by the Secretary.

(12) In the case of dry peas, $6.22 per hundredweight.

(13) In the case of lentils, $11.72 per hundredweight.

(14) In the case of small chickpeas, $7.43 per hundredweight.

(15) In the case of graded wool, $1.00 per pound.

(16) In the case of nongraded wool, $0.40 per pound.

(17) In the case of mohair, $4.20 per pound.

(18) In the case of honey, $0.60 per pound.

(b) 2009 CROP YEAR.—Except as provided in section 1105, for purposes of the 2009 crop year, the loan rate for a marketing assistance loan under section 1201 for a loan commodity shall be equal to the following:

(1) In the case of wheat, $2.75 per bushel.

(2) In the case of corn, $1.95 per bushel.

(3) In the case of grain sorghum, $1.95 per bushel.

(4) In the case of barley, $1.85 per bushel.

(5) In the case of oats, $1.33 per bushel.

(6) In the case of base quality of upland cotton, $0.52 per pound.

(7) In the case of extra long staple cotton, $0.7977 per pound.

(8) In the case of long grain rice, $6.50 per hundredweight.

(9) In the case of medium grain rice, $6.50 per hundredweight.

(10) In the case of soybeans, $5.00 per bushel.

(11) In the case of other oilseeds, $9.30 per hundredweight for each of the following kinds of oilseeds:

(A) Sunflower seed.

(B) Rapeseed.

(C) Canola.

(D) Safflower.

(E) Flaxseed.

(F) Mustard seed.

(G) Crambe.

(H) Sesame seed.

(I) Other oilseeds designated by the Secretary.

(12) In the case of dry peas, $5.40 per hundredweight.

(13) In the case of lentils, $11.28 per hundredweight.

(14) In the case of small chickpeas, $7.43 per hundredweight.

(15) In the case of large chickpeas, $11.28 per hundredweight.

(16) In the case of graded wool, $1.00 per pound.

(17) In the case of nongraded wool, $0.40 per pound.

(18) In the case of mohair, $4.20 per pound.

(19) In the case of honey, $0.60 per pound.

(c) 2010 THROUGH 2012 CROP YEARS.—Except as provided in section 1105, for purposes of each of the 2010 through 2012 crop years, the loan rate for a marketing assistance loan under section 1201 for a loan commodity shall be equal to the following:

(1) In the case of wheat, $2.94 per bushel.

(2) In the case of corn, $1.95 per bushel.

(3) In the case of grain sorghum, $1.95 per bushel.

(4) In the case of barley, $1.95 per bushel.

(5) In the case of oats, $1.39 per bushel.

(6) In the case of base quality of upland cotton, $0.52 per pound.

(7) In the case of extra long staple cotton, $0.7977 per pound.

(8) In the case of long grain rice, $6.50 per hundredweight.

(9) In the case of medium grain rice, $6.50 per hundredweight.

(10) In the case of soybeans, $5.00 per bushel.

(11) In the case of other oilseeds, $10.09 per hundredweight for each of the following kinds of oilseeds:

(A) Sunflower seed.

(B) Rapeseed.

(C) Canola.

(D) Safflower.

(E) Flaxseed.

(F) Mustard seed.

(G) Crambe.

(H) Sesame seed.

(I) Other oilseeds designated by the Secretary.

(12) In the case of dry peas, $5.40 per hundredweight.

(13) In the case of lentils, $11.28 per hundredweight.

(14) In the case of small chickpeas, $7.43 per hundredweight.

(15) In the case of large chickpeas, $11.28 per hundredweight.

(16) In the case of graded wool, $1.15 per pound.

(17) In the case of nongraded wool, $0.40 per pound.

(18) In the case of mohair, $4.20 per pound.

(19) In the case of honey, $0.69 per pound.

(d) SINGLE COUNTY LOAN RATE FOR OTHER OILSEEDS.—The Secretary shall establish a single loan rate in each county for each kind of other oilseeds described in subsections (a)(11), (b)(11), and (c)(11).

SEC. 1203. TERM OF LOANS.

(a) TERM OF LOAN.—In the case of each loan commodity, a marketing assistance loan under section 1201 shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

(b) EXTENSIONS PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for any loan commodity.

SEC. 1204. REPAYMENT OF LOANS.

(a) GENERAL RULE.—The Secretary shall permit the producers on a farm to repay a marketing assistance loan under section 1201 for a loan commodity (other than upland cotton, long grain rice, medium grain rice, extra long staple cotton, and confectionery and each other kind of sunflower seed (other than oil sunflower seed)) at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283));

(2) a rate (as determined by the Secretary) that—

(A) is calculated based on average market prices for the loan commodity during the preceding 30-day period; and

(B) will minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries; or

(3) a rate that the Secretary may develop using alternative methods for calculating a repayment rate for a loan commodity that the Secretary determines will—

(A) minimize potential loan forfeitures;

(B) minimize the accumulation of stocks of the commodity by the Federal Government;

(C) minimize the cost incurred by the Federal Government in storing the commodity;

(D) allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally; and

(E) minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries.

(b) REPAYMENT RATES FOR UPLAND COTTON, LONG GRAIN RICE, AND MEDIUM GRAIN RICE.—The Secretary shall permit producers to repay a marketing assistance loan under section 1201 for upland cotton, long grain rice, and medium grain rice at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section

163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

(2) the prevailing world market price for the commodity, as determined and adjusted by the Secretary in accordance with this section.

(c) REPAYMENT RATES FOR EXTRA LONG STAPLE COTTON.—Repayment of a marketing assistance loan for extra long staple cotton shall be at the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)).

(d) PREVAILING WORLD MARKET PRICE.—For purposes of this section and section 1207, the Secretary shall prescribe by regulation—

(1) a formula to determine the prevailing world market price for each of upland cotton, long grain rice, and medium grain rice; and

(2) a mechanism by which the Secretary shall announce periodically those prevailing world market prices.

(e) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE FOR UPLAND COTTON, LONG GRAIN RICE, AND MEDIUM GRAIN RICE.—

(1) RICE.—The prevailing world market price for long grain rice and medium grain rice determined under subsection (d) shall be adjusted to United States quality and location.

(2) COTTON.—The prevailing world market price for upland cotton determined under subsection (d)—

(A) shall be adjusted to United States quality and location, with the adjustment to include—

(i) a reduction equal to any United States Premium Factor for upland cotton of a quality higher than Middling (M) 1 3/32-inch; and

(ii) the average costs to market the commodity, including average transportation costs, as determined by the Secretary; and

(B) may be further adjusted, during the period beginning on the date of enactment of this Act and ending on July 31, 2013, if the Secretary determines the adjustment is necessary to—

(i) minimize potential loan forfeitures;

(ii) minimize the accumulation of stocks of upland cotton by the Federal Government;

(iii) ensure that upland cotton produced in the United States can be marketed freely and competitively, both domestically and internationally; and

(iv) ensure an appropriate transition between current-crop and forward-crop price quotations, except that the Secretary may use forward-crop price quotations prior to July 31 of a marketing year only if—

(I) there are insufficient current-crop price quotations; and

(II) the forward-crop price quotation is the lowest such quotation available.

(3) GUIDELINES FOR ADDITIONAL ADJUSTMENTS.—In making adjustments under this subsection, the Secretary shall es-

tablish a mechanism for determining and announcing the adjustments in order to avoid undue disruption in the United States market.

(f) REPAYMENT RATES FOR CONFECTIONERY AND OTHER KINDS OF SUNFLOWER SEEDS.—The Secretary shall permit the producers on a farm to repay a marketing assistance loan under section 1201 for confectionery and each other kind of sunflower seed (other than oil sunflower seed) at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

(2) the repayment rate established for oil sunflower seed.

(g) PAYMENT OF COTTON STORAGE COSTS.—

(1) 2008 THROUGH 2011 CROP YEARS.—Effective for each of the 2008 through 2011 crop years, the Secretary shall provide cotton storage payments in the same manner, and at the same rates as the Secretary provided storage payments for the 2006 crop of cotton, except that the rates shall be reduced by 10 percent.

(2) SUBSEQUENT CROP YEARS.—Beginning with the 2012 crop year, the Secretary shall provide cotton storage payments in the same manner, and at the same rates as the Secretary provided storage payments for the 2006 crop of cotton, except that the rates shall be reduced by 20 percent.

(h) AUTHORITY TO TEMPORARILY ADJUST REPAYMENT RATES.—

(1) ADJUSTMENT AUTHORITY.—In the event of a severe disruption to marketing, transportation, or related infrastructure, the Secretary may modify the repayment rate otherwise applicable under this section for marketing assistance loans under section 1201 for a loan commodity.

(2) DURATION.—Any adjustment made under paragraph (1) in the repayment rate for marketing assistance loans for a loan commodity shall be in effect on a short-term and temporary basis, as determined by the Secretary.

SEC. 1205. LOAN DEFICIENCY PAYMENTS.

(a) AVAILABILITY OF LOAN DEFICIENCY PAYMENTS.—

(1) IN GENERAL.—Except as provided in subsection (d), the Secretary may make loan deficiency payments available to producers on a farm that, although eligible to obtain a marketing assistance loan under section 1201 with respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for loan deficiency payments under this section.

(2) UNSHORN PELTS, HAY, AND SILAGE.—

(A) MARKETING ASSISTANCE LOANS.—Subject to subparagraph (B), nongraded wool in the form of unshorn pelts and hay and silage derived from a loan commodity are not eligible for a marketing assistance loan under section 1201.

(B) LOAN DEFICIENCY PAYMENT.—Effective for the 2008 through 2012 crop years, the Secretary may make loan deficiency payments available under this section to producers on a farm that produce unshorn pelts or hay and silage derived from a loan commodity.

(b) COMPUTATION.—A loan deficiency payment for a loan commodity or commodity referred to in subsection (a)(2) shall be computed by multiplying—

(1) the payment rate determined under subsection (c) for the commodity; by

(2) the quantity of the commodity produced by the eligible producers, excluding any quantity for which the producers obtain a marketing assistance loan under section 1201.

(c) PAYMENT RATE.—

(1) IN GENERAL.—In the case of a loan commodity, the payment rate shall be the amount by which—

(A) the loan rate established under section 1202 for the loan commodity; exceeds

(B) the rate at which a marketing assistance loan for the loan commodity may be repaid under section 1204.

(2) UNSHORN PELTS.—In the case of unshorn pelts, the payment rate shall be the amount by which—

(A) the loan rate established under section 1202 for ungraded wool; exceeds

(B) the rate at which a marketing assistance loan for ungraded wool may be repaid under section 1204.

(3) HAY AND SILAGE.—In the case of hay or silage derived from a loan commodity, the payment rate shall be the amount by which—

(A) the loan rate established under section 1202 for the loan commodity from which the hay or silage is derived; exceeds

(B) the rate at which a marketing assistance loan for the loan commodity may be repaid under section 1204.

(d) EXCEPTION FOR EXTRA LONG STAPLE COTTON.—This section shall not apply with respect to extra long staple cotton.

(e) EFFECTIVE DATE FOR PAYMENT RATE DETERMINATION.—The Secretary shall determine the amount of the loan deficiency payment to be made under this section to the producers on a farm with respect to a quantity of a loan commodity or commodity referred to in subsection (a)(2) using the payment rate in effect under subsection (c) as of the date the producers request the payment.

SEC. 1206. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAYMENTS FOR GRAZED ACREAGE.

(a) ELIGIBLE PRODUCERS.—

(1) IN GENERAL.—Effective for the 2008 through 2012 crop years, in the case of a producer that would be eligible for a loan deficiency payment under section 1205 for wheat, barley, or oats, but that elects to use acreage planted to the wheat, barley, or oats for the grazing of livestock, the Secretary shall make a payment to the producer under this section if the producer enters into an agreement with the Secretary to forgo any other harvesting of the wheat, barley, or oats on that acreage.

(2) GRAZING OF TRITICALE ACREAGE.—Effective for the 2008 through 2012 crop years, with respect to a producer on a farm that uses acreage planted to triticale for the grazing of livestock, the Secretary shall make a payment to the producer under this section if the producer enters into an agreement with the Secretary to forgo any other harvesting of triticale on that acreage.

(b) PAYMENT AMOUNT.—

(1) IN GENERAL.—The amount of a payment made under this section to a producer on a farm described in subsection (a)(1) shall be equal to the amount determined by multiplying—

(A) the loan deficiency payment rate determined under section 1205(c) in effect, as of the date of the agreement, for the county in which the farm is located; by

(B) the payment quantity determined by multiplying—

(i) the quantity of the grazed acreage on the farm with respect to which the producer elects to forgo harvesting of wheat, barley, or oats; and

(ii) the payment yield in effect for the calculation of direct payments under subtitle A with respect to that loan commodity on the farm or, in the case of a farm without a payment yield for that loan commodity, an appropriate yield established by the Secretary in a manner consistent with section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912).

(2) GRAZING OF TRITICALE ACREAGE.—The amount of a payment made under this section to a producer on a farm described in subsection (a)(2) shall be equal to the amount determined by multiplying—

(A) the loan deficiency payment rate determined under section 1205(c) in effect for wheat, as of the date of the agreement, for the county in which the farm is located; by

(B) the payment quantity determined by multiplying—

(i) the quantity of the grazed acreage on the farm with respect to which the producer elects to forgo harvesting of triticale; and

(ii) the payment yield in effect for the calculation of direct payments under subtitle A with respect to wheat on the farm or, in the case of a farm without a payment yield for wheat, an appropriate yield established by the Secretary in a manner consistent with section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912).

(c) TIME, MANNER, AND AVAILABILITY OF PAYMENT.—

(1) TIME AND MANNER.—A payment under this section shall be made at the same time and in the same manner as loan deficiency payments are made under section 1205.

(2) AVAILABILITY.—

(A) IN GENERAL.—The Secretary shall establish an availability period for the payments authorized by this section.

(B) CERTAIN COMMODITIES.—In the case of wheat, barley, and oats, the availability period shall be consistent with the availability period for the commodity established by the Secretary for marketing assistance loans authorized by this subtitle.

(d) PROHIBITION ON CROP INSURANCE INDEMNITY OR NONINSURED CROP ASSISTANCE.—A 2008 through 2012 crop of wheat, barley, oats, or triticale planted on acreage that a producer elects, in the agreement required by subsection (a), to use for the grazing of livestock in lieu of any other harvesting of the crop shall not be eligible for an indemnity under a policy or plan of insurance authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et

seq.) or noninsured crop assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

SEC. 1207. SPECIAL MARKETING LOAN PROVISIONS FOR UPLAND COTTON.

(a) SPECIAL IMPORT QUOTA.—

(1) DEFINITION OF SPECIAL IMPORT QUOTA.—In this subsection, the term "special import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(2) ESTABLISHMENT.—

(A) IN GENERAL.—The President shall carry out an import quota program during the period beginning on the date of enactment of this Act through July 31, 2013, as provided in this subsection.

(B) PROGRAM REQUIREMENTS.—Whenever the Secretary determines and announces that for any consecutive 4-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) 1 3/32-inch cotton, delivered to a definable and significant international market, as determined by the Secretary, exceeds the prevailing world market price, there shall immediately be in effect a special import quota.

(3) QUANTITY.—The quota shall be equal to 1 week's consumption of cotton by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(4) APPLICATION.—The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under paragraph (2) and entered into the United States not later than 180 days after that date.

(5) OVERLAP.—A special quota period may be established that overlaps any existing quota period if required by paragraph (2), except that a special quota period may not be established under this subsection if a quota period has been established under subsection (b).

(6) PREFERENTIAL TARIFF TREATMENT.—The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

(A) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(B) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(C) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(D) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(7) LIMITATION.—The quantity of cotton entered into the United States during any marketing year under the special import quota established under this subsection may not exceed the equivalent of 10 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the 3 months immediately preceding the first special import quota established in any marketing year.

(b) LIMITED GLOBAL IMPORT QUOTA FOR UPLAND COTTON.—

(1) DEFINITIONS.—In this subsection:

(A) SUPPLY.—The term "supply" means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

(i) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the quota is established;

(ii) production of the current crop; and

(iii) imports to the latest date available during the marketing year.

(B) DEMAND.—The term "demand" means—

(i) the average seasonally adjusted annual rate of domestic mill consumption of cotton during the most recent 3 months for which data are available; and

(ii) the larger of—

(I) average exports of upland cotton during the preceding 6 marketing years; or

(II) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

(C) LIMITED GLOBAL IMPORT QUOTA.—The term "limited global import quota" means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(2) PROGRAM.—The President shall carry out an import quota program that provides that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of the quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions:

(A) QUANTITY.—The quantity of the quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available or as estimated by the Secretary.

(B) QUANTITY IF PRIOR QUOTA.—If a quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated under subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

(C) PREFERENTIAL TARIFF TREATMENT.—The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of—

(i) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(ii) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(iii) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(D) QUOTA ENTRY PERIOD.—When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

(3) NO OVERLAP.—Notwithstanding paragraph (2), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (a).

(c) ECONOMIC ADJUSTMENT ASSISTANCE TO USERS OF UPLAND COTTON.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall, on a monthly basis, provide economic adjustment assistance to domestic users of upland cotton in the form of payments for all documented use of that upland cotton during the previous monthly period regardless of the origin of the upland cotton.

(2) VALUE OF ASSISTANCE.—

(A) BEGINNING PERIOD.—During the period beginning on August 1, 2008, and ending on July 31, 2012, the value of the assistance provided under paragraph (1) shall be 4 cents per pound.

(B) SUBSEQUENT PERIOD.—Effective beginning on August 1, 2012, the value of the assistance provided under paragraph (1) shall be 3 cents per pound.

(3) ALLOWABLE PURPOSES.—Economic adjustment assistance under this subsection shall be made available only to domestic users of upland cotton that certify that the assistance shall be used only to acquire, construct, install, modernize, develop, convert, or expand land, plant, buildings, equipment, facilities, or machinery.

(4) REVIEW OR AUDIT.—The Secretary may conduct such review or audit of the records of a domestic user under this subsection as the Secretary determines necessary to carry out this subsection.

(5) IMPROPER USE OF ASSISTANCE.—If the Secretary determines, after a review or audit of the records of the domestic user, that economic adjustment assistance under this subsection was not used for the purposes specified in paragraph (3), the domestic user shall be—

(A) liable to repay the assistance to the Secretary, plus interest, as determined by the Secretary; and

(B) ineligible to receive assistance under this subsection for a period of 1 year following the determination of the Secretary.

SEC. 1208. SPECIAL COMPETITIVE PROVISIONS FOR EXTRA LONG STAPLE COTTON.

(a) COMPETITIVENESS PROGRAM.—Notwithstanding any other provision of law, during the period beginning on the date of enactment of this Act through July 31, 2013, the Secretary shall carry out a program—

(1) to maintain and expand the domestic use of extra long staple cotton produced in the United States;

(2) to increase exports of extra long staple cotton produced in the United States; and

(3) to ensure that extra long staple cotton produced in the United States remains competitive in world markets.

(b) PAYMENTS UNDER PROGRAM; TRIGGER.—Under the program, the Secretary shall make payments available under this section whenever—

(1) for a consecutive 4-week period, the world market price for the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is below the prevailing United States price for a competing growth of extra long staple cotton; and

(2) the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is less than 134 percent of the loan rate for extra long staple cotton.

(c) ELIGIBLE RECIPIENTS.—The Secretary shall make payments available under this section to domestic users of extra long staple cotton produced in the United States and exporters of extra long staple cotton produced in the United States that enter into an agreement with the Commodity Credit Corporation to participate in the program under this section.

(d) PAYMENT AMOUNT.—Payments under this section shall be based on the amount of the difference in the prices referred to in subsection (b)(1) during the fourth week of the consecutive 4-week period multiplied by the amount of documented purchases by domestic users and sales for export by exporters made in the week following such a consecutive 4-week period.

SEC. 1209. AVAILABILITY OF RECOURSE LOANS FOR HIGH MOISTURE FEED GRAINS AND SEED COTTON.

(a) HIGH MOISTURE FEED GRAINS.—

(1) DEFINITION OF HIGH MOISTURE STATE.—In this subsection, the term "high moisture state" means corn or grain sorghum having a moisture content in excess of Commodity Credit Corporation standards for marketing assistance loans made by the Secretary under section 1201.

(2) RECOURSE LOANS AVAILABLE.—For each of the 2008 through 2012 crops of corn and grain sorghum, the Secretary shall make available recourse loans, as determined by the Secretary, to producers on a farm that—

(A) normally harvest all or a portion of their crop of corn or grain sorghum in a high moisture state;

(B) present—

(i) certified scale tickets from an inspected, certified commercial scale, including a licensed warehouse, feedlot, feed mill, distillery, or other similar entity approved by the Secretary, pursuant to regulations issued by the Secretary; or

(ii) field or other physical measurements of the standing or stored crop in regions of the United States, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan under this subsection was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to a facility maintained by the users of corn and grain sorghum in a high moisture state; and

(D) comply with deadlines established by the Secretary for harvesting the corn or grain sorghum and submit applications for loans under this subsection within deadlines established by the Secretary.

(3) ELIGIBILITY OF ACQUIRED FEED GRAINS.—A loan under this subsection shall be made on a quantity of corn or grain sorghum of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

(A) the acreage of the corn or grain sorghum in a high moisture state harvested on the producer's farm; by

(B) the lower of the farm program payment yield used to make counter-cyclical payments under subtitle A or the actual yield on a field, as determined by the Secretary, that is similar to the field from which the corn or grain sorghum was obtained.

(b) RECOURSE LOANS AVAILABLE FOR SEED COTTON.—For each of the 2008 through 2012 crops of upland cotton and extra long staple cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, on any production.

(c) REPAYMENT RATES.—Repayment of a recourse loan made under this section shall be at the loan rate established for the commodity by the Secretary, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)).

SEC. 1210. ADJUSTMENTS OF LOANS.

(a) ADJUSTMENT AUTHORITY.—Subject to subsection (e), the Secretary may make appropriate adjustments in the loan rates for any loan commodity (other than cotton) for differences in grade, type, quality, location, and other factors.

(b) MANNER OF ADJUSTMENT.—The adjustments under subsection (a) shall, to the maximum extent practicable, be made in such a manner that the average loan level for the commodity will, on the basis of the anticipated incidence of the factors, be equal to the level of support determined in accordance with this subtitle and subtitles B through E.

(c) ADJUSTMENT ON COUNTY BASIS.—

(1) IN GENERAL.—The Secretary may establish loan rates for a crop for producers in individual counties in a manner that results in the lowest loan rate being 95 percent of the national average loan rate, if those loan rates do not result in an increase in outlays.

(2) PROHIBITION.—Adjustments under this subsection shall not result in an increase in the national average loan rate for any year.

(d) ADJUSTMENT IN LOAN RATE FOR COTTON.—

(1) IN GENERAL.—The Secretary may make appropriate adjustments in the loan rate for cotton for differences in quality factors.

(2) REVISIONS TO QUALITY ADJUSTMENTS FOR UPLAND COTTON.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall implement revisions in the administration of the marketing assistance loan program for upland cotton to more accurately and efficiently reflect market values for upland cotton.

(B) MANDATORY REVISIONS.—Revisions under subparagraph (A) shall include—

(i) the elimination of warehouse location differentials;

(ii) the establishment of differentials for the various quality factors and staple lengths of cotton based on a 3-year, weighted moving average of the weighted designated spot market regions, as determined by regional production;

(iii) the elimination of any artificial split in the premium or discount between upland cotton with a 32 or 33 staple length due to micronaire; and

(iv) a mechanism to ensure that no premium or discount is established that exceeds the premium or discount associated with a leaf grade that is 1 better than the applicable color grade.

(C) DISCRETIONARY REVISIONS.—Revisions under subparagraph (A) may include—

(i) the use of non-spot market price data, in addition to spot market price data, that would enhance the accuracy of the price information used in determining quality adjustments under this subsection;

(ii) adjustments in the premiums or discounts associated with upland cotton with a staple length of 33 or above due to micronaire with the goal of eliminating any unnecessary artificial splits in the calculations of the premiums or discounts; and

(iii) such other adjustments as the Secretary determines appropriate, after consultations conducted in accordance with paragraph (3).

(3) CONSULTATION WITH PRIVATE SECTOR.—

(A) PRIOR TO REVISION.—In making adjustments to the loan rate for cotton (including any review of the adjustments) as provided in this subsection, the Secretary shall consult with representatives of the United States cotton industry.

(B) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to consultations under this subsection.

(4) REVIEW OF ADJUSTMENTS.—The Secretary may review the operation of the upland cotton quality adjustments implemented pursuant to this subsection and may make further revisions to the administration of the loan program for upland cotton, by—

(A) revoking or revising any actions taken under paragraph (2)(B); or

(B) revoking or revising any actions taken or authorized to be taken under paragraph (2)(C).

(e) RICE.—The Secretary shall not make adjustments in the loan rates for long grain rice and medium grain rice, except for differences in grade and quality (including milling yields).

Subtitle C—Peanuts

SEC. 1301. DEFINITIONS.

In this subtitle:

(1) BASE ACRES FOR PEANUTS.—

(A) IN GENERAL.—The term "base acres for peanuts" means the number of acres assigned to a farm pursuant to section 1302 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7952), as in effect on September 30, 2007, subject to any adjustment under section 1302 of this Act.

(B) COVERED COMMODITIES.—The term "base acres", with respect to a covered commodity, has the meaning given the term in section 1101.

(2) COUNTER-CYCLICAL PAYMENT.—The term "counter-cyclical payment" means a payment made to producers on a farm under section 1304.

(3) DIRECT PAYMENT.—The term "direct payment" means a direct payment made to producers on a farm under section 1303.

(4) EFFECTIVE PRICE.—The term "effective price" means the price calculated by the Secretary under section 1304 for peanuts to determine whether counter-cyclical payments are required to be made under that section for a crop year.

(5) PAYMENT ACRES.—The term "payment acres" means, in the case of direct payments and counter-cyclical payments—

(A) except as provided in subparagraph (B), 85 percent of the base acres of peanuts on a farm on which direct payments or counter-cyclical payments are made; and

(B) in the case of direct payments for each of the 2009 through 2011 crop years, 83.3 percent of the base acres for peanuts on a farm on which direct payments are made.

(6) PAYMENT YIELD.—The term "payment yield" means the yield established for direct payments and the yield established for counter-cyclical payments under section 1302 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7952), as in effect on September 30, 2007, for a farm for peanuts.

(7) PRODUCER.—

(A) IN GENERAL.—The term "producer" means an owner, operator, landlord, tenant, or sharecropper that shares in the risk of producing a crop on a farm and is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced.

(B) HYBRID SEED.—In determining whether a grower of hybrid seed is a producer, the Secretary shall—

(i) not take into consideration the existence of a hybrid seed contract; and

(ii) ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this subtitle.

(8) STATE.—The term "State" means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(9) TARGET PRICE.—The term "target price" means the price per ton of peanuts used to determine the payment rate for counter-cyclical payments.

(10) UNITED STATES.—The term "United States", when used in a geographical sense, means all of the States.

SEC. 1302. BASE ACRES FOR PEANUTS FOR A FARM.

(a) ADJUSTMENT OF BASE ACREAGE FOR PEANUTS.—

(1) IN GENERAL.—The Secretary shall provide for an adjustment, as appropriate, in the base acres for peanuts for a farm whenever any of the following circumstances occur:

(A) A conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) with respect to the farm expires or is voluntarily terminated, or was terminated or expired during the period beginning on October 1, 2007, and ending on the date of enactment of this Act.

(B) Cropland is released from coverage under a conservation reserve contract by the Secretary, or was released during the period beginning on October 1, 2007, and ending on the date of enactment of this Act.

(C) The producer has eligible pulse crop acreage, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(D) The producer has eligible oilseed acreage as the result of the Secretary designating additional oilseeds, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(2) SPECIAL CONSERVATION RESERVE ACREAGE PAYMENT RULES.—For the crop year in which a base acres for peanuts adjustment under subparagraph (A) or (B) of paragraph (1) is first made, the owner of the farm shall elect to receive either direct payments and counter-cyclical payments with respect to the acreage added to the farm under this subsection or a prorated payment under the conservation reserve contract, but not both.

(b) PREVENTION OF EXCESS BASE ACRES FOR PEANUTS.—

(1) REQUIRED REDUCTION.—If the sum of the base acres for peanuts for a farm, together with the acreage described in paragraph (2), exceeds the actual cropland acreage of the farm, the Secretary shall reduce the base acres for peanuts for the farm or the base acres for 1 or more covered commodities for the farm so that the sum of the base acres for peanuts and acreage described in paragraph (2) does not exceed the actual cropland acreage of the farm.

(2) OTHER ACREAGE.—For purposes of paragraph (1), the Secretary shall include the following:

(A) Any base acres for the farm for a covered commodity.

(B) Any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under

chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.).

(C) Any other acreage on the farm enrolled in a Federal conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

(D) Any eligible pulse crop acreage, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(E) If the Secretary designates additional oilseeds, any eligible oilseed acreage, which shall be determined in the same manner as eligible oilseed acreage under section 1101(a)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(a)(2)).

(3) SELECTION OF ACRES.—The Secretary shall give the owner of the farm the opportunity to select the base acres for peanuts or the base acres for covered commodities against which the reduction required by paragraph (1) will be made.

(4) EXCEPTION FOR DOUBLE-CROPPED ACREAGE.—In applying paragraph (1), the Secretary shall make an exception in the case of double cropping, as determined by the Secretary.

(5) COORDINATED APPLICATION OF REQUIREMENTS.—The Secretary shall take into account section 1101(b) when applying the requirements of this subsection.

(c) REDUCTION IN BASE ACRES.—

(1) REDUCTION AT OPTION OF OWNER.—

(A) IN GENERAL.—The owner of a farm may reduce, at any time, the base acres for peanuts for the farm.

(B) EFFECT OF REDUCTION.—A reduction under subparagraph (A) shall be permanent and made in a manner prescribed by the Secretary.

(2) REQUIRED ACTION BY SECRETARY.—

(A) IN GENERAL.—The Secretary shall proportionately reduce base acres on a farm for peanuts for land that has been subdivided and developed for multiple residential units or other nonfarming uses if the size of the tracts and the density of the subdivision is such that the land is unlikely to return to the previous agricultural use, unless the producers on the farm demonstrate that the land—

(i) remains devoted to commercial agricultural production; or

(ii) is likely to be returned to the previous agricultural use.

(B) REQUIREMENT.—The Secretary shall establish procedures to identify land described in subparagraph (A).

(3) REVIEW AND REPORT.—Each year, to ensure, to the maximum extent practicable, that payments are received only by producers, the Secretary shall submit to Congress a report that describes the results of the actions taken under paragraph (2).

(d) TREATMENT OF FARMS WITH LIMITED BASE ACRES.—

(1) PROHIBITION ON PAYMENTS.—Except as provided in paragraph (2) and notwithstanding any other provision of this title, a producer on a farm may not receive direct payments, counter-cyclical payments, or average crop revenue election pay-

ments if the sum of the base acres of the farm is 10 acres or less, as determined by the Secretary.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to a farm owned by—

(A) a socially disadvantaged farmer or rancher (as defined in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)); or

(B) a limited resource farmer or rancher, as defined by the Secretary.

(3) DATA COLLECTION AND PUBLICATION.—The Secretary shall—

(A) collect and publish segregated data and survey information about the farm profiles, utilization of land, and crop production; and

(B) perform an evaluation on the supply and price of fruits and vegetables based on the effects of suspension of base acres under this section.

SEC. 1303. AVAILABILITY OF DIRECT PAYMENTS FOR PEANUTS.

(a) PAYMENT REQUIRED.—For each of the 2008 through 2012 crop years for peanuts, the Secretary shall make direct payments to the producers on a farm for which a payment yield and base acres for peanuts are established.

(b) PAYMENT RATE.—Except as provided in section 1105, the payment rate used to make direct payments with respect to peanuts for a crop year shall be equal to $36 per ton.

(c) PAYMENT AMOUNT.—The amount of the direct payment to be paid to the producers on a farm for peanuts for a crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (b).

(2) The payment acres on the farm.

(3) The payment yield for the farm.

(d) TIME FOR PAYMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), in the case of each of the 2008 through 2012 crop years, the Secretary may not make direct payments under this section before October 1 of the calendar year in which the crop is harvested.

(2) ADVANCE PAYMENTS.—

(A) OPTION.—

(i) IN GENERAL.—At the option of the producers on a farm, the Secretary shall pay in advance up to 22 percent of the direct payment for peanuts for any of the 2008 through 2011 crop years to the producers on a farm.

(ii) 2008 CROP YEAR.—If the producers on a farm elect to receive advance direct payments under clause (i) for peanuts for the 2008 crop year, as soon as practicable after the election, the Secretary shall make the advance direct payment to the producers on the farm.

(B) MONTH.—

(i) SELECTION.—Subject to clauses (ii) and (iii), the producers on a farm shall select the month during which the advance payment for a crop year will be made.

(ii) OPTIONS.—The month selected may be any month during the period—

(I) beginning on December 1 of the calendar year before the calendar year in which the crop of peanuts is harvested; and

(II) ending during the month within which the direct payment would otherwise be made.

(iii) CHANGE.—The producers on a farm may change the selected month for a subsequent advance payment by providing advance notice to the Secretary.

(3) REPAYMENT OF ADVANCE PAYMENTS.—If a producer on a farm that receives an advance direct payment for a crop year ceases to be a producer on that farm, or the extent to which the producer shares in the risk of producing a crop changes, before the date the remainder of the direct payment is made, the producer shall be responsible for repaying the Secretary the applicable amount of the advance payment, as determined by the Secretary.

SEC. 1304. AVAILABILITY OF COUNTER-CYCLICAL PAYMENTS FOR PEANUTS.

(a) PAYMENT REQUIRED.—Except as provided in section 1105, for each of the 2008 through 2012 crop years for peanuts, the Secretary shall make counter-cyclical payments to producers on farms for which payment yields and base acres for peanuts are established if the Secretary determines that the effective price for peanuts is less than the target price for peanuts.

(b) EFFECTIVE PRICE.—For purposes of subsection (a), the effective price for peanuts is equal to the sum of the following:

(1) The higher of the following:

(A) The national average market price for peanuts received by producers during the 12-month marketing year for peanuts, as determined by the Secretary.

(B) The national average loan rate for a marketing assistance loan for peanuts in effect for the applicable period under this subtitle.

(2) The payment rate in effect for peanuts under section 1303 for the purpose of making direct payments.

(c) TARGET PRICE.—For purposes of subsection (a), the target price for peanuts shall be equal to $495 per ton.

(d) PAYMENT RATE.—The payment rate used to make counter-cyclical payments for a crop year shall be equal to the difference between—

(1) the target price for peanuts; and

(2) the effective price determined under subsection (b) for peanuts.

(e) PAYMENT AMOUNT.—If counter-cyclical payments are required to be paid for any of the 2008 through 2012 crops of peanuts, the amount of the counter-cyclical payment to be paid to the producers on a farm for that crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (d).

(2) The payment acres on the farm.

(3) The payment yield for the farm.

(f) TIME FOR PAYMENTS.—

(1) GENERAL RULE.—Except as provided in paragraph (2), if the Secretary determines under subsection (a) that counter-cyclical payments are required to be made under this section for

a crop of peanuts, beginning October 1, or as soon as practicable after the end of the marketing year, the Secretary shall make the counter-cyclical payments for the crop.

(2) AVAILABILITY OF PARTIAL PAYMENTS.—

(A) IN GENERAL.—If, before the end of the 12-month marketing year, the Secretary estimates that counter-cyclical payments will be required under this section for a crop year, the Secretary shall give producers on a farm the option to receive partial payments of the counter-cyclical payment projected to be made for the crop.

(B) ELECTION.—

(i) IN GENERAL.—The Secretary shall allow producers on a farm to make an election to receive partial payments under subparagraph (A) at any time but not later than 60 days prior to the end of the marketing year for the crop.

(ii) DATE OF ISSUANCE.—The Secretary shall issue the partial payment after the date of an announcement by the Secretary but not later than 30 days prior to the end of the marketing year.

(3) TIME FOR PARTIAL PAYMENTS.—When the Secretary makes partial payments for any of the 2008 through 2010 crop years—

(A) the first partial payment shall be made after completion of the first 180 days of the marketing year for that crop; and

(B) the final partial payment shall be made beginning October 1, or as soon as practicable thereafter, after the end of the applicable marketing year for that crop.

(4) AMOUNT OF PARTIAL PAYMENTS.—

(A) FIRST PARTIAL PAYMENT.—For each of the 2008 through 2010 crop years, the first partial payment under paragraph (3) to the producers on a farm may not exceed 40 percent of the projected counter-cyclical payment for the crop year, as determined by the Secretary.

(B) FINAL PAYMENT.—The final payment for a crop year shall be equal to the difference between—

(i) the actual counter-cyclical payment to be made to the producers for that crop year; and

(ii) the amount of the partial payment made to the producers under subparagraph (A).

(5) REPAYMENT.—The producers on a farm that receive a partial payment under this subsection for a crop year shall repay to the Secretary the amount, if any, by which the total of the partial payments exceed the actual counter-cyclical payment to be made for that crop year.

SEC. 1305. PRODUCER AGREEMENT REQUIRED AS CONDITION ON PROVISION OF PAYMENTS.

(a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—

(1) REQUIREMENTS.—Before the producers on a farm may receive direct payments or counter-cyclical payments under this subtitle, or average crop revenue election payments under section 1105, with respect to the farm, the producers shall agree, during the crop year for which the payments are made and in exchange for the payments—

(A) to comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(B) to comply with applicable wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.);

(C) to comply with the planting flexibility requirements of section 1306;

(D) to use the land on the farm, in a quantity equal to the attributable base acres for peanuts and any base acres for the farm under subtitle A, for an agricultural or conserving use, and not for a nonagricultural commercial, industrial, or residential use, as determined by the Secretary; and

(E) to effectively control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices, as determined by the Secretary, if the agricultural or conserving use involves the noncultivation of any portion of the land referred to in subparagraph (D).

(2) COMPLIANCE.—The Secretary may issue such rules as the Secretary considers necessary to ensure producer compliance with the requirements of paragraph (1).

(3) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the requirements of this subsection if the modifications are consistent with the objectives of this subsection, as determined by the Secretary.

(b) TRANSFER OR CHANGE OF INTEREST IN FARM.—

(1) TERMINATION.—

(A) IN GENERAL.—Except as provided in paragraph (2), a transfer of (or change in) the interest of the producers on a farm in the base acres for peanuts for which direct payments or counter-cyclical payments are made, or on which average crop revenue election payments are based, shall result in the termination of the direct payments, counter-cyclical payments, or average crop revenue election payments to the extent the payments are made or based on the base acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a).

(B) EFFECTIVE DATE.—The termination shall take effect on the date determined by the Secretary.

(2) EXCEPTION.—If a producer entitled to a direct payment, counter-cyclical payment, or average crop revenue election payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with rules issued by the Secretary.

(c) ACREAGE REPORTS.—

(1) IN GENERAL.—As a condition on the receipt of any benefits under this subtitle, the Secretary shall require producers on a farm to submit to the Secretary annual acreage reports with respect to all cropland on the farm.

(2) PENALTIES.—No penalty with respect to benefits under this subtitle shall be assessed against the producers on a farm for an inaccurate acreage report unless the producers on the farm knowingly and willfully falsified the acreage report.

(d) TENANTS AND SHARECROPPERS.—In carrying out this subtitle, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(e) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of direct payments, counter-cyclical payments, or average crop revenue election payments under section 1105 among the producers on a farm on a fair and equitable basis.

SEC. 1306. PLANTING FLEXIBILITY.

(a) PERMITTED CROPS.—Subject to subsection (b), any commodity or crop may be planted on the base acres for peanuts on a farm.

(b) LIMITATIONS REGARDING CERTAIN COMMODITIES.—

(1) GENERAL LIMITATION.—The planting of an agricultural commodity specified in paragraph (3) shall be prohibited on base acres for peanuts unless the commodity, if planted, is destroyed before harvest.

(2) TREATMENT OF TREES AND OTHER PERENNIALS.—The planting of an agricultural commodity specified in paragraph (3) that is produced on a tree or other perennial plant shall be prohibited on base acres for peanuts.

(3) COVERED AGRICULTURAL COMMODITIES.—Paragraphs (1) and (2) apply to the following agricultural commodities:

(A) Fruits.

(B) Vegetables (other than mung beans and pulse crops).

(C) Wild rice.

(c) EXCEPTIONS.—Paragraphs (1) and (2) of subsection (b) shall not limit the planting of an agricultural commodity specified in paragraph (3) of that subsection—

(1) in any region in which there is a history of double-cropping of peanuts with agricultural commodities specified in subsection (b)(3), as determined by the Secretary, in which case the double-cropping shall be permitted;

(2) on a farm that the Secretary determines has a history of planting agricultural commodities specified in subsection (b)(3) on the base acres for peanuts, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such an agricultural commodity; or

(3) by the producers on a farm that the Secretary determines has an established planting history of a specific agricultural commodity specified in subsection (b)(3), except that—

(A) the quantity planted may not exceed the average annual planting history of such agricultural commodity by the producers on the farm in the 1991 through 1995 or 1998 through 2001 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(B) direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such agricultural commodity.

SEC. 1307. MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR PEANUTS.

(a) NONRECOURSE LOANS AVAILABLE.—

(1) AVAILABILITY.—For each of the 2008 through 2012 crops of peanuts, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for peanuts produced on the farm.

(2) TERMS AND CONDITIONS.—The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under subsection (b).

(3) ELIGIBLE PRODUCTION.—The producers on a farm shall be eligible for a marketing assistance loan under this subsection for any quantity of peanuts produced on the farm.

(4) OPTIONS FOR OBTAINING LOAN.—A marketing assistance loan under this subsection, and loan deficiency payments under subsection (e), may be obtained at the option of the producers on a farm through—

(A) a designated marketing association or marketing cooperative of producers that is approved by the Secretary; or

(B) the Farm Service Agency.

(5) STORAGE OF LOAN PEANUTS.—As a condition on the Secretary's approval of an individual or entity to provide storage for peanuts for which a marketing assistance loan is made under this section, the individual or entity shall agree—

(A) to provide such storage on a nondiscriminatory basis; and

(B) to comply with such additional requirements as the Secretary considers appropriate to accomplish the purposes of this section and promote fairness in the administration of the benefits of this section.

(6) STORAGE, HANDLING, AND ASSOCIATED COSTS.—

(A) IN GENERAL.—Beginning with the 2008 crop of peanuts, to ensure proper storage of peanuts for which a loan is made under this section, the Secretary shall pay handling and other associated costs (other than storage costs) incurred at the time at which the peanuts are placed under loan, as determined by the Secretary.

(B) REDEMPTION AND FORFEITURE.—The Secretary shall—

(i) require the repayment of handling and other associated costs paid under subparagraph (A) for all peanuts pledged as collateral for a loan that is redeemed under this section; and

(ii) pay storage, handling, and other associated costs for all peanuts pledged as collateral that are forfeited under this section.

(7) MARKETING.—A marketing association or cooperative may market peanuts for which a loan is made under this section in any manner that conforms to consumer needs, including the separation of peanuts by type and quality.

(b) LOAN RATE.—Except as provided in section 1105, the loan rate for a marketing assistance loan for peanuts under subsection (a) shall be equal to $355 per ton.

(c) TERM OF LOAN.—

(1) IN GENERAL.—A marketing assistance loan for peanuts under subsection (a) shall have a term of 9 months beginning

on the first day of the first month after the month in which the loan is made.

(2) EXTENSIONS PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for peanuts under subsection (a).

(d) REPAYMENT RATE.—

(1) IN GENERAL.—The Secretary shall permit producers on a farm to repay a marketing assistance loan for peanuts under subsection (a) at a rate that is the lesser of—

(A) the loan rate established for peanuts under subsection (b), plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

(B) a rate that the Secretary determines will—

(i) minimize potential loan forfeitures;

(ii) minimize the accumulation of stocks of peanuts by the Federal Government;

(iii) minimize the cost incurred by the Federal Government in storing peanuts; and

(iv) allow peanuts produced in the United States to be marketed freely and competitively, both domestically and internationally.

(2) AUTHORITY TO TEMPORARILY ADJUST REPAYMENT RATES.—

(A) ADJUSTMENT AUTHORITY.—In the event of a severe disruption to marketing, transportation, or related infrastructure, the Secretary may modify the repayment rate otherwise applicable under this subsection for marketing assistance loans for peanuts under subsection (a).

(B) DURATION.—An adjustment made under subparagraph (A) in the repayment rate for marketing assistance loans for peanuts shall be in effect on a short-term and temporary basis, as determined by the Secretary.

(e) LOAN DEFICIENCY PAYMENTS.—

(1) AVAILABILITY.—The Secretary may make loan deficiency payments available to producers on a farm that, although eligible to obtain a marketing assistance loan for peanuts under subsection (a), agree to forgo obtaining the loan for the peanuts in return for loan deficiency payments under this subsection.

(2) COMPUTATION.—A loan deficiency payment under this subsection shall be computed by multiplying—

(A) the payment rate determined under paragraph (3) for peanuts; by

(B) the quantity of the peanuts produced by the producers, excluding any quantity for which the producers obtain a marketing assistance loan under subsection (a).

(3) PAYMENT RATE.—For purposes of this subsection, the payment rate shall be the amount by which—

(A) the loan rate established under subsection (b); exceeds

(B) the rate at which a loan may be repaid under subsection (d).

(4) EFFECTIVE DATE FOR PAYMENT RATE DETERMINATION.—The Secretary shall determine the amount of the loan deficiency payment to be made under this subsection to the producers on

a farm with respect to a quantity of peanuts using the payment rate in effect under paragraph (3) as of the date the producers request the payment.

(f) COMPLIANCE WITH CONSERVATION AND WETLANDS REQUIREMENTS.—As a condition of the receipt of a marketing assistance loan under subsection (a), the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.) during the term of the loan.

(g) REIMBURSABLE AGREEMENTS AND PAYMENT OF ADMINISTRATIVE EXPENSES.—The Secretary may implement any reimbursable agreements or provide for the payment of administrative expenses under this subtitle only in a manner that is consistent with such activities in regard to other commodities.

SEC. 1308. ADJUSTMENTS OF LOANS.

(a) ADJUSTMENT AUTHORITY.—The Secretary may make appropriate adjustments in the loan rates for peanuts for differences in grade, type, quality, location, and other factors.

(b) MANNER OF ADJUSTMENT.—The adjustments under subsection (a) shall, to the maximum extent practicable, be made in such a manner that the average loan level for peanuts will, on the basis of the anticipated incidence of the factors, be equal to the level of support determined in accordance with this subtitle and subtitles B, D, and E.

(c) ADJUSTMENT ON COUNTY BASIS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may establish loan rates for a crop of peanuts for producers in individual counties in a manner that results in the lowest loan rate being 95 percent of the national average loan rate, if those loan rates do not result in an increase in outlays.

(2) PROHIBITION.—Adjustments under this subsection shall not result in an increase in the national average loan rate for any year.

Subtitle D—Sugar

SEC. 1401. SUGAR PROGRAM.

(a) IN GENERAL.—Section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) is amended to read as follows:

"SEC. 156. SUGAR PROGRAM.

"(a) SUGARCANE.—The Secretary shall make loans available to processors of domestically grown sugarcane at a rate equal to—

"(1) 18.00 cents per pound for raw cane sugar for the 2008 crop year;

"(2) 18.25 cents per pound for raw cane sugar for the 2009 crop year;

"(3) 18.50 cents per pound for raw cane sugar for the 2010 crop year;

"(4) 18.75 cents per pound for raw cane sugar for the 2011 crop year; and

"(5) 18.75 cents per pound for raw cane sugar for the 2012 crop year.

"(b) SUGAR BEETS.—The Secretary shall make loans available to processors of domestically grown sugar beets at a rate equal to—

"(1) 22.9 cents per pound for refined beet sugar for the 2008 crop year; and

"(2) a rate that is equal to 128.5 percent of the loan rate per pound of raw cane sugar for the applicable crop year under subsection (a) for each of the 2009 through 2012 crop years.

"(c) TERM OF LOANS.—

"(1) IN GENERAL.—A loan under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the earlier of—

"(A) the end of the 9-month period beginning on the first day of the first month after the month in which the loan is made; or

"(B) the end of the fiscal year in which the loan is made.

"(2) SUPPLEMENTAL LOANS.—In the case of a loan made under this section in the last 3 months of a fiscal year, the processor may repledge the sugar as collateral for a second loan in the subsequent fiscal year, except that the second loan shall—

"(A) be made at the loan rate in effect at the time the first loan was made; and

"(B) mature in 9 months less the quantity of time that the first loan was in effect.

"(d) LOAN TYPE; PROCESSOR ASSURANCES.—

"(1) NONRECOURSE LOANS.—The Secretary shall carry out this section through the use of nonrecourse loans.

"(2) PROCESSOR ASSURANCES.—

"(A) IN GENERAL.—The Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate to ensure that the processor will provide payments to producers that are proportional to the value of the loan received by the processor for the sugar beets and sugarcane delivered by producers to the processor.

"(B) MINIMUM PAYMENTS.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary may establish appropriate minimum payments for purposes of this paragraph.

"(ii) LIMITATION.—In the case of sugar beets, the minimum payment established under clause (i) shall not exceed the rate of payment provided for under the applicable contract between a sugar beet producer and a sugar beet processor.

"(3) ADMINISTRATION.—The Secretary may not impose or enforce any prenotification requirement, or similar administrative requirement not otherwise in effect on May 13, 2002, that has the effect of preventing a processor from electing to forfeit the loan collateral (of an acceptable grade and quality) on the maturity of the loan.

"(e) LOANS FOR IN-PROCESS SUGAR.—

"(1) DEFINITION OF IN-PROCESS SUGARS AND SYRUPS.—In this subsection, the term 'in-process sugars and syrups' does not include raw sugar, liquid sugar, invert sugar, invert syrup, or

other finished product that is otherwise eligible for a loan under subsection (a) or (b).

"(2) AVAILABILITY.—The Secretary shall make nonrecourse loans available to processors of a crop of domestically grown sugarcane and sugar beets for in-process sugars and syrups derived from the crop.

"(3) LOAN RATE.—The loan rate shall be equal to 80 percent of the loan rate applicable to raw cane sugar or refined beet sugar, as determined by the Secretary on the basis of the source material for the in-process sugars and syrups.

"(4) FURTHER PROCESSING ON FORFEITURE.—

"(A) IN GENERAL.—As a condition of the forfeiture of in-process sugars and syrups serving as collateral for a loan under paragraph (2), the processor shall, within such reasonable time period as the Secretary may prescribe and at no cost to the Commodity Credit Corporation, convert the in-process sugars and syrups into raw cane sugar or refined beet sugar of acceptable grade and quality for sugars eligible for loans under subsection (a) or (b).

"(B) TRANSFER TO CORPORATION.—Once the in-process sugars and syrups are fully processed into raw cane sugar or refined beet sugar, the processor shall transfer the sugar to the Commodity Credit Corporation.

"(C) PAYMENT TO PROCESSOR.—On transfer of the sugar, the Secretary shall make a payment to the processor in an amount equal to the amount obtained by multiplying—

"(i) the difference between—

"(I) the loan rate for raw cane sugar or refined beet sugar, as appropriate; and

"(II) the loan rate the processor received under paragraph (3); by

"(ii) the quantity of sugar transferred to the Secretary.

"(5) LOAN CONVERSION.—If the processor does not forfeit the collateral as described in paragraph (4), but instead further processes the in-process sugars and syrups into raw cane sugar or refined beet sugar and repays the loan on the in-process sugars and syrups, the processor may obtain a loan under subsection (a) or (b) for the raw cane sugar or refined beet sugar, as appropriate.

"(6) TERM OF LOAN.—The term of a loan made under this subsection for a quantity of in-process sugars and syrups, when combined with the term of a loan made with respect to the raw cane sugar or refined beet sugar derived from the in-process sugars and syrups, may not exceed 9 months, consistent with subsection (c).

"(f) AVOIDING FORFEITURES; CORPORATION INVENTORY DISPOSITION.—

"(1) IN GENERAL.—Subject to subsection (d)(3), to the maximum extent practicable, the Secretary shall operate the program established under this section at no cost to the Federal Government by avoiding the forfeiture of sugar to the Commodity Credit Corporation.

"(2) INVENTORY DISPOSITION.—

"(A) IN GENERAL.—To carry out paragraph (1), the Commodity Credit Corporation may accept bids to obtain raw cane sugar or refined beet sugar in the inventory of the Commodity Credit Corporation from (or otherwise make available such commodities, on appropriate terms and conditions, to) processors of sugarcane and processors of sugar beets (acting in conjunction with the producers of the sugarcane or sugar beets processed by the processors) in return for the reduction of production of raw cane sugar or refined beet sugar, as appropriate.

"(B) BIOENERGY FEEDSTOCK.—If a reduction in the quantity of production accepted under subparagraph (A) involves sugar beets or sugarcane that has already been planted, the sugar beets or sugarcane so planted may not be used for any commercial purpose other than as a bioenergy feedstock.

"(C) ADDITIONAL AUTHORITY.—The authority provided under this paragraph is in addition to any authority of the Commodity Credit Corporation under any other law.

"(g) INFORMATION REPORTING.—

"(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

"(2) DUTY OF PRODUCERS TO REPORT.—

"(A) PROPORTIONATE SHARE STATES.—As a condition of a loan made to a processor for the benefit of a producer, the Secretary shall require each producer of sugarcane located in a State (other than the Commonwealth of Puerto Rico) in which there are in excess of 250 producers of sugarcane to report, in the manner prescribed by the Secretary, the sugarcane yields and acres planted to sugarcane of the producer.

"(B) OTHER STATES.—The Secretary may require each producer of sugarcane or sugar beets not covered by subparagraph (A) to report, in a manner prescribed by the Secretary, the yields of, and acres planted to, sugarcane or sugar beets, respectively, of the producer.

"(3) DUTY OF IMPORTERS TO REPORT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall require an importer of sugars, syrups, or molasses to be used for human consumption or to be used for the extraction of sugar for human consumption to report, in the manner prescribed by the Secretary, the quantities of the products imported by the importer and the sugar content or equivalent of the products.

"(B) TARIFF-RATE QUOTAS.—Subparagraph (A) shall not apply to sugars, syrups, or molasses that are within the quantities of tariff-rate quotas that are subject to the lower rate of duties.

"(4) COLLECTION OF INFORMATION ON MEXICO.—

"(A) COLLECTION.—The Secretary shall collect—

"(i) information on the production, consumption, stocks, and trade of sugar in Mexico, including United States exports of sugar to Mexico; and

"(ii) publicly available information on Mexican production, consumption, and trade of high fructose corn syrups.

"(B) PUBLICATION.—The data collected under subparagraph (A) shall be published in each edition of the World Agricultural Supply and Demand Estimates.

"(5) PENALTY.—Any person willfully failing or refusing to furnish the information required to be reported by paragraph (1), (2), or (3), or furnishing willfully false information, shall be subject to a civil penalty of not more than $10,000 for each such violation.

"(6) MONTHLY REPORTS.—Taking into consideration the information received under this subsection, the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

"(h) SUBSTITUTION OF REFINED SUGAR.—For purposes of Additional U.S. Note 6 to chapter 17 of the Harmonized Tariff Schedule of the United States and the reexport programs and polyhydric alcohol program administered by the Secretary, all refined sugars (whether derived from sugar beets or sugarcane) produced by cane sugar refineries and beet sugar processors shall be fully substitutable for the export of sugar and sugar-containing products under those programs.

"(i) EFFECTIVE PERIOD.—This section shall be effective only for the 2008 through 2012 crops of sugar beets and sugarcane.".

(b) TRANSITION.—The Secretary shall make loans for raw cane sugar and refined beet sugar available for the 2007 crop year on the terms and conditions provided in section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272), as in effect on the day before the date of enactment of this Act.

SEC. 1402. UNITED STATES MEMBERSHIP IN THE INTERNATIONAL SUGAR ORGANIZATION.

The Secretary shall work with the Secretary of State to restore United States membership in the International Sugar Organization not later than 1 year after the date of enactment of this Act.

SEC. 1403. FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.

(a) DEFINITIONS.—Section 359a of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (4), (5), and (6), respectively;

(2) by inserting before paragraph (2) (as so redesignated) the following:

"(1) HUMAN CONSUMPTION.—The term 'human consumption', when used in the context of a reference to sugar (whether in the form of sugar, in-process sugar, syrup, molasses, or in some other form) for human consumption, includes sugar for use in human food, beverages, or similar products."; and

(3) by inserting after paragraph (2) (as so redesignated) the following:

"(3) MARKET.—

"(A) IN GENERAL.—The term 'market' means to sell or otherwise dispose of in commerce in the United States.

"(B) INCLUSIONS.—The term 'market' includes—

"(i) the forfeiture of sugar under the loan program for sugar established under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272);

"(ii) with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process; and

"(iii) the sale of sugar for the production of ethanol or other bioenergy product, if the disposition of the sugar is administered by the Secretary under section 9010 of the Farm Security and Rural Investment Act of 2002.

"(C) MARKETING YEAR.—Forfeited sugar described in subparagraph (B)(i) shall be considered to have been marketed during the crop year for which a loan is made under the loan program described in that subparagraph.".

(b) FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.—Section 359b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359bb) is amended to read as follows:

"SEC. 359b. FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.

"(a) SUGAR ESTIMATES.—

"(1) IN GENERAL.—Not later than August 1 before the beginning of each of the 2008 through 2012 crop years for sugarcane and sugar beets, the Secretary shall estimate—

"(A) the quantity of sugar that will be subject to human consumption in the United States during the crop year;

"(B) the quantity of sugar that would provide for reasonable carryover stocks;

"(C) the quantity of sugar that will be available from carry-in stocks for human consumption in the United States during the crop year;

"(D) the quantity of sugar that will be available from the domestic processing of sugarcane, sugar beets, and in-process beet sugar; and

"(E) the quantity of sugars, syrups, and molasses that will be imported for human consumption or to be used for the extraction of sugar for human consumption in the United States during the crop year, whether the articles are under a tariff-rate quota or are in excess or outside of a tariff-rate quota.

"(2) EXCLUSION.—The estimates under this subsection shall not apply to sugar imported for the production of polyhydric alcohol or to any sugar refined and reexported in refined form or in products containing sugar.

"(3) REESTIMATES.—The Secretary shall make reestimates of sugar consumption, stocks, production, and imports for a crop year as necessary, but not later than the beginning of each of the second through fourth quarters of the crop year.

"(b) SUGAR ALLOTMENTS.—

"(1) ESTABLISHMENT.—By the beginning of each crop year, the Secretary shall establish for that crop year appropriate allotments under section 359c for the marketing by processors of

sugar processed from sugar cane or sugar beets or in-process beet sugar (whether the sugar beets or in-process beet sugar was produced domestically or imported) at a level that is—

"(A) sufficient to maintain raw and refined sugar prices above forfeiture levels so that there will be no forfeitures of sugar to the Commodity Credit Corporation under the loan program for sugar established under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272); but

"(B) not less than 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

"(2) PRODUCTS.—The Secretary may include sugar products, the majority content of which is sucrose for human consumption, derived from sugar cane, sugar beets, molasses, or sugar in the allotments established under paragraph (1) if the Secretary determines it to be appropriate for purposes of this part.

"(c) COVERAGE OF ALLOTMENTS.—

"(1) IN GENERAL.—The marketing allotments under this part shall apply to the marketing by processors of sugar intended for domestic human consumption that has been processed from sugar cane, sugar beets, or in-process beet sugar, whether such sugar beets or in-process beet sugar was produced domestically or imported.

"(2) EXCEPTIONS.—Consistent with the administration of marketing allotments for each of the 2002 through 2007 crop years, the marketing allotments shall not apply to sugar sold—

"(A) to facilitate the exportation of the sugar to a foreign country, except that the exports of sugar shall not be eligible to receive credits under reexport programs for refined sugar or sugar containing products administered by the Secretary;

"(B) to enable another processor to fulfill an allocation established for that processor; or

"(C) for uses other than domestic human consumption, except for the sale of sugar for the production of ethanol or other bioenergy if the disposition of the sugar is administered by the Secretary under section 9010 of the Farm Security and Rural Investment Act of 2002.

"(3) REQUIREMENT.—The sale of sugar described in paragraph (2)(B) shall be—

"(A) made prior to May 1; and

"(B) reported to the Secretary.

"(d) PROHIBITIONS.—

"(1) IN GENERAL.—During all or part of any crop year for which marketing allotments have been established, no processor of sugar beets or sugarcane shall market for domestic human consumption a quantity of sugar in excess of the allocation established for the processor, except—

"(A) to enable another processor to fulfill an allocation established for that other processor; or

"(B) to facilitate the exportation of the sugar.

"(2) CIVIL PENALTY.—Any processor who knowingly violates paragraph (1) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the

United States market value, at the time of the commission of the violation, of that quantity of sugar involved in the violation.".

(c) ESTABLISHMENT OF FLEXIBLE MARKETING ALLOTMENTS.—Section 359c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359cc) is amended—

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

"(b) OVERALL ALLOTMENT QUANTITY.—

"(1) IN GENERAL.—The Secretary shall establish the overall quantity of sugar to be allotted for the crop year (referred to in this part as the 'overall allotment quantity') at a level that is—

"(A) sufficient to maintain raw and refined sugar prices above forfeiture levels to avoid forfeiture of sugar to the Commodity Credit Corporation; but

"(B) not less than a quantity equal to 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year.

"(2) ADJUSTMENT.—Subject to paragraph (1), the Secretary shall adjust the overall allotment quantity to maintain—

"(A) raw and refined sugar prices above forfeiture levels to avoid the forfeiture of sugar to the Commodity Credit Corporation; and

"(B) adequate supplies of raw and refined sugar in the domestic market.";

(2) in subsection (d)(2), by inserting "or in-process beet sugar" before the period at the end;

(3) in subsection (g)(1)—

(A) by striking "(1) IN GENERAL.—The Secretary" and inserting the following:

"(1) ADJUSTMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary"; and

(B) by adding at the end the following:

"(B) LIMITATION.—In carrying out subparagraph (A), the Secretary may not reduce the overall allotment quantity to a quantity of less than 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year."; and

(4) by striking subsection (h).

(d) ALLOCATION OF MARKETING ALLOTMENTS.—Section 359d(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359dd(b)) is amended—

(1) in paragraph (1)(F), by striking "Except as otherwise provided in section 359f(c)(8), if" and inserting "If"; and

(2) in paragraph (2), by striking subparagraphs (G), (H), and (I) and inserting the following:

"(G) SALE OF FACTORIES OF A PROCESSOR TO ANOTHER PROCESSOR.—

"(i) EFFECT OF SALE.—Subject to subparagraphs (E) and (F), if 1 or more factories of a processor of beet sugar (but not all of the assets of the processor) are sold to another processor of beet sugar during a crop year, the Secretary shall assign a pro rata portion of the allocation of the seller to the allocation of the buyer to reflect the historical contribution of the production of

the sold 1 or more factories to the total allocation of the seller, unless the buyer and the seller have agreed upon the transfer of a different portion of the allocation of the seller, in which case, the Secretary shall transfer that portion agreed upon by the buyer and seller.

"(ii) APPLICATION OF ALLOCATION.—The assignment of the allocation under clause (i) shall apply—

"(I) during the remainder of the crop year for which the sale described in clause (i) occurs; and

"(II) during each subsequent crop year.

"(iii) USE OF OTHER FACTORIES TO FILL ALLOCATION.—If the assignment of the allocation under clause (i) to the buyer for the 1 or more purchased factories cannot be filled by the production of the 1 or more purchased factories, the remainder of the allocation may be filled by beet sugar produced by the buyer from other factories of the buyer.

"(H) NEW ENTRANTS STARTING PRODUCTION, REOPENING, OR ACQUIRING AN EXISTING FACTORY WITH PRODUCTION HISTORY.—

"(i) DEFINITION OF NEW ENTRANT.—

"(I) IN GENERAL.—In this subparagraph, the term 'new entrant' means an individual, corporation, or other entity that—

"(aa) does not have an allocation of the beet sugar allotment under this part;

"(bb) is not affiliated with any other individual, corporation, or entity that has an allocation of beet sugar under this part (referred to in this clause as a 'third party'); and

"(cc) will process sugar beets produced by sugar beet growers under contract with the new entrant for the production of sugar at the new or re-opened factory that is the basis for the new entrant allocation.

"(II) AFFILIATION.—For purposes of subclause (I)(bb), a new entrant and a third party shall be considered to be affiliated if—

"(aa) the third party has an ownership interest in the new entrant;

"(bb) the new entrant and the third party have owners in common;

"(cc) the third party has the ability to exercise control over the new entrant by organizational rights, contractual rights, or any other means;

"(dd) the third party has a contractual relationship with the new entrant by which the new entrant will make use of the facilities or assets of the third party; or

"(ee) there are any other similar circumstances by which the Secretary determines that the new entrant and the third party are affiliated.

"(ii) ALLOCATION FOR A NEW ENTRANT THAT HAS CONSTRUCTED A NEW FACTORY OR REOPENED A FACTORY THAT WAS NOT OPERATED SINCE BEFORE 1998.—If a new entrant constructs a new sugar beet processing factory, or acquires and reopens a sugar beet processing factory that last processed sugar beets prior to the 1998 crop year and there is no allocation currently associated with the factory, the Secretary shall—

"(I) assign an allocation for beet sugar to the new entrant that provides a fair and equitable distribution of the allocations for beet sugar so as to enable the new entrant to achieve a factory utilization rate comparable to the factory utilization rates of other similarly-situated processors; and

"(II) reduce the allocations for beet sugar of all other processors on a pro rata basis to reflect the allocation to the new entrant.

"(iii) ALLOCATION FOR A NEW ENTRANT THAT HAS ACQUIRED AN EXISTING FACTORY WITH A PRODUCTION HISTORY.—

"(I) IN GENERAL.—If a new entrant acquires an existing factory that has processed sugar beets from the 1998 or subsequent crop year and has a production history, on the mutual agreement of the new entrant and the company currently holding the allocation associated with the factory, the Secretary shall transfer to the new entrant a portion of the allocation of the current allocation holder to reflect the historical contribution of the production of the 1 or more sold factories to the total allocation of the current allocation holder, unless the new entrant and current allocation holder have agreed upon the transfer of a different portion of the allocation of the current allocation holder, in which case, the Secretary shall transfer that portion agreed upon by the new entrant and the current allocation holder.

"(II) PROHIBITION.—In the absence of a mutual agreement described in subclause (I), the new entrant shall be ineligible for a beet sugar allocation.

"(iv) APPEALS.—Any decision made under this subsection may be appealed to the Secretary in accordance with section 359i.".

(e) REASSIGNMENT OF DEFICITS.—Section 359e(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ee(b)) is amended in paragraphs (1)(D) and (2)(C), by inserting "of raw cane sugar" after "imports" each place it appears.

(f) PROVISIONS APPLICABLE TO PRODUCERS.—Section 359f(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff(c)) is amended—

(1) by striking paragraph (8);

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

(3) by inserting before paragraph (2) (as so redesignated) the following:

"(1) DEFINITION OF SEED.—

"(A) IN GENERAL.—In this subsection, the term 'seed' means only those varieties of seed that are dedicated to the production of sugarcane from which is produced sugar for human consumption.

"(B) EXCLUSION.—The term 'seed' does not include seed of a high-fiber cane variety dedicated to other uses, as determined by the Secretary";

(4) in paragraph (3) (as so redesignated)—

(A) in the first sentence—

(i) by striking "paragraph (1)" and inserting "paragraph (2)"; and

(ii) by inserting "sugar produced from" after "quantity of"; and

(B) in the second sentence, by striking "paragraph (7)" and inserting "paragraph (8)";

(5) in the first sentence of paragraph (6)(C) (as so redesignated), by inserting "for sugar" before "in excess of the farm's proportionate share"; and

(6) in paragraph (8) (as so redesignated), by inserting "sugar from" after "the amount of".

(g) SPECIAL RULES.—Section 359g of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359gg) is amended—

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

"(a) TRANSFER OF ACREAGE BASE HISTORY.—

"(1) TRANSFER AUTHORIZED.—For the purpose of establishing proportionate shares for sugarcane farms under section 359f(c), the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

"(2) CONVERTED ACREAGE BASE.—

"(A) IN GENERAL.—Sugarcane acreage base established under section 359f(c) that has been or is converted to nonagricultural use on or after May 13, 2002, may be transferred to other land suitable for the production of sugarcane that can be delivered to a processor in a proportionate share State in accordance with this paragraph.

"(B) NOTIFICATION.—Not later than 90 days after the Secretary becomes aware of a conversion of any sugarcane acreage base to a nonagricultural use, the Secretary shall notify the 1 or more affected landowners of the transferability of the applicable sugarcane acreage base.

"(C) INITIAL TRANSFER PERIOD.—The owner of the base attributable to the acreage at the time of the conversion shall be afforded 90 days from the date of the receipt of the notification under subparagraph (B) to transfer the base to 1 or more farms owned by the owner.

"(D) GROWER OF RECORD.—If a transfer under subparagraph (C) cannot be accomplished during the period specified in that subparagraph, the grower of record with regard to the acreage base on the date on which the acreage was converted to nonagricultural use shall—

"(i) be notified; and

"(ii) have 90 days from the date of the receipt of the notification to transfer the base to 1 or more farms operated by the grower.

"(E) POOL DISTRIBUTION.—

"(i) IN GENERAL.—If transfers under subparagraphs (B) and (C) cannot be accomplished during the periods specified in those subparagraphs, the county committee of the Farm Service Agency for the applicable county shall place the acreage base in a pool for possible assignment to other farms.

"(ii) ACCEPTANCE OF REQUESTS.—After providing reasonable notice to farm owners, operators, and growers of record in the county, the county committee shall accept requests from owners, operators, and growers of record in the county.

"(iii) ASSIGNMENT.—The county committee shall assign the acreage base to other farms in the county that are eligible and capable of accepting the acreage base, based on a random drawing from among the requests received under clause (ii).

"(F) STATEWIDE REALLOCATION.—

"(i) IN GENERAL.—Any acreage base remaining unassigned after the transfers and processes described in subparagraphs (A) through (E) shall be made available to the State committee of the Farm Service Agency for allocation among the remaining county committees in the State representing counties with farms eligible for assignment of the base, based on a random drawing.

"(ii) ALLOCATION.—Any county committee receiving acreage base under this subparagraph shall allocate the acreage base to eligible farms using the process described in subparagraph (E).

"(G) STATUS OF REASSIGNED BASE.—After acreage base has been reassigned in accordance with this subparagraph, the acreage base shall—

"(i) remain on the farm; and

"(ii) be subject to the transfer provisions of paragraph (1)."; and

(2) in subsection (d)—

(A) in paragraph (1)—

(i) by inserting "affected" before "crop-share owners" each place it appears; and

(ii) by striking ", and from the processing company holding the applicable allocation for such shares,"; and

(B) in paragraph (2), by striking "based on" and all that follows through the end of subparagraph (B) and inserting "based on—

"(A) the number of acres of sugarcane base being transferred; and

"(B) the pro rata amount of allocation at the processing company holding the applicable allocation that equals the contribution of the grower to allocation of the processing company for the sugarcane acreage base being transferred.".

(h) APPEALS.—Section 359i of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ii) is amended—

(1) in subsection (a), by inserting "or 359g(d)" after "359f"; and

(2) by striking subsection (c).

(i) REALLOCATING SUGAR QUOTA IMPORT SHORTFALLS.—Section 359k of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359kk) is repealed.

(j) ADMINISTRATION OF TARIFF RATE QUOTAS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) (as amended by subsection (i)) is amended by adding at the end the following:

"SEC. 359k. ADMINISTRATION OF TARIFF RATE QUOTAS.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, at the beginning of the quota year, the Secretary shall establish the tariff-rate quotas for raw cane sugar and refined sugars at the minimum level necessary to comply with obligations under international trade agreements that have been approved by Congress.

"(2) EXCEPTION.—Paragraph (1) shall not apply to specialty sugar.

"(b) ADJUSTMENT.—

"(1) BEFORE APRIL 1.—Before April 1 of each fiscal year, if there is an emergency shortage of sugar in the United States market that is caused by a war, flood, hurricane, or other natural disaster, or other similar event as determined by the Secretary—

"(A) the Secretary shall take action to increase the supply of sugar in accordance with sections 359c(b)(2) and 359e(b), including an increase in the tariff-rate quota for raw cane sugar to accommodate the reassignment to imports; and

"(B) if there is still a shortage of sugar in the United States market, and marketing of domestic sugar has been maximized, and domestic raw cane sugar refining capacity has been maximized, the Secretary may increase the tariff-rate quota for refined sugars sufficient to accommodate the supply increase, if the further increase will not threaten to result in the forfeiture of sugar pledged as collateral for a loan under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272).

"(2) ON OR AFTER APRIL 1.—On or after April 1 of each fiscal year—

"(A) the Secretary may take action to increase the supply of sugar in accordance with sections 359c(b)(2) and 359e(b), including an increase in the tariff-rate quota for raw cane sugar to accommodate the reassignment to imports; and

"(B) if there is still a shortage of sugar in the United States market, and marketing of domestic sugar has been maximized, the Secretary may increase the tariff-rate quota for raw cane sugar if the further increase will not threaten to result in the forfeiture of sugar pledged as collateral for

a loan under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272).".

(k) PERIOD OF EFFECTIVENESS.—Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa) (as amended by subsection (j)) is amended by adding at the end the following:

"SEC. 359l. PERIOD OF EFFECTIVENESS.

"(a) IN GENERAL.—This part shall be effective only for the 2008 through 2012 crop years for sugar.

"(b) TRANSITION.—The Secretary shall administer flexible marketing allotments for sugar for the 2007 crop year for sugar on the terms and conditions provided in this part as in effect on the day before the date of enactment of this section.".

SEC. 1404. STORAGE FACILITY LOANS.

Section 1402(c) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7971(c)) is amended—

(1) in paragraph (1), by striking "and" at the end;

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

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

"(2) not include any penalty for prepayment; and"; and

(4) in paragraph (3) (as redesignated by paragraph (2)), by inserting "other" after "on such".

SEC. 1405. COMMODITY CREDIT CORPORATION STORAGE PAYMENTS.

Subtitle E of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7281 et seq.) is amended by adding at the end the following:

"SEC. 167. COMMODITY CREDIT CORPORATION STORAGE PAYMENTS.

"(a) INITIAL CROP YEARS.—Notwithstanding any other provision of law, for each of the 2008 through 2011 crop years, the Commodity Credit Corporation shall establish rates for the storage of forfeited sugar in an amount that is not less than—

"(1) in the case of refined sugar, 15 cents per hundredweight of refined sugar per month; and

"(2) in the case of raw cane sugar, 10 cents per hundredweight of raw cane sugar per month.

"(b) SUBSEQUENT CROP YEARS.—For each of the 2012 and subsequent crop years, the Commodity Credit Corporation shall establish rates for the storage of forfeited sugar in the same manner as was used on the day before the date of enactment of this section.".

Subtitle E—Dairy

SEC. 1501. DAIRY PRODUCT PRICE SUPPORT PROGRAM.

(a) DEFINITION OF NET REMOVALS.—In this section, the term "net removals" means—

(1) the sum of—

(A) the quantity of a product described in subsection (b) purchased by the Commodity Credit Corporation under this section; and

(B) the quantity of the product exported under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14); less

(2) the quantity of the product sold for unrestricted use by the Commodity Credit Corporation.

(b) SUPPORT ACTIVITIES.—During the period beginning on January 1, 2008, and ending December 31, 2012, the Secretary shall support the price of cheddar cheese, butter, and nonfat dry milk through the purchase of such products made from milk produced in the United States.

(c) PURCHASE PRICE.—To carry out subsection (b) during the period specified in that subsection, the Secretary shall purchase—

(1) cheddar cheese in blocks at not less than $1.13 per pound;

(2) cheddar cheese in barrels at not less than $1.10 per pound;

(3) butter at not less than $1.05 per pound; and

(4) nonfat dry milk at not less than $0.80 per pound.

(d) TEMPORARY PRICE ADJUSTMENT TO AVOID EXCESS INVENTORIES.—

(1) ADJUSTMENTS AUTHORIZED.—The Secretary may adjust the minimum purchase prices established under subsection (c) only as permitted under this subsection.

(2) CHEESE INVENTORIES IN EXCESS OF 200,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 200,000,000 pounds of cheese, but do not exceed 400,000,000 pounds, the Secretary may reduce the purchase prices under paragraphs (1) and (2) of subsection (c) during the immediately following month by not more than 10 cents per pound.

(3) CHEESE INVENTORIES IN EXCESS OF 400,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 400,000,000 pounds of cheese, the Secretary may reduce the purchase prices under paragraphs (1) and (2) of subsection (c) during the immediately following month by not more than 20 cents per pound.

(4) BUTTER INVENTORIES IN EXCESS OF 450,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 450,000,000 pounds of butter, but do not exceed 650,000,000 pounds, the Secretary may reduce the purchase price under subsection (c)(3) during the immediately following month by not more than 10 cents per pound.

(5) BUTTER INVENTORIES IN EXCESS OF 650,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 650,000,000 pounds of butter, the Secretary may reduce the purchase price under subsection (c)(3) during the immediately following month by not more than 20 cents per pound.

(6) NONFAT DRY MILK INVENTORIES IN EXCESS OF 600,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 600,000,000 pounds of nonfat dry milk, but do not exceed 800,000,000 pounds, the Secretary may reduce the purchase price under subsection (c)(4) during the immediately following month by not more than 5 cents per pound.

(7) NONFAT DRY MILK INVENTORIES IN EXCESS OF 800,000,000 POUNDS.—If net removals for a period of 12 consecutive months exceed 800,000,000 pounds of nonfat dry milk, the Secretary may reduce the purchase price under subsection (c)(4) during the immediately following month by not more than 10 cents per pound.

(e) UNIFORM PURCHASE PRICE.—The prices that the Secretary pays for cheese, butter, or nonfat dry milk, respectively, under subsection (b) shall be uniform for all regions of the United States.

(f) SALES FROM INVENTORIES.—In the case of each commodity specified in subsection (c) that is available for unrestricted use in the inventory of the Commodity Credit Corporation, the Secretary may sell the commodity at the market prices prevailing for that commodity at the time of sale, except that the sale price may not be less than 110 percent of the minimum purchase price specified in subsection (c) for that commodity.

SEC. 1502. DAIRY FORWARD PRICING PROGRAM.

(a) PROGRAM REQUIRED.—The Secretary shall establish a program under which milk producers and cooperative associations of producers are authorized to voluntarily enter into forward price contracts with milk handlers.

(b) MINIMUM MILK PRICE REQUIREMENTS.—Payments made by milk handlers to milk producers and cooperative associations of producers, and prices received by milk producers and cooperative associations, in accordance with the terms of a forward price contract authorized by subsection (a), shall be treated as satisfying—

(1) all uniform and minimum milk price requirements of subparagraphs (B) and (F) of paragraph (5) of section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and

(2) the total payment requirement of subparagraph (C) of that paragraph.

(c) MILK COVERED BY PROGRAM.—

(1) COVERED MILK.—The program shall apply only with respect to the marketing of federally regulated milk that—

(A) is not classified as Class I milk or otherwise intended for fluid use; and

(B) is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce in federally regulated milk.

(2) RELATION TO CLASS I MILK.—To assist milk handlers in complying with paragraph (1)(A) without having to segregate or otherwise individually track the source and disposition of milk, a milk handler may allocate milk receipts from producers, cooperatives, and other sources that are not subject to a forward contract to satisfy the obligations of the handler with regard to Class I milk usage.

(d) VOLUNTARY PROGRAM.—

(1) IN GENERAL.—A milk handler may not require participation in a forward pricing contract as a condition of the handler receiving milk from a producer or cooperative association of producers.

(2) PRICING.—A producer or cooperative association described in paragraph (1) may continue to have their milk priced in accordance with the minimum payment provisions of the Federal milk marketing order.

(3) COMPLAINTS.—

(A) IN GENERAL.—The Secretary shall investigate complaints made by producers or cooperative associations of coercion by handlers to enter into forward contracts.

(B) ACTION.—If the Secretary finds evidence of coercion, the Secretary shall take appropriate action.

(e) DURATION.—

(1) NEW CONTRACTS.—No forward price contract may be entered into under the program established under this section after September 30, 2012.

(2) APPLICATION.—No forward contract entered into under the program may extend beyond September 30, 2015.

SEC. 1503. DAIRY EXPORT INCENTIVE PROGRAM.

(a) EXTENSION.—Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a–14(a)) is amended by striking "2007" and inserting "2012".

(b) COMPLIANCE WITH TRADE AGREEMENTS.—Section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14) is amended—

(1) in subsection (c), by striking paragraph (3) and inserting the following:

"(3) the maximum volume of dairy product exports allowable consistent with the obligations of the United States under the Uruguay Round Agreements approved under section 101 of the Uruguay Round Agreements Act (19 U.S.C. 3511) is exported under the program each year (minus the volume sold under section 1163 of this Act during that year), except to the extent that the export of such a volume under the program would, in the judgment of the Secretary, exceed the limitations on the value permitted under subsection (f); and"; and.

(2) in subsection (f), by striking paragraph (1) and inserting the following:

"(1) FUNDS AND COMMODITIES.—Except as provided in paragraph (2), the Commodity Credit Corporation shall in each year use money and commodities for the program under this section in the maximum amount consistent with the obligations of the United States under the Uruguay Round Agreements approved under section 101 of the Uruguay Round Agreements Act (19 U.S.C. 3511), minus the amount expended under section 1163 of this Act during that year.".

SEC. 1504. REVISION OF FEDERAL MARKETING ORDER AMENDMENT PROCEDURES.

Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking subsection (17) and inserting the following:

"(17) PROVISIONS APPLICABLE TO AMENDMENTS.—

"(A) APPLICABILITY TO AMENDMENTS.—The provisions of this section and section 8d applicable to orders shall be applicable to amendments to orders.

"(B) SUPPLEMENTAL RULES OF PRACTICE.—

"(i) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, the Secretary shall issue, using informal rulemaking, supplemental rules of practice to define guidelines and timeframes for the rulemaking process relating to amendments to orders.

"(ii) ISSUES.—At a minimum, the supplemental rules of practice shall establish—

"(I) proposal submission requirements;

"(II) pre-hearing information session specifications;

"(III) written testimony and data request requirements;

"(IV) public participation timeframes; and

"(V) electronic document submission standards.

"(iii) EFFECTIVE DATE.—The supplemental rules of practice shall take effect not later than 120 days after the date of enactment of this subparagraph, as determined by the Secretary.

"(C) HEARING TIMEFRAMES.—

"(i) IN GENERAL.—Not more than 30 days after the receipt of a proposal for an amendment hearing regarding a milk marketing order, the Secretary shall—

"(I) issue a notice providing an action plan and expected timeframes for completion of the hearing not more than 120 days after the date of the issuance of the notice;

"(II)(aa) issue a request for additional information to be used by the Secretary in making a determination regarding the proposal; and

"(bb) if the additional information is not provided to the Secretary within the timeframe requested by the Secretary, issue a denial of the request; or

"(III) issue a denial of the request.

"(ii) REQUIREMENT.—A post-hearing brief may be filed under this paragraph not later than 60 days after the date of an amendment hearing regarding a milk marketing order.

"(iii) RECOMMENDED DECISIONS.—A recommended decision on a proposed amendment to an order shall be issued not later than 90 days after the deadline for the submission of post-hearing briefs.

"(iv) FINAL DECISIONS.—A final decision on a proposed amendment to an order shall be issued not later than 60 days after the deadline for submission of comments and exceptions to the recommended decision issued under clause (iii).

"(D) INDUSTRY ASSESSMENTS.—If the Secretary determines it is necessary to improve or expedite rulemaking under this subsection, the Secretary may impose an assessment on the affected industry to supplement appropriated funds for the procurement of service providers, such as court reporters.

"(E) USE OF INFORMAL RULEMAKING.—The Secretary may use rulemaking under section 553 of title 5, United States Code, to amend orders, other than provisions of orders that directly affect milk prices.

"(F) AVOIDING DUPLICATION.—The Secretary shall not be required to hold a hearing on any amendment proposed to be made to a milk marketing order in response to an application for a hearing on the proposed amendment if—

"(i) the application requesting the hearing is received by the Secretary not later than 90 days after the date on which the Secretary has announced the decision on a previously proposed amendment to that order; and

"(ii) the 2 proposed amendments are essentially the same, as determined by the Secretary.

"(G) MONTHLY FEED AND FUEL COSTS FOR MAKE ALLOWANCES.—As part of any hearing to adjust make allowances under marketing orders commencing prior to September 30, 2012, the Secretary shall—

"(i) determine the average monthly prices of feed and fuel incurred by dairy producers in the relevant marketing area;

"(ii) consider the most recent monthly feed and fuel price data available; and

"(iii) consider those prices in determining whether or not to adjust make allowances.".

SEC. 1505. DAIRY INDEMNITY PROGRAM.

Section 3 of Public Law 90–484 (7 U.S.C. 450l) is amended by striking "2007" and inserting "2012".

SEC. 1506. MILK INCOME LOSS CONTRACT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) CLASS I MILK.—The term "Class I milk" means milk (including milk components) classified as Class I milk under a Federal milk marketing order.

(2) ELIGIBLE PRODUCTION.—The term "eligible production" means milk produced by a producer in a participating State.

(3) FEDERAL MILK MARKETING ORDER.—The term "Federal milk marketing order" means an order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(4) PARTICIPATING STATE.—The term "participating State" means each State.

(5) PRODUCER.—The term "producer" means an individual or entity that directly or indirectly (as determined by the Secretary)—

(A) shares in the risk of producing milk; and

(B) makes contributions (including land, labor, management, equipment, or capital) to the dairy farming operation of the individual or entity that are at least commensurate with the share of the individual or entity of the proceeds of the operation.

(b) PAYMENTS.—The Secretary shall offer to enter into contracts with producers on a dairy farm located in a participating State under which the producers receive payments on eligible production.

(c) AMOUNT.—Payments to a producer under this section shall be calculated by multiplying (as determined by the Secretary)—

(1) the payment quantity for the producer during the applicable month established under subsection (e);

(2) the amount equal to—

(A) $16.94 per hundredweight, as adjusted under subsection (d); less

(B) the Class I milk price per hundredweight in Boston under the applicable Federal milk marketing order; by

(3)(A) for the period beginning October 1, 2007, and ending September 30, 2008, 34 percent;

(B) for the period beginning October 1, 2008, and ending August 31, 2012, 45 percent; and

(C) for the period beginning September 1, 2012, and thereafter, 34 percent.

(d) PAYMENT RATE ADJUSTMENT FOR FEED PRICES.—

(1) INITIAL ADJUSTMENT AUTHORITY.—During the period beginning on January 1, 2008, and ending on August 31, 2012, if the National Average Dairy Feed Ration Cost for a month during that period is greater than $7.35 per hundredweight, the amount specified in subsection (c)(2)(A) used to determine the payment rate for that month shall be increased by 45 percent of the percentage by which the National Average Dairy Feed Ration Cost exceeds $7.35 per hundredweight.

(2) SUBSEQUENT ADJUSTMENT AUTHORITY.—For any month beginning on or after September 1, 2012, if the National Average Dairy Feed Ration Cost for the month is greater than $9.50 per hundredweight, the amount specified in subsection (c)(2)(A) used to determine the payment rate for that month shall be increased by 45 percent of the percentage by which the National Average Dairy Feed Ration Cost exceeds $9.50 per hundredweight.

(3) NATIONAL AVERAGE DAIRY FEED RATION COST.—For each month, the Secretary shall calculate a National Average Dairy Feed Ration Cost per hundredweight using the same procedures (adjusted to a hundredweight basis) used to calculate the feed components of the estimated price of 16 percent Mixed Dairy Feed per pound noted on page 33 of the USDA March 2008 Agricultural Prices publication (including the data and factors noted in footnote 4).

(e) PAYMENT QUANTITY.—

(1) IN GENERAL.—Subject to paragraph (2), the payment quantity for a producer during the applicable month under this section shall be equal to the quantity of eligible production marketed by the producer during the month.

(2) LIMITATION.—

(A) IN GENERAL.—The payment quantity for all producers on a single dairy operation for which the producers receive payments under subsection (b) shall not exceed—

(i) for the period beginning October 1, 2007, and ending September 30, 2008, 2,400,000 pounds;

(ii) for the period beginning October 1, 2008, and ending August 31, 2012, 2,985,000 pounds for each fiscal year; and

(iii) effective beginning September 1, 2012, 2,400,000 pounds per fiscal year.

(B) STANDARDS.—For purposes of determining whether producers are producers on separate dairy operations or a single dairy operation, the Secretary shall apply the same standards as were applied in implementing the dairy program under section 805 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agen-

cies Appropriations Act, 2001 (as enacted into law by Public Law 106–387; 114 Stat. 1549A–50).

(3) RECONSTITUTION.—The Secretary shall ensure that a producer does not reconstitute a dairy operation for the sole purpose of receiving additional payments under this section.

(f) PAYMENTS.—A payment under a contract under this section shall be made on a monthly basis not later than 60 days after the last day of the month for which the payment is made.

(g) SIGNUP.—The Secretary shall offer to enter into contracts under this section during the period beginning on the date that is 90 days after the date of enactment of this Act and ending on September 30, 2012.

(h) DURATION OF CONTRACT.—

(1) IN GENERAL.—Except as provided in paragraph (2), any contract entered into by producers on a dairy farm under this section shall cover eligible production marketed by the producers on the dairy farm during the period starting with the first day of month the producers on the dairy farm enter into the contract and ending on September 30, 2012.

(2) VIOLATIONS.—If a producer violates the contract, the Secretary may—

(A) terminate the contract and allow the producer to retain any payments received under the contract; or

(B) allow the contract to remain in effect and require the producer to repay a portion of the payments received under the contract based on the severity of the violation.

SEC. 1507. DAIRY PROMOTION AND RESEARCH PROGRAM.

(a) EXTENSION OF DAIRY PROMOTION AND RESEARCH AUTHORITY.—Section 113(e)(2) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(e)(2)) is amended by striking "2007" and inserting "2012".

(b) DEFINITION OF UNITED STATES FOR PROMOTION PROGRAM.—Section 111 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502) is amended—

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

"(l) the term 'United States', when used in a geographical sense, means all of the States, the District of Columbia, and the Commonwealth of Puerto Rico;"; and

(2) in subsection (m), by striking "(as defined in subsection (l))".

(c) DEFINITION OF UNITED STATES FOR RESEARCH PROGRAM.—Section 130 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4531)) is amended by striking paragraph (12) and inserting the following:

"(12) the term 'United States', when used in a geographical sense, means all of the States, the District of Columbia, and the Commonwealth of Puerto Rico.".

(d) ASSESSMENT RATE FOR IMPORTED DAIRY PRODUCTS.—Section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)) is amended by striking paragraph (3) and inserting the following:

"(3) RATE.—

"(A) IN GENERAL.—The rate of assessment for milk produced in the United States prescribed by the order shall be

15 cents per hundredweight of milk for commercial use or the equivalent thereof, as determined by the Secretary.

"(B) IMPORTED DAIRY PRODUCTS.—The rate of assessment for imported dairy products prescribed by the order shall be 7.5 cents per hundredweight of milk for commercial use or the equivalent thereof, as determined by the Secretary.".

(e) TIME AND METHOD OF IMPORTER PAYMENTS.—Section 113(g)(6) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)(6)) is amended—

(1) by striking subparagraph (B); and

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

(f) REFUND OF ASSESSMENTS ON CERTAIN IMPORTED DAIRY PRODUCTS.—Section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)) is amended by adding at the end the following:

"(7) REFUND OF ASSESSMENTS ON CERTAIN IMPORTED PRODUCTS.—

"(A) IN GENERAL.—An importer shall be entitled to a refund of any assessment paid under this subsection on imported dairy products imported under a contract entered into prior to the date of enactment of the Food, Conservation, and Energy Act of 2008.

"(B) EXPIRATION.—Refunds under subparagraph (A) shall expire 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008.".

SEC. 1508. REPORT ON DEPARTMENT OF AGRICULTURE REPORTING PROCEDURES FOR NONFAT DRY MILK.

Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report regarding Department of Agriculture reporting procedures for nonfat dry milk and the impact of the procedures on Federal milk marketing order minimum prices during the period beginning on July 1, 2006, and ending on the date of enactment of this Act.

SEC. 1509. FEDERAL MILK MARKETING ORDER REVIEW COMMISSION.

(a) ESTABLISHMENT.—Subject to the availability of appropriations to carry out this section, the Secretary shall establish a commission to be known as the "Federal Milk Marketing Order Review Commission" (referred to in this section as the "commission"), which shall conduct a comprehensive review and evaluation of—

(1) the Federal milk marketing order system in effect on the date of establishment of the commission; and

(2) non-Federal milk marketing order systems.

(b) ELEMENTS OF REVIEW AND EVALUATION.—As part of the review and evaluation under subsection (a), the commission shall consider legislative and regulatory options for—

(1) ensuring that the competitiveness of dairy products with other competing products in the marketplace is preserved and enhanced;

(2) enhancing the competitiveness of American dairy producers in world markets;

(3) ensuring the competitiveness and transparency in dairy pricing;

(4) streamlining and expediting the process by which amendments to Federal milk market orders are adopted;

(5) simplifying the Federal milk marketing order system;

(6) evaluating whether the Federal milk marketing order system serves the interests of dairy producers, consumers, and dairy processors; and

(7) evaluating the nutritional composition of milk, including the potential benefits and costs of adjusting the milk content standards.

(c) MEMBERSHIP.—

(1) COMPOSITION.—The commission shall consist of 14 members.

(2) MEMBERS.—As soon as practicable after the date on which funds are first made available to carry out this section, the Secretary shall appoint members to the commission according to the following requirements:

(A) At least 1 member shall represent a national consumer organization.

(B) At least 4 members shall represent land-grant universities or NLGCA Institutions (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) with accredited dairy economic programs, with at least 2 of those members being experts in the field of economics.

(C) At least 1 member shall represent the food and beverage retail sector.

(D) 4 dairy producers and 4 dairy processors, appointed so as to balance geographical distribution of milk production and dairy processing, reflect all segments of dairy processing, and represent all regions of the United States equitably, including States that operate outside of a Federal milk marketing order.

(3) CHAIR.—The commission shall elect 1 of the appointed members of the commission to serve as chairperson for the duration of the proceedings of the commission.

(4) VACANCY.—Any vacancy occurring before the termination of the commission shall be filled in the same manner as the original appointment.

(5) COMPENSATION.—Members of the commission shall serve without compensation, but shall be reimbursed by the Secretary from existing budget authority for necessary and reasonable expenses incurred in the performance of the duties of the commission.

(d) REPORT.—

(1) IN GENERAL.—Not later than 2 years after the date of the first meeting of the commission, the commission shall submit to Congress and the Secretary a report describing the results of the review and evaluation conducted under this section, including such recommendations regarding the legislative and regulatory options considered under subsection (b) as the commission considers to be appropriate.

(2) OPINIONS.—The report findings shall reflect, to the maximum extent practicable, a consensus opinion of the commission

members, but the report may include majority and minority findings regarding those matters for which consensus was not reached.

(e) ADVISORY NATURE.—The commission is wholly advisory in nature, and the recommendations of the commission are nonbinding.

(f) NO EFFECT ON EXISTING PROGRAMS.—The Secretary shall not allow the existence of the commission to impede, delay, or otherwise affect any decisionmaking process of the Department of Agriculture, including any rulemaking procedures planned, proposed, or near completion.

(g) ADMINISTRATIVE ASSISTANCE.—The Secretary shall provide administrative support to the commission, and expend to carry out this section such funds as necessary from budget authority available to the Secretary.

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

(i) TERMINATION.—The commission shall terminate effective on the date of the submission of the report under subsection (d).

SEC. 1510. MANDATORY REPORTING OF DAIRY COMMODITIES.

(a) ELECTRONIC REPORTING.—Section 273 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637b) is amended—

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

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

"(d) ELECTRONIC REPORTING.—

"(1) IN GENERAL.—Subject to the availability of funds under paragraph (3), the Secretary shall establish an electronic reporting system to carry out this section.

"(2) FREQUENCY OF REPORTS.—After the establishment of the electronic reporting system in accordance with paragraph (1), the Secretary shall increase the frequency of the reports required under this section.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.".

(b) QUARTERLY AUDITS.—Section 273(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637b(c)) is amended by striking paragraph (3) and inserting the following:

"(3) VERIFICATION.—

"(A) IN GENERAL.—The Secretary shall take such actions as the Secretary considers necessary to verify the accuracy of the information submitted or reported under this subtitle.

"(B) QUARTERLY AUDITS.—The Secretary shall quarterly conduct an audit of information submitted or reported under this subtitle and compare such information with other related dairy market statistics.".

Subtitle F—Administration

SEC. 1601. ADMINISTRATION GENERALLY.

(a) USE OF COMMODITY CREDIT CORPORATION.—Except as otherwise provided in this title, the Secretary shall use the funds, fa-

cilities, and authorities of the Commodity Credit Corporation to carry out this title.

(b) DETERMINATIONS BY SECRETARY.—A determination made by the Secretary under this title shall be final and conclusive.

(c) REGULATIONS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, not later than 90 days after the date of enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this title and the amendments made by this title.

(2) PROCEDURE.—The promulgation of the regulations and administration of this title and the amendments made by this title shall be made without regard to—

(A) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act");

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

(C) the notice and comment provisions of section 553 of title 5, United States Code.

(3) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this subsection, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(4) INTERIM REGULATIONS.—Notwithstanding paragraphs (1) and (2), the Secretary shall implement the amendments made by sections 1603 and 1604 for the 2009 crop, fiscal, or program year, as appropriate, through the promulgation of an interim rule.

(d) ADJUSTMENT AUTHORITY RELATED TO TRADE AGREEMENTS COMPLIANCE.—

(1) REQUIRED DETERMINATION; ADJUSTMENT.—If the Secretary determines that expenditures under this title that are subject to the total allowable domestic support levels under the Uruguay Round Agreements (as defined in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501)) will exceed such allowable levels for any applicable reporting period, the Secretary shall, to the maximum extent practicable, make adjustments in the amount of such expenditures during that period to ensure that such expenditures do not exceed such allowable levels.

(2) CONGRESSIONAL NOTIFICATION.—Before making any adjustment under paragraph (1), the Secretary shall submit to the Committee on Agriculture of the House of Representatives or the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the determination made under that paragraph and the extent of the adjustment to be made.

(e) TREATMENT OF ADVANCE PAYMENT OPTION.—Section 1601(d) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7991(d)) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) the advance payment of direct payments and countercyclical payments under title I of the Food, Conservation, and Energy Act of 2008.".

SEC. 1602. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) AGRICULTURAL ADJUSTMENT ACT OF 1938.—The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 2008 through 2012 crops of covered commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this Act through December 31, 2012:

(1) Parts II through V of subtitle B of title III (7 U.S.C. 1326 et seq.).

(2) In the case of upland cotton, section 377 (7 U.S.C. 1377).

(3) Subtitle D of title III (7 U.S.C. 1379a et seq.).

(4) Title IV (7 U.S.C. 1401 et seq.).

(b) AGRICULTURAL ACT OF 1949.—The following provisions of the Agricultural Act of 1949 shall not be applicable to the 2008 through 2012 crops of covered commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this Act and through December 31, 2012:

(1) Section 101 (7 U.S.C. 1441).

(2) Section 103(a) (7 U.S.C. 1444(a)).

(3) Section 105 (7 U.S.C. 1444b).

(4) Section 107 (7 U.S.C. 1445a).

(5) Section 110 (7 U.S.C. 1445e).

(6) Section 112 (7 U.S.C. 1445g).

(7) Section 115 (7 U.S.C. 1445k).

(8) Section 201 (7 U.S.C. 1446).

(9) Title III (7 U.S.C. 1447 et seq.).

(10) Title IV (7 U.S.C. 1421 et seq.), other than sections 404, 412, and 416 (7 U.S.C. 1424, 1429, and 1431).

(11) Title V (7 U.S.C. 1461 et seq.).

(12) Title VI (7 U.S.C. 1471 et seq.).

(c) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—The joint resolution entitled "A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 2008 through 2012.

SEC. 1603. PAYMENT LIMITATIONS.

(a) EXTENSION OF LIMITATIONS.—Sections 1001 and 1001C(a) of the Food Security Act of 1985 (7 U.S.C. 1308, 1308–3(a)) are amended by striking "Farm Security and Rural Investment Act of 2002" each place it appears and inserting "Food, Conservation, and Energy Act of 2008".

(b) REVISION OF LIMITATIONS.—

(1) DEFINITIONS.—Section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a)) is amended—

(A) in the matter preceding paragraph (1), by inserting "through section 1001F"after "section";

(B) by striking paragraph (2) and redesignating paragraph (3) as paragraph (5); and

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

"(2) FAMILY MEMBER.—The term 'family member' means a person to whom a member in the farming operation is related as lineal ancestor, lineal descendant, sibling, spouse, or otherwise by marriage.

"(3) LEGAL ENTITY.—The term 'legal entity' means an entity that is created under Federal or State law and that—

"(A) owns land or an agricultural commodity; or

"(B) produces an agricultural commodity.

"(4) PERSON.—The term 'person' means a natural person, and does not include a legal entity.".

(2) LIMITATION ON DIRECT PAYMENTS AND COUNTER-CYCLICAL PAYMENTS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking subsections (b), (c), and (d) and inserting the following:

"(b) LIMITATION ON DIRECT PAYMENTS, COUNTER-CYCLICAL PAYMENTS, AND ACRE PAYMENTS FOR COVERED COMMODITIES (OTHER THAN PEANUTS).—

"(1) DIRECT PAYMENTS.—The total amount of direct payments received, directly or indirectly, by a person or legal entity (except a joint venture or a general partnership) for any crop year under subtitle A of title I of the Food, Conservation, and Energy Act of 2008 for 1 or more covered commodities (except for peanuts) may not exceed—

"(A) in the case of a person or legal entity that does not participate in the average crop revenue election program under section 1105 of that Act, $40,000; or

"(B) in the case of a person or legal entity that participates in the average crop revenue election program under section 1105 of that Act, an amount equal to—

"(i) the payment limit specified in subparagraph (A); less

"(ii) the amount of the reduction in direct payments under section 1105(a)(1) of that Act.

"(2) COUNTER-CYCLICAL PAYMENTS.—In the case of a person or legal entity (except a joint venture or a general partnership) that does not participate in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of counter-cyclical payments received, directly or indirectly, by the person or legal entity for any crop year under subtitle A of title I of that Act for 1 or more covered commodities (except for peanuts) may not exceed $65,000.

"(3) ACRE AND COUNTER-CYCLICAL PAYMENTS.—In the case of a person or legal entity (except a joint venture or a general partnership) that participates in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of average crop revenue election payments and counter-cyclical payments received, directly or indirectly, by the person or legal entity for any crop year for 1 or more covered commodities (except for peanuts) may not exceed the sum of—

"(A) $65,000; and

"(B) the amount by which the direct payment limitation is reduced under paragraph (1)(B).

"(c) LIMITATION ON DIRECT PAYMENTS, COUNTER-CYCLICAL PAYMENTS, AND ACRE PAYMENTS FOR PEANUTS.—

"(1) DIRECT PAYMENTS.—The total amount of direct payments received, directly or indirectly, by a person or legal entity (except a joint venture or a general partnership) for any crop year under subtitle C of title I of the Food, Conservation, and Energy Act of 2008 for peanuts may not exceed—

"(A) in the case of a person or legal entity that does not participate in the average crop revenue election program under section 1105 of that Act, $40,000; or

"(B) in the case of a person or legal entity that participates in the average crop revenue election program under section 1105 of that Act, an amount equal to—

"(i) the payment limit specified in subparagraph (A); less

"(ii) the amount of the reduction in direct payments under section 1105(a)(1) of that Act.

"(2) COUNTER-CYCLICAL PAYMENTS.—In the case of a person or legal entity (except a joint venture or a general partnership) that does not participate in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of counter-cyclical payments received, directly or indirectly, by the person or legal entity for any crop year under subtitle C of title I of that Act for peanuts may not exceed $65,000.

"(3) ACRE AND COUNTER-CYCLICAL PAYMENTS.—In the case of a person or legal entity (except a joint venture or a general partnership) that participates in the average crop revenue election program under section 1105 of the Food, Conservation, and Energy Act of 2008, the total amount of average crop revenue election payments received, directly or indirectly, by the person or legal entity for any crop year for peanuts may not exceed the sum of—

"(A) $65,000; and

"(B) the amount by which the direct payment limitation is reduced under paragraph (1)(B).

"(d) LIMITATION ON APPLICABILITY.—Nothing in this section authorizes any limitation on any benefit associated with the marketing assistance loan program or the loan deficiency payment program under title I of the Food, Conservation, and Energy Act of 2008.".

(3) DIRECT ATTRIBUTION.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended—

(A) by striking subsections (e) and (f) and redesignating subsection (g) as subsection (h); and

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

"(e) ATTRIBUTION OF PAYMENTS.—

"(1) IN GENERAL.—In implementing subsections (b) and (c) and a program described in paragraphs (1)(C) and (2)(B) of section 1001D(b), the Secretary shall issue such regulations as are necessary to ensure that the total amount of payments are attributed to a person by taking into account the direct and indirect ownership interests of the person in a legal entity that is eligible to receive the payments.

"(2) PAYMENTS TO A PERSON.—Each payment made directly to a person shall be combined with the pro rata interest of the

person in payments received by a legal entity in which the person has a direct or indirect ownership interest unless the payments of the legal entity have been reduced by the pro rata share of the person.

"(3) PAYMENTS TO A LEGAL ENTITY.—

"(A) IN GENERAL.—Each payment made to a legal entity shall be attributed to those persons who have a direct or indirect ownership interest in the legal entity unless the payment to the legal entity has been reduced by the pro rata share of the person.

"(B) ATTRIBUTION OF PAYMENTS.—

"(i) PAYMENT LIMITS.—Except as provided in clause (ii), payments made to a legal entity shall not exceed the amounts specified in subsections (b) and (c).

"(ii) EXCEPTION FOR JOINT VENTURES AND GENERAL PARTNERSHIPS.—Payments made to a joint venture or a general partnership shall not exceed, for each payment specified in subsections (b) and (c), the amount determined by multiplying the maximum payment amount specified in subsections (b) and (c) by the number of persons and legal entities (other than joint ventures and general partnerships) that comprise the ownership of the joint venture or general partnership.

"(iii) REDUCTION.—Payments made to a legal entity shall be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has otherwise exceeded the applicable maximum payment limitation.

"(4) FOUR LEVELS OF ATTRIBUTION FOR EMBEDDED LEGAL ENTITIES.—

"(A) IN GENERAL.—Attribution of payments made to legal entities shall be traced through 4 levels of ownership in legal entities.

"(B) FIRST LEVEL.—Any payments made to a legal entity (a first-tier legal entity) that is owned in whole or in part by a person shall be attributed to the person in an amount that represents the direct ownership in the first-tier legal entity by the person.

"(C) SECOND LEVEL.—

"(i) IN GENERAL.—Any payments made to a first-tier legal entity that is owned (in whole or in part) by another legal entity (a second-tier legal entity) shall be attributed to the second-tier legal entity in proportion to the ownership of the second-tier legal entity in the first-tier legal entity.

"(ii) OWNERSHIP BY A PERSON.—If the second-tier legal entity is owned (in whole or in part) by a person, the amount of the payment made to the first-tier legal entity shall be attributed to the person in the amount that represents the indirect ownership in the first-tier legal entity by the person.

"(D) THIRD AND FOURTH LEVELS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Secretary shall attribute payments at the third and

fourth tiers of ownership in the same manner as specified in subparagraph (C).

"(ii) FOURTH-TIER OWNERSHIP.—If the fourth-tier of ownership is that of a fourth-tier legal entity and not that of a person, the Secretary shall reduce the amount of the payment to be made to the first-tier legal entity in the amount that represents the indirect ownership in the first-tier legal entity by the fourth-tier legal entity.

"(f) SPECIAL RULES.—

"(1) MINOR CHILDREN.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), payments received by a child under the age of 18 shall be attributed to the parents of the child.

"(B) REGULATIONS.—The Secretary shall issue regulations specifying the conditions under which payments received by a child under the age of 18 will not be attributed to the parents of the child.

"(2) MARKETING COOPERATIVES.—Subsections (b) and (c) shall not apply to a cooperative association of producers with respect to commodities produced by the members of the association that are marketed by the association on behalf of the members of the association but shall apply to the producers as persons.

"(3) TRUSTS AND ESTATES.—

"(A) IN GENERAL.—With respect to irrevocable trusts and estates, the Secretary shall administer this section through section 1001F in such manner as the Secretary determines will ensure the fair and equitable treatment of the beneficiaries of the trusts and estates.

"(B) IRREVOCABLE TRUST.—

"(i) IN GENERAL.—In order for a trust to be considered an irrevocable trust, the terms of the trust agreement shall not—

"(I) allow for modification or termination of the trust by the grantor;

"(II) allow for the grantor to have any future, contingent, or remainder interest in the corpus of the trust; or

"(III) except as provided in clause (ii), provide for the transfer of the corpus of the trust to the remainder beneficiary in less than 20 years beginning on the date the trust is established.

"(ii) EXCEPTION.—Clause (i)(III) shall not apply in a case in which the transfer is—

"(I) contingent on the remainder beneficiary achieving at least the age of majority; or

"(II) contingent on the death of the grantor or income beneficiary.

"(C) REVOCABLE TRUST.—For the purposes of this section through section 1001F, a revocable trust shall be considered to be the same person as the grantor of the trust.

"(4) CASH RENT TENANTS.—

"(A) DEFINITION.—In this paragraph, the term 'cash rent tenant' means a person or legal entity that rents land—

"(i) for cash; or

"(ii) for a crop share guaranteed as to the amount of the commodity to be paid in rent.

"(B) RESTRICTION.—A cash rent tenant who makes a significant contribution of active personal management, but not of personal labor, with respect to a farming operation shall be eligible to receive a payment described in subsection (b) or (c) only if the tenant makes a significant contribution of equipment to the farming operation.

"(5) FEDERAL AGENCIES.—

"(A) IN GENERAL.—Notwithstanding subsection (d), a Federal agency shall not be eligible to receive any payment, benefit, or loan under title I of the Food, Conservation, and Energy Act of 2008 or title XII of this Act.

"(B) LAND RENTAL.—A lessee of land owned by a Federal agency may receive a payment described in subsection (b), (c), or (d) if the lessee otherwise meets all applicable criteria.

"(6) STATE AND LOCAL GOVERNMENTS.—

"(A) IN GENERAL.—Notwithstanding subsection (d), except as provided in subsection (g), a State or local government, or political subdivision or agency of the government, shall not be eligible to receive any payment, benefit, or loan under title I of the Food, Conservation, and Energy Act of 2008 or title XII of this Act.

"(B) TENANTS.—A lessee of land owned by a State or local government, or political subdivision or agency of the government, may receive payments described in subsections (b), (c), and (d) if the lessee otherwise meets all applicable criteria.

"(7) CHANGES IN FARMING OPERATIONS.—

"(A) IN GENERAL.—In the administration of this section through section 1001F, the Secretary may not approve any change in a farming operation that otherwise will increase the number of persons to which the limitations under this section are applied unless the Secretary determines that the change is bona fide and substantive.

"(B) FAMILY MEMBERS.—The addition of a family member to a farming operation under the criteria set out in section 1001A shall be considered a bona fide and substantive change in the farming operation.

"(8) DEATH OF OWNER.—

"(A) IN GENERAL.—If any ownership interest in land or a commodity is transferred as the result of the death of a program participant, the new owner of the land or commodity may, if the person is otherwise eligible to participate in the applicable program, succeed to the contract of the prior owner and receive payments subject to this section without regard to the amount of payments received by the new owner.

"(B) LIMITATIONS ON PRIOR OWNER.—Payments made under this paragraph shall not exceed the amount to which the previous owner was entitled to receive under the terms of the contract at the time of the death of the prior owner.

"(g) PUBLIC SCHOOLS.—

"(1) IN GENERAL.—Notwithstanding subsection (f)(6)(A), a State or local government, or political subdivision or agency of the government, shall be eligible, subject to the limitation in paragraph (2), to receive a payment described in subsection (b) or (c) for land owned by the State or local government, or political subdivision or agency of the government, that is used to maintain a public school.

"(2) LIMITATION.—

"(A) IN GENERAL.—For each State, the total amount of payments described in subsections (b) and (c) that are received collectively by the State and local government and all political subdivisions or agencies of those governments shall not exceed $500,000.

"(B) EXCEPTION.—The limitation in subparagraph (A) shall not apply to States with a population of less than 1,500,000.".

(c) REPEAL OF 3-ENTITY RULE.—Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1) is amended—

*(1) in the section heading, by striking "**PREVENTION OF CREATION OF ENTITIES TO QUALIFY AS SEPARATE PERSONS**" and inserting "**NOTIFICATION OF INTERESTS**"; and*

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

"(a) NOTIFICATION OF INTERESTS.—To facilitate administration of section 1001 and this section, each person or legal entity receiving payments described in subsections (b) and (c) of section 1001 as a separate person or legal entity shall separately provide to the Secretary, at such times and in such manner as prescribed by the Secretary—

"(1) the name and social security number of each person, or the name and taxpayer identification number of each legal entity, that holds or acquires an ownership interest in the separate person or legal entity; and

"(2) the name and taxpayer identification number of each legal entity in which the person or legal entity holds an ownership interest.".

(d) AMENDMENT FOR CONSISTENCY.—Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–1) is amended by striking subsection (b) and inserting the following:

"(b) ACTIVELY ENGAGED.—

"(1) IN GENERAL.—To be eligible to receive a payment described in subsection (b) or (c) of section 1001, a person or legal entity shall be actively engaged in farming with respect to a farming operation as provided in this subsection or subsection (c).

"(2) CLASSES ACTIVELY ENGAGED.—Except as provided in subsections (c) and (d)—

"(A) a person (including a person participating in a farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or a participant in a similar entity, as determined by the Secretary) shall be considered to be actively engaged in farming with respect to a farming operation if—

"(i) the person makes a significant contribution (based on the total value of the farming operation) to the farming operation of—

"(I) capital, equipment, or land; and

"(II) personal labor or active personal management;

"(ii) the person's share of the profits or losses from the farming operation is commensurate with the contributions of the person to the farming operation; and

"(iii) the contributions of the person are at risk;

"(B) a legal entity that is a corporation, joint stock company, association, limited partnership, charitable organization, or other similar entity determined by the Secretary (including any such legal entity participating in the farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or as a participant in a similar legal entity as determined by the Secretary) shall be considered as actively engaged in farming with respect to a farming operation if—

"(i) the legal entity separately makes a significant contribution (based on the total value of the farming operation) of capital, equipment, or land;

"(ii) the stockholders or members collectively make a significant contribution of personal labor or active personal management to the operation; and

"(iii) the standards provided in clauses (ii) and (iii) of subparagraph (A), as applied to the legal entity, are met by the legal entity;

"(C) if a legal entity that is a general partnership, joint venture, or similar entity, as determined by the Secretary, separately makes a significant contribution (based on the total value of the farming operation involved) of capital, equipment, or land, and the standards provided in clauses (ii) and (iii) of subparagraph (A), as applied to the legal entity, are met by the legal entity, the partners or members making a significant contribution of personal labor or active personal management shall be considered to be actively engaged in farming with respect to the farming operation involved; and

"(D) in making determinations under this subsection regarding equipment and personal labor, the Secretary shall take into consideration the equipment and personal labor normally and customarily provided by farm operators in the area involved to produce program crops.

"(c) SPECIAL CLASSES ACTIVELY ENGAGED.—

"(1) LANDOWNER.—A person or legal entity that is a landowner contributing the owned land to a farming operation shall be considered to be actively engaged in farming with respect to the farming operation if—

"(A) the landowner receives rent or income for the use of the land based on the production on the land or the operating results of the operation; and

"(B) the person or legal entity meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).

"(2) ADULT FAMILY MEMBER.—If a majority of the participants in a farming operation are family members, an adult family member shall be considered to be actively engaged in farming with respect to the farming operation if the person—

"(A) makes a significant contribution, based on the total value of the farming operation, of active personal management or personal labor; and

"(B) with respect to such contribution, meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).

"(3) SHARECROPPER.—A sharecropper who makes a significant contribution of personal labor to a farming operation shall be considered to be actively engaged in farming with respect to the farming operation if the contribution meets the standards provided in clauses (ii) and (iii) of subsection (b)(2)(A).

"(4) GROWERS OF HYBRID SEED.—In determining whether a person or legal entity growing hybrid seed under contract shall be considered to be actively engaged in farming, the Secretary shall not take into consideration the existence of a hybrid seed contract.

"(5) CUSTOM FARMING SERVICES.—

"(A) IN GENERAL.—A person or legal entity receiving custom farming services shall be considered separately eligible for payment limitation purposes if the person or legal entity is actively engaged in farming based on subsection (b)(2) or paragraphs (1) through (4) of this subsection.

"(B) PROHIBITION.—No other rules with respect to custom farming shall apply.

"(6) SPOUSE.—If 1 spouse (or estate of a deceased spouse) is determined to be actively engaged, the other spouse shall be determined to have met the requirements of subsection (b)(2)(A)(i)(II).

"(d) CLASSES NOT ACTIVELY ENGAGED.—

"(1) CASH RENT LANDLORD.—A landlord contributing land to a farming operation shall not be considered to be actively engaged in farming with respect to the farming operation if the landlord receives cash rent, or a crop share guaranteed as to the amount of the commodity to be paid in rent, for the use of the land.

"(2) OTHER PERSONS AND LEGAL ENTITIES.—Any other person or legal entity that the Secretary determines does not meet the standards described in subsections (b)(2) and (c) shall not be considered to be actively engaged in farming with respect to a farming operation.".

(e) DENIAL OF PROGRAM BENEFITS.—Section 1001B of the Food Security Act of 1985 (7 U.S.C. 1308–2) is amended to read as follows:

"SEC. 1001B. DENIAL OF PROGRAM BENEFITS.

"(a) 2-YEAR DENIAL OF PROGRAM BENEFITS.—A person or legal entity shall be ineligible to receive payments specified in subsections (b) and (c) of section 1001 for the crop year, and the succeeding crop year, in which the Secretary determines that the person or legal entity—

"(1) failed to comply with section 1001A(b) and adopted or participated in adopting a scheme or device to evade the application of section 1001, 1001A, or 1001C; or

"(2) intentionally concealed the interest of the person or legal entity in any farm or legal entity engaged in farming.

"(b) EXTENDED INELIGIBILITY.—If the Secretary determines that a person or legal entity, for the benefit of the person or legal entity

or the benefit of any other person or legal entity, has knowingly engaged in, or aided in the creation of a fraudulent document, failed to disclose material information relevant to the administration of sections 1001 through 1001F, or committed other equally serious actions (as identified in regulations issued by the Secretary), the Secretary may for a period not to exceed 5 crop years deny the issuance of payments to the person or legal entity.

"(c) PRO RATA DENIAL.—

"(1) IN GENERAL.—Payments otherwise owed to a person or legal entity described in subsections (a) or (b) shall be denied in a pro rata manner based on the ownership interest of the person or legal entity in a farm.

"(2) CASH RENT TENANT.—Payments otherwise payable to a person or legal entity shall be denied in a pro rata manner if the person or legal entity is a cash rent tenant on a farm owned or under the control of a person or legal entity with respect to which a determination has been made under subsection (a) or (b).

"(d) JOINT AND SEVERAL LIABILITY.—Any legal entity (including partnerships and joint ventures) and any member of any legal entity determined to have knowingly participated in a scheme or device to evade, or that has the purpose of evading, sections 1001, 1001A, or 1001C shall be jointly and severally liable for any amounts that are payable to the Secretary as the result of the scheme or device (including amounts necessary to recover those amounts).

"(e) RELEASE.—The Secretary may partially or fully release from liability any person or legal entity who cooperates with the Secretary in enforcing sections 1001, 1001A, and 1001C, and this section."

(f) CONFORMING AMENDMENT TO APPLY DIRECT ATTRIBUTION TO NAP.—

(1) IN GENERAL.—Section 196(i) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(i)) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following:

"(1) DEFINITIONS.—In this subsection, the terms 'legal entity' and 'person' have the meanings given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a)).

"(2) PAYMENT LIMITATION.—The total amount of payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) for any crop year may not exceed $100,000.";

(B) by striking paragraph (4) and inserting the following:

"(4) ADJUSTED GROSS INCOME LIMITATION.—A person or legal entity that has an average adjusted gross income in excess of the average adjusted gross income limitation applicable under section 1001D(b)(1)(A) of the Food Security Act of 1985 (7 U.S.C. 1308–3a(b)(1)(A)), or a successor provision, shall not be eligible to receive noninsured crop disaster assistance under this section."; and

(C) in paragraph (5)—

(i) by striking "necessary to ensure" and inserting "necessary—

"(A) to ensure"; and

(ii) by striking "this subsection." and inserting the following: "this subsection; and

"(B) to ensure that payments under this section are attributed to a person or legal entity (excluding a joint venture or general partnership) in accordance with the terms and conditions of sections 1001 through 1001D of the Food Security Act of 1985 (7 U.S.C. 1308 et seq.), as determined by the Secretary.".

(2) TRANSITION.—Section 196(i) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(i)), as in effect on September 30, 2007, shall apply with respect to the 2007 and 2008 crops of any eligible crop.

(g) CONFORMING AMENDMENTS.—

(1) Section 1009(e) of the Food Security Act of 1985 (7 U.S.C. 1308a(e)) is amended in the second sentence by striking "of $50,000".

(2) Section 609(b)(1) of the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471g(b)(1)) is amended by inserting "(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)" after "1985".

(3) Section 524(b)(3) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(3)) is amended by inserting "(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)" after "1308(5)))".

(4) Section 10204(c)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8204(c)(1)) is amended by inserting "(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)" after "1308)".

(5) Section 1271(c)(3)(A) of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 2106a(c)(3)(A)) is amended by inserting "(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)" after "1308)".

(6) Section 291(2) of the Trade Act of 1974 (19 U.S.C. 2401(2)) is amended by inserting "(before the amendment made by section 1703(a) of the Food, Conservation, and Energy Act of 2008)" before the period at the end.

(h) TRANSITION.—Section 1001, 1001A, and 1001B of the Food Security Act of 1985 (7 U.S.C. 1308, 1308–1, 1308–2), as in effect on September 30, 2007, shall continue to apply with respect to the 2007 and 2008 crops of any covered commodity or peanuts.

SEC. 1604. ADJUSTED GROSS INCOME LIMITATION.

(a) IN GENERAL.—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a(e)) is amended to read as follows:

"SEC. 1001D. ADJUSTED GROSS INCOME LIMITATION.

"(a) DEFINITIONS.—

"(1) IN GENERAL.—In this section:

"(A) AVERAGE ADJUSTED GROSS INCOME.—The term 'average adjusted gross income', with respect to a person or legal entity, means the average of the adjusted gross income or comparable measure of the person or legal entity over the 3 taxable years preceding the most immediately preceding complete taxable year, as determined by the Secretary.

"(B) AVERAGE ADJUSTED GROSS FARM INCOME.—The term 'average adjusted gross farm income', with respect to a person or legal entity, means the average of the portion of adjusted gross income of the person or legal entity that is attributable to activities related to farming, ranching, or forestry for the 3 taxable years described in subparagraph (A), as determined by the Secretary in accordance with subsection (c).

"(C) AVERAGE ADJUSTED GROSS NONFARM INCOME.—The term 'average adjusted gross nonfarm income', with respect to a person or legal entity, means the difference between—

"(i) the average adjusted gross income of the person or legal entity; and

"(ii) the average adjusted gross farm income of the person or legal entity.

"(2) SPECIAL RULES FOR CERTAIN PERSONS AND LEGAL ENTITIES.—In the case of a legal entity that is not required to file a Federal income tax return or a person or legal entity that did not have taxable income in 1 or more of the taxable years used to determine the average under subparagraph (A) or (B) of paragraph (1), the Secretary shall provide, by regulation, a method for determining the average adjusted gross income, the average adjusted gross farm income, and the average adjusted gross nonfarm income of the person or legal entity for purposes of this section.

"(3) ALLOCATION OF INCOME.—On the request of any person filing a joint tax return, the Secretary shall provide for the allocation of average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income among the persons filing the return if—

"(A) the person provides a certified statement by a certified public accountant or attorney that specifies the method by which the average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income would have been declared and reported had the persons filed 2 separate returns; and

"(B) the Secretary determines that the method described in the statement is consistent with the information supporting the filed joint tax return.

"(b) LIMITATIONS.—

"(1) COMMODITY PROGRAMS.—

"(A) NONFARM LIMITATION.—Notwithstanding any other provision of law, a person or legal entity shall not be eligible to receive any benefit described in subparagraph (C) during a crop, fiscal, or program year, as appropriate, if the average adjusted gross nonfarm income of the person or legal entity exceeds $500,000.

"(B) FARM LIMITATION.—Notwithstanding any other provision of law, a person or legal entity shall not be eligible to receive a direct payment under subtitle A or C of title I of the Food, Conservation, and Energy Act of 2008 during a crop year, if the average adjusted gross farm income of the person or legal entity exceeds $750,000.

"(C) COVERED BENEFITS.—Subparagraph (A) applies with respect to the following:

"(i) A direct payment or counter-cyclical payment under subtitle A or C of title I of the Food, Conservation, and Energy Act of 2008 or an average crop revenue election payment under subtitle A of title I of that Act.

"(ii) A marketing loan gain or loan deficiency payment under subtitle B or C of title I of the Food, Conservation, and Energy Act of 2008.

"(iii) A payment or benefit under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

"(iv) A payment or benefit under section 1506 of the Food, Conservation, and Energy Act of 2008.

"(v) A payment or benefit under title IX of the Trade Act of 1974 or subtitle B of the Federal Crop Insurance Act.

"(2) CONSERVATION PROGRAMS.—

"(A) LIMITS.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, except as provided in clause (ii), a person or legal entity shall not be eligible to receive any benefit described in subparagraph (B) during a crop, fiscal, or program year, as appropriate, if the average adjusted gross nonfarm income of the person or legal entity exceeds $1,000,000, unless not less than 66.66 percent of the average adjusted gross income of the person or legal entity is average adjusted gross farm income.

"(ii) EXCEPTION.—The Secretary may waive the limitation established under clause (i) on a case-by-case basis if the Secretary determines that environmentally sensitive land of special significance would be protected.

"(B) COVERED BENEFITS.—Subparagraph (A) applies with respect to the following:

"(i) A payment or benefit under title XII of this Act.

"(ii) A payment or benefit under title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 223) or title II of the Food, Conservation, and Energy Act of 2008.

"(iii) A payment or benefit under section 524(b) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)).

"(c) INCOME DETERMINATION.—

"(1) IN GENERAL.—In determining the average adjusted gross farm income of a person or legal entity, the Secretary shall include income or benefits derived from or related to—

"(A) the production of crops, including specialty crops (as defined in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108–465)) and unfinished raw forestry products;

"(B) the production of livestock (including cattle, elk, reindeer, bison, horses, deer, sheep, goats, swine, poultry, fish, and other aquacultural products used for food, honey-

bees, and other animals designated by the Secretary) and products produced by, or derived from, livestock;

"(C) the production of farm-based renewable energy (as defined in section 9001 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101));

"(D) the sale, including the sale of easements and development rights, of farm, ranch, or forestry land, water or hunting rights, or environmental benefits;

"(E) the rental or lease of land or equipment used for farming, ranching, or forestry operations, including water or hunting rights;

"(F) the processing (including packing), storing (including shedding), and transporting of farm, ranch, and forestry commodities, including renewable energy;

"(G) the feeding, rearing, or finishing of livestock;

"(H) the sale of land that has been used for agriculture;

"(I) payments or other benefits received under any program authorized under title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901 et seq.) or title I of the Food, Conservation, and Energy Act of 2008;

"(J) payments or other benefits received under any program authorized under title XII of this Act, title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 223), or title II of the Food, Conservation, and Energy Act of 2008;

"(K) payments or other benefits received under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333);

"(L) payments or other benefits received under title IX of the Trade Act of 1974 or subtitle B of the Federal Crop Insurance Act;

"(M) risk management practices, including benefits received under a program authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (including a catastrophic risk protection plan offered under section 508(b) of that Act (7 U.S.C. 1508(b))); and

"(N) any other activity related to farming, ranching, or forestry, as determined by the Secretary.

"(2) INCOME DERIVED FROM FARMING, RANCHING, OR FORESTRY.—In determining the average adjusted gross farm income of a person or legal entity, in addition to the inclusions described in paragraph (1), the Secretary shall include any income reported on the Schedule F or other schedule used by the person or legal entity to report income from farming, ranching, or forestry operations to the Internal Revenue Service, to the extent such income is not already included under paragraph (1).

"(3) SPECIAL RULE.—If not less than 66.66 percent of the average adjusted gross income of a person or legal entity is derived from farming, ranching, or forestry operations described in paragraphs (1) and (2), in determining the average adjusted gross farm income of the person or legal entity, the Secretary shall also include—

"(A) the sale of equipment to conduct farm, ranch, or forestry operations; and

"(B) the provision of production inputs and services to farmers, ranchers, foresters, and farm operations.

"(d) ENFORCEMENT.—

"(1) IN GENERAL.—To comply with subsection (b), at least once every 3 years a person or legal entity shall provide to the Secretary—

"(A) a certification by a certified public accountant or another third party that is acceptable to the Secretary that the average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income of the person or legal entity does not exceed the applicable limitation specified in that subsection; or

"(B) information and documentation regarding the average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income of the person or legal entity through other procedures established by the Secretary.

"(2) DENIAL OF PROGRAM BENEFITS.—If the Secretary determines that a person or legal entity has failed to comply with this section, the Secretary shall deny the issuance of applicable payments and benefits specified in paragraphs (1)(C) and (2)(B) of subsection (b) to the person or legal entity, under similar terms and conditions as described in section 1001B.

"(3) AUDIT.—The Secretary shall establish statistically valid procedures under which the Secretary shall conduct targeted audits of such persons or legal entities as the Secretary determines are most likely to exceed the limitations under subsection (b).

"(e) COMMENSURATE REDUCTION.—In the case of a payment or benefit described in paragraphs (1)(C) and (2)(B) of subsection (b) made in a crop, program, or fiscal year, as appropriate, to an entity, general partnership, or joint venture, the amount of the payment or benefit shall be reduced by an amount that is commensurate with the direct and indirect ownership interest in the entity, general partnership, or joint venture of each person who has an average adjusted gross income, average adjusted gross farm income, or average adjusted gross nonfarm income in excess of the applicable limitation specified in subsection (b).

"(f) EFFECTIVE PERIOD.—This section shall apply only during the 2009 through 2012 crop, program, or fiscal years, as appropriate.".

(b) TRANSITION.—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a), as in effect on September 30, 2007, shall apply with respect to the 2007 and 2008 crop, fiscal, or program year, as appropriate, for each program described in paragraphs (1)(C) and (2)(B) of subsection (b) of that section (as amended by subsection (a)).

SEC. 1605. AVAILABILITY OF QUALITY INCENTIVE PAYMENTS FOR COVERED OILSEED PRODUCERS.

(a) INCENTIVE PAYMENTS REQUIRED.—Subject to subsection (b) and the availability of appropriations under subsection (h), the Secretary shall use funds made available under subsection (h) to provide quality incentive payments for the production of oilseeds with specialized traits that enhance human health, as determined by the Secretary.

(b) COVERED OILSEEDS.—The Secretary shall make payments under this section only for the production of an oilseed variety that has, as determined by the Secretary—

(1) been demonstrated to improve the health profile of the oilseed for use in human consumption by—

(A) reducing or eliminating the need to partially hydrogenate the oil derived from the oilseed for use in human consumption; or

(B) adopting new technology traits; and

(2) 1 or more impediments to commercialization.

(c) REQUEST FOR PROPOSALS.—

(1) ISSUANCE.—If funds are made available to carry out this section for a crop year, the Secretary shall issue a request for proposals for payments under this section.

(2) MULTIYEAR PROPOSALS.—A proponent may submit a multiyear proposal for payments under this section.

(3) CONTENT OF PROPOSALS.—A proposal for payments under this section shall include a description of—

(A) how use of the oilseed enhances human health;

(B) the impediments to commercial use of the oilseed;

(C) each oilseed variety described in subsection (b) and the value of the oilseed variety as a matter of public policy;

(D) a range for the base price and premiums per bushel or hundredweight to be paid to producers;

(E) a per bushel or hundredweight amount of incentive payments requested for each year under this section that does not exceed 1/3 of the total premium offered for any year;

(F) the period of time, not to exceed 4 years, during which incentive payments are to be provided to producers; and

(G) the targeted total quantity of production and estimated acres needed to produce the targeted quantity for each year under this section.

(d) CONTRACTS FOR PRODUCTION.—

(1) IN GENERAL.—The Secretary shall approve successful proposals submitted under subsection (c) on a timely basis.

(2) TIMING OF PAYMENTS.—The Secretary shall make payments to producers under this section after the Secretary receives documentation that the premium required under a contract has been paid to covered producers.

(e) ADMINISTRATION.—

(1) IN GENERAL.—If funding provided for a crop year is not fully allocated under the initial request for proposals under subsection (c), the Secretary shall issue additional requests for proposals for subsequent crop years under this section.

(2) PRORATED PAYMENTS.—If funding provided for a crop year is less than the amount otherwise approved by the Secretary or for which approval is sought, the Secretary shall prorate the payments or approvals in a manner determined by the Secretary so that the total payments do not exceed the funding level.

(f) PROPRIETARY INFORMATION.—The Secretary shall protect proprietary information provided to the Secretary for the purpose of administering this section.

(g) PROGRAM COMPLIANCE AND PENALTIES.—

(1) GUARANTEE.—The proponent, if approved, shall be required to guarantee that the oilseed on which a payment is made by the Secretary under this section is used for human consumption as described in the proposal, as approved by the Secretary.

(2) NONCOMPLIANCE.—If oilseeds on which a payment is made by the Secretary under this section are not actually used for the purpose the payment is made, the proponent shall be required to pay to the Secretary an amount equal to, as determined by the Secretary—

(A) in the case of an inadvertent failure, twice the amount of the payment made by the Secretary under this section to the producer of the oilseeds; and

(B) in any other case, up to twice the full value of the oilseeds involved.

(3) DOCUMENTATION.—The Secretary may require such assurances and documentation as may be needed to enforce the guarantee.

(4) ADDITIONAL PENALTIES.—

(A) IN GENERAL.—In addition to payments required under paragraph (2), the Secretary may impose penalties on additional persons that use oilseeds the use of which is restricted under this section for a purpose other than the intended use.

(B) AMOUNT.—The amount of a penalty under this paragraph shall—

(i) be in an amount determined appropriated by the Secretary; but

(ii) not to exceed twice the full value of the oilseeds.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2009 through 2012.

SEC. 1606. PERSONAL LIABILITY OF PRODUCERS FOR DEFICIENCIES.

Section 164 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7284) is amended by striking "and title I of the Farm Security and Rural Investment Act of 2002" each place it appears and inserting "title I of the Farm Security and Rural Investment Act of 2002, and title I of the Food, Conservation, and Energy Act of 2008".

SEC. 1607. EXTENSION OF EXISTING ADMINISTRATIVE AUTHORITY REGARDING LOANS.

Section 166 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7286) is amended—

(1) by striking "and subtitle B and C of title I of the Farm Security and Rural Investment Act of 2002" each place it appears and inserting ", title I of the Farm Security and Rural Investment Act of 2002, and title I of the Food, Conservation, and Energy Act of 2008"; and

(2) in subsection (c), by adding at the end the following:

"(3) TERMINATION OF AUTHORITY.—The authority to carry out paragraph (1) terminates effective ending with the 2009 crop year.".

SEC. 1608. ASSIGNMENT OF PAYMENTS.

(a) IN GENERAL.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)), relating to assignment of payments, shall apply to payments made under this title.

(b) NOTICE.—The producer making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require, of any assignment made under this section.

SEC. 1609. TRACKING OF BENEFITS.

As soon as practicable after the date of enactment of this Act, the Secretary may track the benefits provided, directly or indirectly, to individuals and entities under titles I and II and the amendments made by those titles.

SEC. 1610. GOVERNMENT PUBLICATION OF COTTON PRICE FORECASTS.

Section 15 of the Agricultural Marketing Act (12 U.S.C. 1141j) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e) through (g) as subsections (d) through (f), respectively.

SEC. 1611. PREVENTION OF DECEASED INDIVIDUALS RECEIVING PAYMENTS UNDER FARM COMMODITY PROGRAMS.

(a) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations that—

(1) describe the circumstances under which, in order to allow for the settlement of estates and for related purposes, payments may be issued in the name of a deceased individual; and

(2) preclude the issuance of payments to, and on behalf of, deceased individuals that were not eligible for the payments.

(b) COORDINATION.—At least twice each year, the Secretary shall reconcile the social security numbers of all individuals who receive payments under this title, whether directly or indirectly, with the Social Security Administration to determine if the individuals are alive.

SEC. 1612. HARD WHITE WHEAT DEVELOPMENT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE HARD WHITE WHEAT SEED.—The term "eligible hard white wheat seed" means hard white wheat seed that, as determined by the Secretary, is—

(A) certified;

(B) of a variety that is suitable for the State in which the seed will be planted;

(C) rated at least superior with respect to quality; and

(D) specifically approved under a seed establishment program established by the State Department of Agriculture and the State Wheat Commission of the 1 or more States in which the seed will be planted.

(2) PROGRAM.—The term "program" means the hard white wheat development program established under subsection (b)(1).

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, in consultation with the State Departments of Agriculture and the State Wheat Commissions of the States in

regions in which hard white wheat is produced, as determined by the Secretary.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall establish a hard white wheat development program in accordance with paragraph (2) to promote the establishment of hard white wheat as a viable market class of wheat in the United States by encouraging production of at least 240,000,000 bushels of hard white wheat by 2012.

(2) PAYMENTS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and subsection (c), if funds are made available for any of the 2009 through 2012 crops of hard white wheat, the Secretary shall make available incentive payments to producers of those crops.

(B) ACREAGE LIMITATION.—The Secretary shall carry out subparagraph (A) subject to a regional limitation determined by the Secretary on the number of acres for which payments may be received that takes into account planting history and potential planting, but does not exceed a total of 2,900,000 acres or the equivalent volume of production based on a yield of 50 bushels per acre.

(C) PAYMENT LIMITATIONS.—Payments to producers on a farm described in subparagraph (A) shall be—

(i) in an amount that is not less than $0.20 per bushel; and

(ii) in an amount that is not less than $2.00 per acre for planting eligible hard white wheat seed.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $35,000,000 for the period of fiscal years 2009 through 2012.

SEC. 1613. DURUM WHEAT QUALITY PROGRAM.

(a) IN GENERAL.—Subject to the availability of funds under subsection (c), the Secretary shall provide compensation to producers of durum wheat in an amount not to exceed 50 percent of the actual cost of fungicides applied to a crop of durum wheat of the producers to control Fusarium head blight (wheat scab) on acres certified to have been planted to Durum wheat in a crop year.

(b) INSUFFICIENT FUNDS.—If the total amount of funds appropriated for a fiscal year under subsection (c) are insufficient to fulfill all eligible requests for compensation under this section, the Secretary shall prorate the compensation payments in a manner determined by the Secretary to be equitable.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2009 through 2012.

SEC. 1614. STORAGE FACILITY LOANS.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall establish a storage facility loan program to provide funds for producers of grains, oilseeds, pulse crops, hay, renewable biomass, and other storable commodities (other than sugar), as determined by the Secretary, to construct or upgrade storage and handling facilities for the commodities.

(b) ELIGIBLE PRODUCERS.—A storage facility loan under this section shall be made available to any producer described in subsection (a) that, as determined by the Secretary—

(1) has a satisfactory credit history;

(2) has a need for increased storage capacity; and

(3) demonstrates an ability to repay the loan.

(c) TERM OF LOANS.—A storage facility loan under this section shall have a maximum term of 12 years.

(d) LOAN AMOUNT.—The maximum principal amount of a storage facility loan under this section shall be $500,000.

(e) LOAN DISBURSEMENTS.—The Secretary shall provide for 1 partial disbursement of loan principal and 1 final disbursement of loan principal, as determined to be appropriate and subject to acceptable documentation, to facilitate the purchase and construction of eligible facilities.

(f) LOAN SECURITY.—Approval of a storage facility loan under this section shall—

(1) require the borrower to provide loan security to the Secretary, in the form of—

(A) a lien on the real estate parcel on which the storage facility is located; or

(B) such other security as is acceptable to the Secretary;

(2) under such rules and regulations as the Secretary may prescribe, not require a severance agreement from the holder of any prior lien on the real estate parcel on which the storage facility is located, if the borrower—

(A) agrees to increase the down payment on the storage facility by an amount determined appropriate by the Secretary; or

(B) provides other security acceptable to the Secretary; and

(3) allow a borrower, upon the approval of the Secretary, to define a subparcel of real estate as security for the storage facility loan if the subparcel is—

(A) of adequate size and value to adequately secure the loan; and

(B) not subject to any other liens or mortgages that are superior to the lien interest of the Commodity Credit Corporation.

SEC. 1615. STATE, COUNTY, AND AREA COMMITTEES.

Section 8(b)(5)(B)(ii) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)(B)(ii)) is amended—

(1) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively, and indenting appropriately;

(2) in the matter preceding item (aa) (as redesignated by paragraph (1)), by striking "A committee established" and inserting the following:

"(I) IN GENERAL.—Except as provided in subclause (II), a committee established"; and

(3) by adding at the end the following:

"(II) COMBINATION OR CONSOLIDATION OF AREAS.—A committee established by combining or consolidating 2 or more county or area committees shall consist of not fewer than 3 nor more than 11 members that—

"(aa) are fairly representative of the agricultural producers within the area covered by the county, area, or local committee; and

"(bb) are elected by the agricultural producers that participate or cooperate in programs administered within the area under the jurisdiction of the county, area, or local committee.

"(III) REPRESENTATION OF SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.—The Secretary shall develop procedures to maintain representation of socially disadvantaged farmers and ranchers on combined or consolidated committees.

"(IV) ELIGIBILITY FOR MEMBERSHIP.—Notwithstanding any other producer eligibility requirements for service on county or area committees, if a county or area is consolidated or combined, a producer shall be eligible to serve only as a member of the county or area committee that the producer elects to administer the farm records of the producer.".

SEC. 1616. PROHIBITION ON CHARGING CERTAIN FEES.

Public Law 108–470 (7 U.S.C. 7416a) is amended—

(1) in subsection (a), by striking "may" and inserting "shall"; and

(2) by adding at the end the following:

"(c) PROHIBITION ON CHARGING CERTAIN FEES.—The Secretary may not charge any fees or related costs for the collection of commodity assessments pursuant to this Act.".

SEC. 1617. SIGNATURE AUTHORITY.

(a) IN GENERAL.—In carrying out this title and title II and amendments made by those titles, if the Secretary approves a document, the Secretary shall not subsequently determine the document is inadequate or invalid because of the lack of authority of any person signing the document on behalf of the applicant or any other individual, entity, general partnership, or joint venture, or the documents relied upon were determined inadequate or invalid, unless the person signing the program document knowingly and willfully falsified the evidence of signature authority or a signature.

(b) AFFIRMATION.—

(1) IN GENERAL.—Nothing in this section prohibits the Secretary from asking a proper party to affirm any document that otherwise would be considered approved under subsection (a).

(2) NO RETROACTIVE EFFECT.—A denial of benefits based on a lack of affirmation under paragraph (1) shall not be retroactive with respect to third-party producers who were not the subject of the erroneous representation of authority, if the third-party producers—

(A) relied on the prior approval by the Secretary of the documents in good faith; and

(B) substantively complied with all program requirements.

SEC. 1618. MODERNIZATION OF FARM SERVICE AGENCY.

Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Committee on Agriculture and the Committee on Appropriations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate a report prepared by a third party that describes—

(1) the data processing and information technology challenges experienced in local offices of the Farm Service Agency;

(2) the impact of those challenges on service to producers, on efficiency of personnel, and on implementation of this Act;

(3) the need for information technology system upgrades of the Farm Service Agency relative to other agencies of the Department of Agriculture;

(4) the detailed plan needed to fulfill the needs of the Department that are identified in paragraph (3), including hardware, software, and infrastructure requirements;

(5) the estimated cost and timeframe for long-term modernization and stabilization of Farm Service Agency information technology systems;

(6) the benefits associated with such modernization and stabilization; and

(7) an evaluation of the existence of appropriate oversight within the Department to ensure that funds needed for systems upgrades can be appropriately managed.

SEC. 1619. INFORMATION GATHERING.

(a) GEOSPATIAL SYSTEMS.—The Secretary shall ensure that all the geospatial data of the agencies of the Department of Agriculture are portable and standardized.

(b) LIMITATION ON DISCLOSURES.—

(1) DEFINITION OF AGRICULTURAL OPERATION.—In this subsection, the term "agricultural operation" includes the production and marketing of agricultural commodities and livestock.

(2) PROHIBITION.—Except as provided in paragraphs (3) and (4), the Secretary, any officer or employee of the Department of Agriculture, or any contractor or cooperator of the Department, shall not disclose—

(A) information provided by an agricultural producer or owner of agricultural land concerning the agricultural operation, farming or conservation practices, or the land itself, in order to participate in programs of the Department; or

(B) geospatial information otherwise maintained by the Secretary about agricultural land or operations for which information described in subparagraph (A) is provided.

(3) AUTHORIZED DISCLOSURES.—

(A) LIMITED RELEASE OF INFORMATION.—If the Secretary determines that the information described in paragraph (2) will not be subsequently disclosed except in accordance with paragraph (4), the Secretary may release or disclose the information to a person or Federal, State, local, or tribal agency working in cooperation with the Secretary in any Department program—

(i) when providing technical or financial assistance with respect to the agricultural operation, agricultural land, or farming or conservation practices; or

(ii) when responding to a disease or pest threat to agricultural operations, if the Secretary determines that a threat to agricultural operations exists and the disclosure of information to a person or cooperating government entity is necessary to assist the Secretary in responding to the disease or pest threat as authorized by law.

(4) EXCEPTIONS.—Nothing in this subsection affects—

(A) the disclosure of payment information (including payment information and the names and addresses of recipients of payments) under any Department program that is otherwise authorized by law;

(B) the disclosure of information described in paragraph (2) if the information has been transformed into a statistical or aggregate form without naming any—

(i) individual owner, operator, or producer; or

(ii) specific data gathering site; or

(C) the disclosure of information described in paragraph (2) pursuant to the consent of the agricultural producer or owner of agricultural land.

(5) CONDITION OF OTHER PROGRAMS.—The participation of the agricultural producer or owner of agricultural land in, or receipt of any benefit under, any program administered by the Secretary may not be conditioned on the consent of the agricultural producer or owner of agricultural land under paragraph (4)(C).

(6) WAIVER OF PRIVILEGE OR PROTECTION.—The disclosure of information under paragraph (2) shall not constitute a waiver of any applicable privilege or protection under Federal law, including trade secret protection.

SEC. 1620. LEASING OF OFFICE SPACE.

Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture and the Committee on Appropriations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate a report that describes—

(1) the costs and time associated with complying with leasing procedures of the General Services Administration relative to the previous independent leasing procedures of the Department of Agriculture;

(2) the additional staffing needs associated with complying with those procedures; and

(3) the value added to the leasing process and the ability of the Department to secure best-value leases by complying with the General Services Administration leasing procedures.

SEC. 1621. GEOGRAPHICALLY DISADVANTAGED FARMERS AND RANCHERS.

(a) DEFINITIONS.—In this section:

(1) AGRICULTURAL COMMODITY.—The term "agricultural commodity" has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

(2) GEOGRAPHICALLY DISADVANTAGED FARMER OR RANCHER.—The term "geographically disadvantaged farmer or rancher" has the meaning given the term in section 10906(a) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 2204 note; Public Law 107–171).

(b) AUTHORIZATION.—Subject to the availability of funds under subsection (d), the Secretary may provide geographically disadvantaged farmers or ranchers direct reimbursement payments for activities described in subsection (c).

(c) TRANSPORTATION.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary may provide direct reimbursement payments to a geographically disadvantaged farmer or rancher to transport an agricultural commodity, or inputs used to produce an agricultural commodity, during a fiscal year.

(2) PROOF OF ELIGIBILITY.—To be eligible to receive assistance under paragraph (1), a geographically disadvantaged farmer or rancher shall demonstrate to the Secretary that transportation of the agricultural commodity or inputs occurred over a distance of more than 30 miles, as determined by the Secretary.

(3) AMOUNT.—

(A) IN GENERAL.—Subject to paragraph (2), the amount of direct reimbursement payments made to a geographically disadvantaged farmer or rancher under this section for a fiscal year shall equal the product obtained by multiplying—

(i) the amount of costs incurred by the geographically disadvantaged farmer or rancher for transportation of the agricultural commodity or inputs during the fiscal year; and

(ii)(I) the percentage of the allowance for that fiscal year under section 5941 of title 5, United States Code, for Federal employees stationed in Alaska and Hawaii; or

(II) in the case of an insular area (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)), a comparable percentage of the allowance for the fiscal year, as determined by the Secretary.

(B) LIMITATION.—The total amount of direct reimbursement payments provided by the Secretary under this section shall not exceed $15,000,000 for a fiscal year.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2009 through 2012.

SEC. 1622. IMPLEMENTATION.

The Secretary shall make available to the Farm Service Agency to carry out this title $50,000,000.

SEC. 1623. REPEALS.

(a) COMMISSION ON APPLICATION OF PAYMENT LIMITATIONS.—Section 1605 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7993) is repealed.

(b) RENEWED AVAILABILITY OF MARKET LOSS ASSISTANCE AND CERTAIN EMERGENCY ASSISTANCE TO PERSONS THAT FAILED TO RECEIVE ASSISTANCE UNDER EARLIER AUTHORITIES.—Section 1617 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8000) is repealed.

TITLE II—CONSERVATION

Subtitle A—Definitions and Highly Erodible Land and Wetland Conservation

SEC. 2001. DEFINITIONS RELATING TO CONSERVATION TITLE OF FOOD SECURITY ACT OF 1985.

(a) BEGINNING FARMER OR RANCHER.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended—

(1) by redesignating paragraphs (2) through (6), (7) through (11), (12), (13) through (15), (16), (17), and (18) as paragraphs (3) through (7), (9) through (13), (15), (20) through (22), (24), (26), and (27), respectively; and

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

"(2) BEGINNING FARMER OR RANCHER.—The term 'beginning farmer or rancher' has the meaning given the term in section 343(a)(8) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(8)).".

(b) FARM.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (7), as redesignated by subsection (a)(1), the following new paragraph:

"(8) FARM.—The term 'farm' means a farm that—

"(A) is under the general control of one operator;

"(B) has one or more owners;

"(C) consists of one or more tracts of land, whether or not contiguous;

"(D) is located within a county or region, as determined by the Secretary; and

"(E) may contain lands that are incidental to the production of perennial crops, including conserving uses, forestry, and livestock, as determined by the Secretary.".

(c) INDIAN TRIBE.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (13), as redesignated by subsection (a)(1), the following new paragraph:

"(14) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).".

(d) INTEGRATED PEST MANAGEMENT; LIVESTOCK; NONINDUSTRIAL PRIVATE FOREST LAND; PERSON AND LEGAL ENTITY.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (15), as redesignated by subsection (a)(1), the following new paragraphs:

"(16) INTEGRATED PEST MANAGEMENT.—The term 'integrated pest management' means a sustainable approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks.

"(17) LIVESTOCK.—The term 'livestock' means all animals raised on farms, as determined by the Secretary.

"(18) NONINDUSTRIAL PRIVATE FOREST LAND.—The term 'nonindustrial private forest land' means rural land, as determined by the Secretary, that—

"(A) has existing tree cover or is suitable for growing trees; and

"(B) is owned by any nonindustrial private individual, group, association, corporation, Indian tribe, or other private legal entity that has definitive decisionmaking authority over the land.

"(19) PERSON AND LEGAL ENTITY.—For purposes of applying payment limitations under subtitle D, the terms 'person' and 'legal entity' have the meanings given those terms in section 1001(a) of this Act (7 U.S.C. 1308(a)).".

(e) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (22), as redesignated by subsection (a)(1), the following new paragraph:

"(23) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 2501(e)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)(2)).".

(f) TECHNICAL ASSISTANCE.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting after paragraph (24), as redesignated by subsection (a)(1), the following new paragraph:

"(25) TECHNICAL ASSISTANCE.—The term 'technical assistance' means technical expertise, information, and tools necessary for the conservation of natural resources on land active in agricultural, forestry, or related uses. The term includes the following:

"(A) Technical services provided directly to farmers, ranchers, and other eligible entities, such as conservation planning, technical consultation, and assistance with design and implementation of conservation practices.

"(B) Technical infrastructure, including activities, processes, tools, and agency functions needed to support delivery of technical services, such as technical standards, resource inventories, training, data, technology, monitoring, and effects analyses.".

SEC. 2002. REVIEW OF GOOD FAITH DETERMINATIONS RELATED TO HIGHLY ERODIBLE LAND CONSERVATION.

Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) is amended by striking subsection (f) and inserting the following new subsection:

"(f) GRADUATED PENALTIES.—

"(1) INELIGIBILITY.—No person shall become ineligible under section 1211 for program loans, payments, and benefits as a result of the failure of the person to actively apply a conservation plan, if the Secretary determines that the person has acted in good faith and without an intent to violate this subtitle.

"(2) ELIGIBLE REVIEWERS.—A determination of the Secretary, or a designee of the Secretary, under paragraph (1) shall be reviewed by the applicable—

"(A) State Executive Director, with the technical concurrence of the State Conservationist; or

"(B) district director, with the technical concurrence of the area conservationist.

"(3) PERIOD FOR IMPLEMENTATION.—A person who meets the requirements of paragraph (1) shall be allowed a reasonable period of time, as determined by the Secretary, but not to exceed 1 year, during which to implement the measures and practices necessary to be considered to be actively applying the conservation plan of the person.

"(4) PENALTIES.—

"(A) APPLICATION.—This paragraph applies if the Secretary determines that—

"(i) a person has failed to comply with section 1211 with respect to highly erodible cropland, and has acted in good faith and without an intent to violate section 1211; or

"(ii) the violation—

"(I) is technical and minor in nature; and

"(II) has a minimal effect on the erosion control purposes of the conservation plan applicable to the land on which the violation has occurred.

"(B) REDUCTION.—If this paragraph applies under subparagraph (A), the Secretary shall, in lieu of applying the ineligibility provisions of section 1211, reduce program benefits described in section 1211 that the producer would otherwise be eligible to receive in a crop year by an amount commensurate with the seriousness of the violation, as determined by the Secretary.

"(5) SUBSEQUENT CROP YEARS.—Any person whose benefits are reduced for any crop year under this subsection shall continue to be eligible for all of the benefits described in section 1211 for any subsequent crop year if, prior to the beginning of the subsequent crop year, the Secretary determines that the person is actively applying a conservation plan according to the schedule specified in the plan.".

SEC. 2003. REVIEW OF GOOD FAITH DETERMINATIONS RELATED TO WETLAND CONSERVATION.

Section 1222(h) of the Food Security Act of 1985 (16 U.S.C. 3822(h)) is amended—

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

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

"(2) ELIGIBLE REVIEWERS.—A determination of the Secretary, or a designee of the Secretary, under paragraph (1) shall be reviewed by the applicable—

"(A) State Executive Director, with the technical concurrence of the State Conservationist; or

"(B) district director, with the technical concurrence of the area conservationist."; and

(3) in paragraph (3) (as redesignated by paragraph (1)), by inserting "be" before "actively".

Subtitle B—Conservation Reserve Program

SEC. 2101. EXTENSION OF CONSERVATION RESERVE PROGRAM.

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

(1) by striking "2007 calendar year" and inserting "2012 fiscal year"; and

(2) by inserting before the period the following: "and to address issues raised by State, regional, and national conservation initiatives"; and

SEC. 2102. LAND ELIGIBLE FOR ENROLLMENT IN CONSERVATION RESERVE.

Section 1231(b) of the Food Security Act of 1985 (16 U.S.C. 3831(b)) is amended—

(1) in paragraph (1)(B)—

(A) by striking "Farm Security and Rural Investment Act of 2002" and inserting "Food, Conservation, and Energy Act of 2008"; and

(B) by striking the period at the end and inserting a semicolon; and

(2) in paragraph (4)—

(A) in subparagraph (C), by striking "; or" and inserting a semicolon;

(B) in subparagraph (D), by striking "and" at the end and inserting "or"; and

(C) in subparagraph (E), by inserting "or" after the semicolon at the end.

SEC. 2103. MAXIMUM ENROLLMENT OF ACREAGE IN CONSERVATION RESERVE.

Section 1231(d) of the Food Security Act of 1985 (16 U.S.C. 3831(d)) is amended—

(1) by striking "2007 calendar years" and inserting "2009 fiscal years";

(2) by striking "(16 U.S.C." and inserting "(16 U.S.C."; and

(3) by adding at the end the following new sentence: "During fiscal years 2010, 2011, and 2012, the Secretary may maintain up to 32,000,000 acres in the conservation reserve at any 1 time.".

SEC. 2104. DESIGNATION OF CONSERVATION PRIORITY AREAS.

Section 1231(f) of the Food Security Act of 1985 (16 U.S.C. 3831(f)) is amended by striking "the Chesapeake Bay Region (Pennsylvania, Maryland, and Virginia)" and inserting "the Chesapeake Bay Region".

SEC. 2105. TREATMENT OF MULTI-YEAR GRASSES AND LEGUMES.

Subsection (g) of section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended to read as follows:

"(g) MULTI-YEAR GRASSES AND LEGUMES.—

"(1) IN GENERAL.—For purposes of this subchapter, alfalfa and other multi-year grasses and legumes in a rotation practice, approved by the Secretary, shall be considered agricultural commodities.

"(2) CROPPING HISTORY.—Alfalfa, when grown as part of a rotation practice, as determined by the Secretary, is an agricultural commodity subject to the cropping history criteria under

subsection (b)(1)(B) for the purpose of determining whether highly erodible cropland has been planted or considered planted for 4 of the 6 years referred to in such subsection.".

SEC. 2106. REVISED PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.

(a) REVISED PROGRAM.—

(1) IN GENERAL.—Title XII of the Food Security Act of 1985 is amended by inserting after section 1231 (16 U.S.C. 3831) the following new section:

"SEC. 1231B. PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.

"(a) PROGRAM REQUIRED.—

"(1) IN GENERAL.—During the 2008 through 2012 fiscal years, the Secretary shall carry out a program in each State under which the Secretary shall enroll eligible acreage described in subsection (b).

"(2) PARTICIPATION AMONG STATES.—The Secretary shall ensure, to the maximum extent practicable, that owners and operators in each State have an equitable opportunity to participate in the program established under this section.

"(b) ELIGIBLE ACREAGE.—

"(1) WETLAND AND RELATED LAND.—Subject to subsections (c) and (d), an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, land—

"(A) that is wetland (including a converted wetland described in section 1222(b)(1)(A)) that had a cropping history during at least 3 of the immediately preceding 10 crop years;

"(B) on which a constructed wetland is to be developed that will receive flow from a row crop agriculture drainage system and is designed to provide nitrogen removal in addition to other wetland functions;

"(C) that was devoted to commercial pond-raised aquaculture in any year during the period of calendar years 2002 through 2007; or

"(D) that, after January 1, 1990, and before December 31, 2002, was—

"(i) cropped during at least 3 of 10 crop years; and

"(ii) subject to the natural overflow of a prairie wetland.

"(2) BUFFER ACREAGE.—Subject to subsections (c) and (d), an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, buffer acreage that—

"(A) with respect to land described in subparagraph (A), (B), or (C) of paragraph (1)—

"(i) is contiguous to such land;

"(ii) is used to protect such land; and

"(iii) is of such width as the Secretary determines is necessary to protect such land, taking into consideration and accommodating the farming practices (including the straightening of boundaries to accommodate machinery) used with respect to the cropland that surrounds such land; and

"(B) with respect to land described in subparagraph (D) of paragraph (1), enhances a wildlife benefit to the extent practicable in terms of upland to wetland ratios, as determined by the Secretary.

"(c) PROGRAM LIMITATIONS.—

"(1) ACREAGE LIMITATION.—The Secretary may enroll in the conservation reserve, pursuant to the program established under this section, not more than—

"(A) 100,000 acres in any State; and

"(B) a total of 1,000,000 acres.

"(2) RELATIONSHIP TO MAXIMUM ENROLLMENT.—Subject to paragraph (3), any acreage enrolled in the conservation reserve under this section shall be considered acres maintained in the conservation reserve.

"(3) RELATIONSHIP TO OTHER ENROLLED ACREAGE.—Acreage enrolled in the conservation reserve under this section shall not affect for any fiscal year the quantity of—

"(A) acreage enrolled to establish conservation buffers as part of the program announced on March 24, 1998 (63 Fed. Reg. 14109); or

"(B) acreage enrolled into the conservation reserve enhancement program announced on May 27, 1998 (63 Fed. Reg. 28965).

"(4) REVIEW; POTENTIAL INCREASE IN ENROLLMENT ACREAGE.—The Secretary shall conduct a review of the program established under this section with respect to each State that has enrolled land in the conservation reserve pursuant to the program. As a result of the review, the Secretary may increase the number of acres that may be enrolled in a State under the program to not more than 200,000 acres, notwithstanding paragraph (1)(A).

"(d) OWNER OR OPERATOR ENROLLMENT LIMITATIONS.—

"(1) WETLAND AND RELATED LAND.—

"(A) WETLANDS AND CONSTRUCTED WETLANDS.—The maximum size of any land described in subparagraph (A) or (B) of subsection (b)(1) that an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, shall be 40 contiguous acres.

"(B) FLOODED FARMLAND.—The maximum size of any land described in subparagraph (D) of subsection (b)(1) that an owner or operator may enroll in the conservation reserve, pursuant to the program established under this section, shall be 20 contiguous acres.

"(C) COVERAGE.—All acres described in subparagraph (A) or (B), including acres that are ineligible for payment, shall be covered by the conservation contract.

"(2) BUFFER ACREAGE.—The maximum size of any buffer acreage described in subsection (b)(2) that an owner or operator may enroll in the conservation reserve under this section shall be determined by the Secretary in consultation with the State Technical Committee.

"(3) TRACTS.—Except for land described in subsection (b)(1)(C) and buffer acreage related to such land, the maximum size of any eligible acreage described in subsection (b)(1) in a

tract of an owner or operator enrolled in the conservation reserve under this section shall be 40 acres.

"(e) DUTIES OF OWNERS AND OPERATORS.—During the term of a contract entered into under the program established under this section, an owner or operator shall agree—

"(1) to restore the hydrology of the wetland within the eligible acreage to the maximum extent practicable, as determined by the Secretary;

"(2) to establish vegetative cover (which may include emerging vegetation in water and bottomland hardwoods, cypress, and other appropriate tree species) on the eligible acreage, as determined by the Secretary;

"(3) to a general prohibition of commercial use of the enrolled land; and

"(4) to carry out other duties described in section 1232.

"(f) DUTIES OF THE SECRETARY.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), in return for a contract entered into under this section, the Secretary shall—

"(A) make payments to the owner or operator based on rental rates for cropland; and

"(B) provide assistance to the owner or operator in accordance with sections 1233 and 1234.

"(2) CONTRACT OFFERS AND PAYMENTS.—The Secretary shall use the method of determination described in section 1234(c)(2)(B) to determine the acceptability of contract offers and the amount of rental payments under this section.

"(3) INCENTIVES.—The amounts payable to owners and operators in the form of rental payments under contracts entered into under this section shall reflect incentives that are provided to owners and operators to enroll filterstrips in the conservation reserve under section 1234.".

(2) REPEAL OF SUPERSEDED PROGRAM.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(A) by striking subsection (h); and

(B) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(b) CONFORMING CHANGES TO EMERGENCY FORESTRY CONSERVATION RESERVE PROGRAM.—Subsection (k) of section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(1) by striking "(k) EMERGENCY FORESTRY CONSERVATION RESERVE PROGRAM.—" and inserting the following:

"SEC. 1231A. EMERGENCY FORESTRY CONSERVATION RESERVE PROGRAM.";

(2) by striking "subsection" each place it appears (other than paragraph (3)(C)(ii)) and inserting "section";

(3) by redesignating paragraphs (1), (2), and (3) as subsections (a), (b), and (c), respectively;

(4) in subsection (a), as so redesignated, by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(5) in subsection (c), as so redesignated—

(A) by redesignating subparagraphs (A) through (I) as paragraphs (1) through (9), respectively;

(B) in paragraph (1), as so redesignated, by striking "subparagraph (B)" and "subparagraph (G)" and inserting "paragraph (2)" and "paragraph (7)", respectively;

(C) in paragraph (3), as so redesignated—

(i) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(ii) by striking "subsection (d)" and inserting "section 1231(d)";

(D) in paragraph (4), as so redesignated, by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively;

(E) in paragraph (5), as so redesignated—

(i) by redesignating clauses (i) through (v) as subparagraphs (A) through (E), respectively, and subclauses (I) and (II) as clauses (i) and (ii), respectively;

(ii) in subparagraph (B), as so redesignated, by striking "clause (i)(I)" and inserting "subparagraph (A)(i)"; and

(iii) in subparagraph (C), as so redesignated, by striking "clause (i)(II)" and inserting "subparagraph (A)(ii)"; and

(F) in paragraph (9), as so redesignated, by redesignating clauses (i) through (iii) as subparagraphs (A) through (C), respectively, and subclauses (I) through (III) as clauses (i) through (iii), respectively.

SEC. 2107. ADDITIONAL DUTY OF PARTICIPANTS UNDER CONSERVATION RESERVE CONTRACTS.

Section 1232(a) of the Food Security Act of 1985 (16 U.S.C. 3832(a)) is amended—

(1) by redesignating paragraphs (5) through (10) as paragraphs (6) through (11), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) to undertake management on the land as needed throughout the term of the contract to implement the conservation plan;".

SEC. 2108. MANAGED HAYING, GRAZING, OR OTHER COMMERCIAL USE OF FORAGE ON ENROLLED LAND AND INSTALLATION OF WIND TURBINES.

(a) GENERAL PROHIBITION; EXCEPTIONS.—Section 1232(a) of the Food Security Act of 1985 (16 U.S.C. 3832(a)) is amended by striking paragraph (8), as redesignated by section 2107, and inserting the following new paragraph:

"(8) not to conduct any harvesting or grazing, nor otherwise make commercial use of the forage, on land that is subject to the contract, nor adopt any similar practice specified in the contract by the Secretary as a practice that would tend to defeat the purposes of the contract, except that the Secretary may permit, consistent with the conservation of soil, water quality, and wildlife habitat (including habitat during nesting seasons for birds in the area)—

"(A) managed harvesting (including the managed harvesting of biomass), except that in permitting managed harvesting, the Secretary, in coordination with the State technical committee—

"(i) shall develop appropriate vegetation management requirements; and

"(ii) shall identify periods during which managed harvesting may be conducted;

"(B) harvesting and grazing or other commercial use of the forage on the land that is subject to the contract in response to a drought or other emergency;

"(C) routine grazing or prescribed grazing for the control of invasive species, except that in permitting such routine grazing or prescribed grazing, the Secretary, in coordination with the State technical committee—

"(i) shall develop appropriate vegetation management requirements and stocking rates for the land that are suitable for continued routine grazing; and

"(ii) shall establish the frequency during which routine grazing may be conducted, taking into consideration regional differences such as—

"(I) climate, soil type, and natural resources;

"(II) the number of years that should be required between routine grazing activities; and

"(III) how often during a year in which routine grazing is permitted that routine grazing should be allowed to occur; and

"(D) the installation of wind turbines, except that in permitting the installation of wind turbines, the Secretary shall determine the number and location of wind turbines that may be installed, taking into account—

"(i) the location, size, and other physical characteristics of the land;

"(ii) the extent to which the land contains wildlife and wildlife habitat; and

"(iii) the purposes of the conservation reserve program under this subchapter;".

(b) RENTAL PAYMENT REDUCTION.—Section 1232 of the Food Security Act of 1985 (16 U.S.C. 3832) is amended by adding at the end the following new subsection:

"(d) RENTAL PAYMENT REDUCTION FOR CERTAIN AUTHORIZED USES OF ENROLLED LAND.—In the case of an authorized activity under subsection (a)(8) on land that is subject to a contract under this subchapter, the Secretary shall reduce the rental payment otherwise payable under the contract by an amount commensurate with the economic value of the authorized activity.".

SEC. 2109. COST SHARING PAYMENTS RELATING TO TREES, WINDBREAKS, SHELTERBELTS, AND WILDLIFE CORRIDORS.

Section 1234(b) of the Food Security Act of 1985 (16 U.S.C. 3834(b)) is amended by striking paragraph (3) and inserting the following new paragraph:

"(3) TREES, WINDBREAKS, SHELTERBELTS, AND WILDLIFE CORRIDORS.—

"(A) APPLICABILITY.—This paragraph applies to—

"(i) land devoted to the production of hardwood trees, windbreaks, shelterbelts, or wildlife corridors under a contract entered into under this subchapter after November 28, 1990;

"(ii) land converted to such production under section 1235A; and

"(iii) land on which an owner or operator agrees to conduct thinning authorized by section 1232(a)(9), if the thinning is necessary to improve the condition of resources on the land.

"(B) PAYMENTS.—

"(i) PERCENTAGE.—In making cost share payments to an owner or operator of land described in subparagraph (A), the Secretary shall pay 50 percent of the reasonable and necessary costs incurred by the owner or operator for maintaining trees or shrubs, including the cost of replanting (if the trees or shrubs were lost due to conditions beyond the control of the owner or operator) or thinning.

"(ii) DURATION.—The Secretary shall make payments as described in clause (i) for a period of not less than 2 years, but not more than 4 years, beginning on the date of—

"(I) the planting of the trees or shrubs; or

"(II) the thinning of existing stands to improve the condition of resources on the land.".

SEC. 2110. EVALUATION AND ACCEPTANCE OF CONTRACT OFFERS, ANNUAL RENTAL PAYMENTS, AND PAYMENT LIMITATIONS.

(a) EVALUATION AND ACCEPTANCE OF CONTRACT OFFERS.—Section 1234(c) of the Food Security Act of 1985 (16 U.S.C. 3834(c)) is amended by striking paragraph (3) and inserting the following new paragraph:

"(3) ACCEPTANCE OF CONTRACT OFFERS.—

"(A) EVALUATION OF OFFERS.—In determining the acceptability of contract offers, the Secretary may take into consideration the extent to which enrollment of the land that is the subject of the contract offer would improve soil resources, water quality, or wildlife habitat or provide other environmental benefits.

"(B) ESTABLISHMENT OF DIFFERENT CRITERIA IN VARIOUS STATES AND REGIONS.—The Secretary may establish different criteria for determining the acceptability of contract offers in various States and regions of the United States based on the extent to which water quality or wildlife habitat may be improved or erosion may be abated.

"(C) LOCAL PREFERENCE.—In determining the acceptability of contract offers for new enrollments, the Secretary shall accept, to the maximum extent practicable, an offer from an owner or operator that is a resident of the county in which the land is located or of a contiguous county if, as determined by the Secretary, the land would provide at least equivalent conservation benefits to land under competing offers.".

(b) ANNUAL SURVEY OF DRYLAND AND IRRIGATED CASH RENTAL RATES.—

(1) ANNUAL ESTIMATES REQUIRED.—Section 1234(c) of the Food Security Act of 1985 (16 U.S.C. 3834(c)) is amended by adding at the end the following new paragraph:

"(5) RENTAL RATES.—

"(A) ANNUAL ESTIMATES.—The Secretary (acting through the National Agricultural Statistics Service) shall conduct an annual survey of per acre estimates of county average market dryland and irrigated cash rental rates for cropland and pastureland in all counties or equivalent subdivisions within each State that have 20,000 acres or more of cropland and pastureland.

"(B) PUBLIC AVAILABILITY OF ESTIMATES.—The estimates derived from the annual survey conducted under subparagraph (A) shall be maintained on a website of the Department of Agriculture for use by the general public.".

(2) FIRST SURVEY.—The first survey required by paragraph (5) of section 1234(c) of the Food Security Act of 1985 (16 U.S.C. 3834(c)), as added by subsection (a), shall be conducted not later than 1 year after the date of enactment of this Act.

(c) PAYMENT LIMITATIONS.—Section 1234(f) of the Food Security Act of 1985 (16 U.S.C. 3834(f)) is amended—

(1) in paragraph (1), by striking "made to a person" and inserting "received by a person or legal entity, directly or indirectly,";

(2) by striking paragraph (2); and

(3) in paragraph (4), by striking "any person" and inserting "any person or legal entity".

SEC. 2111. CONSERVATION RESERVE PROGRAM TRANSITION INCENTIVES FOR BEGINNING FARMERS OR RANCHERS AND SOCIALLY DISADVANTAGED FARMERS OR RANCHERS.

(a) CONTRACT MODIFICATION AUTHORITY.—Section 1235(c)(1)(B) of the Food Security Act of 1985 (16 U.S.C. 3835(c)(1)(B)) is amended—

(1) in clause (ii), by striking "or" at the end;

(2) by redesignating clause (iii) as clause (iv); and

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

"(iii) to facilitate a transition of land subject to the contract from a retired or retiring owner or operator to a beginning farmer or rancher or socially disadvantaged farmer or rancher for the purpose of returning some or all of the land into production using sustainable grazing or crop production methods; or".

(b) TRANSITION OPTION.—Section 1235 of the Food Security Act of 1985 (16 U.S.C. 3835) is amended by adding at the end the following new subsection:

"(f) TRANSITION OPTION FOR CERTAIN FARMERS OR RANCHERS.—

"(1) DUTIES OF THE SECRETARY.—In the case of a contract modification approved in order to facilitate the transfer, as described in subsection (c)(1)(B)(iii), of land to a beginning farmer or rancher or socially disadvantaged farmer or rancher (in this subsection referred to as a 'covered farmer or rancher'), the Secretary shall—

"(A) beginning on the date that is 1 year before the date of termination of the contract—

"(i) allow the covered farmer or rancher, in conjunction with the retired or retiring owner or operator, to make conservation and land improvements; and

"(ii) allow the covered farmer or rancher to begin the certification process under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.);

"(B) beginning on the date of termination of the contract, require the retired or retiring owner or operator to sell or lease (under a long-term lease or a lease with an option to purchase) to the covered farmer or rancher the land subject to the contract for production purposes;

"(C) require the covered farmer or rancher to develop and implement a conservation plan;

"(D) provide to the covered farmer or rancher an opportunity to enroll in the conservation stewardship program or the environmental quality incentives program by not later than the date on which the farmer or rancher takes possession of the land through ownership or lease; and

"(E) continue to make annual payments to the retired or retiring owner or operator for not more than an additional 2 years after the date of termination of the contract, if the retired or retiring owner or operator is not a family member (as defined in section 1001A(b)(3)(B) of this Act) of the covered farmer or rancher.

"(2) REENROLLMENT.—The Secretary shall provide a covered farmer or rancher with the option to reenroll any applicable partial field conservation practice that—

"(A) is eligible for enrollment under the continuous signup requirement of section 1231(h)(4)(B); and

"(B) is part of an approved conservation plan.".

Subtitle C—Wetlands Reserve Program

SEC. 2201. ESTABLISHMENT AND PURPOSE OF WETLANDS RESERVE PROGRAM.

Subsection (a) of section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended to read as follows:

"(a) ESTABLISHMENT AND PURPOSES.—

"(1) ESTABLISHMENT.—The Secretary shall establish a wetlands reserve program to assist owners of eligible lands in restoring and protecting wetlands.

"(2) PURPOSES.—The purposes of the wetlands reserve program are to restore, protect, or enhance wetlands on private or tribal lands that are eligible under subsections (c) and (d).".

SEC. 2202. MAXIMUM ENROLLMENT AND ENROLLMENT METHODS.

Section 1237(b) of the Food Security Act of 1985 (16 U.S.C. 3837(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) MAXIMUM ENROLLMENT.—The total number of acres enrolled in the wetlands reserve program shall not exceed 3,041,200 acres.";

(2) in paragraph (2), by striking "The Secretary" and inserting "Subject to paragraph (3), the Secretary"; and

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

"(3) ACREAGE OWNED BY INDIAN TRIBES.—In the case of acreage owned by an Indian tribe, the Secretary shall enroll acreage into the wetlands reserve program through the use of—

"(A) a 30-year contract (the value of which shall be equivalent to the value of a 30-year easement);

"(B) restoration cost-share agreements; or

"(C) any combination of the options described in subparagraphs (A) and (B).".

SEC. 2203. DURATION OF WETLANDS RESERVE PROGRAM AND LANDS ELIGIBLE FOR ENROLLMENT.

(a) IN GENERAL.—Section 1237(c) of the Food Security Act of 1985 (16 U.S.C. 3837(c)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "2007 calendar" and inserting "2012 fiscal"; and

(B) by inserting "private or tribal" before "land" the second place it appears;

(2) by striking paragraph (2) and inserting the following new paragraph:

"(2) such land is—

"(A) farmed wetland or converted wetland, together with the adjacent land that is functionally dependent on the wetlands, except that converted wetland with respect to which the conversion was not commenced prior to December 23, 1985, shall not be eligible to be enrolled in the program under this section; or

"(B) cropland or grassland that was used for agricultural production prior to flooding from the natural overflow of a closed basin lake or pothole, as determined by the Secretary, together (where practicable) with the adjacent land that is functionally dependent on the cropland or grassland; and".

(b) CHANGE OF OWNERSHIP.—Section 1237E(a) of the Food Security Act of 1985 (16 U.S.C. 3837e(a)) is amended by striking "in the preceding 12 months" and inserting "during the preceding 7-year period".

(c) ANNUAL SURVEY AND REALLOCATION.—Section 1237F of the Food Security Act of 1985 (16 U.S.C. 3837f) is amended by adding at the end the following new subsection:

"(c) PRAIRIE POTHOLE REGION SURVEY AND REALLOCATION.—

"(1) SURVEY.—The Secretary shall conduct a survey during fiscal year 2008 and each subsequent fiscal year for the purpose of determining interest and allocations for the Prairie Pothole Region to enroll eligible land described in section 1237(c)(2)(B).

"(2) ANNUAL ADJUSTMENT.—The Secretary shall make an adjustment to the allocation for an interested State for a fiscal year, based on the results of the survey conducted under paragraph (1) for the State during the previous fiscal year.".

SEC. 2204. TERMS OF WETLANDS RESERVE PROGRAM EASEMENTS.

Section 1237A(b)(2)(B) of the Food Security Act of 1985 (16 U.S.C. 3837a(b)(2)(B)) is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii), by striking "; and" and inserting "; or"; and

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

"(iii) to meet habitat needs of specific wildlife species; and".

SEC. 2205. COMPENSATION FOR EASEMENTS UNDER WETLANDS RESERVE PROGRAM.

Subsection (f) of section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) is amended to read as follows:

"(f) COMPENSATION.—

"(1) DETERMINATION.—Effective on the date of the enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall pay as compensation for a conservation easement acquired under this subchapter the lowest of—

"(A) the fair market value of the land, as determined by the Secretary, using the Uniform Standards of Professional Appraisal Practices or an area-wide market analysis or survey;

"(B) the amount corresponding to a geographical cap, as determined by the Secretary in regulations; or

"(C) the offer made by the landowner.

"(2) FORM OF PAYMENT.—Compensation for an easement shall be provided by the Secretary in the form of a cash payment, in an amount determined under paragraph (1) and specified in the easement agreement.

"(3) PAYMENT SCHEDULE FOR EASEMENTS.—

"(A) EASEMENTS VALUED AT $500,000 OR LESS.—For easements valued at $500,000 or less, the Secretary may provide easement payments in not more than 30 annual payments.

"(B) EASEMENTS IN EXCESS OF $500,000.—For easements valued at more than $500,000, the Secretary may provide easement payments in at least 5, but not more than 30 annual payments, except that, if the Secretary determines it would further the purposes of the program, the Secretary may make a lump sum payment for such an easement.

"(4) RESTORATION AGREEMENT PAYMENT LIMITATION.—Payments made to a person or legal entity, directly or indirectly, pursuant to a restoration cost-share agreement under this subchapter may not exceed, in the aggregate, $50,000 per year.

"(5) ENROLLMENT PROCEDURE.—Lands may be enrolled under this subchapter through the submission of bids under a procedure established by the Secretary.".

SEC. 2206. WETLANDS RESERVE ENHANCEMENT PROGRAM AND RESERVED RIGHTS PILOT PROGRAM.

Section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) is amended by adding at the end the following new subsection:

"(h) WETLANDS RESERVE ENHANCEMENT PROGRAM.—

"(1) PROGRAM AUTHORIZED.—The Secretary may enter into 1 or more agreements with a State (including a political subdivision or agency of a State), nongovernmental organization, or Indian tribe to carry out a special wetlands reserve enhancement program that the Secretary determines would advance the purposes of this subchapter.

"(2) RESERVED RIGHTS PILOT PROGRAM.—

"(A) RESERVATION OF GRAZING RIGHTS.—As part of the wetlands reserve enhancement program, the Secretary shall carry out a pilot program for land in which a landowner may reserve grazing rights in the warranty easement deed

restriction if the Secretary determines that the reservation and use of the grazing rights—

"(i) is compatible with the land subject to the easement;

"(ii) is consistent with the long-term wetland protection and enhancement goals for which the easement was established; and

"(iii) complies with a conservation plan.

"(B) DURATION.—The pilot program established under this paragraph shall terminate on September 30, 2012.".

SEC. 2207. DUTIES OF SECRETARY OF AGRICULTURE UNDER WETLANDS RESERVE PROGRAM.

Section 1237C of the Food Security Act of 1985 (16 U.S.C. 3837c) is amended—

(1) in subsection (a)(1), by inserting "including necessary maintenance activities," after "values,"; and

(2) by striking subsection (c) and inserting the following new subsection:

"(c) RANKING OF OFFERS.—

"(1) CONSERVATION BENEFITS AND FUNDING CONSIDERATIONS.—When evaluating offers from landowners, the Secretary may consider—

"(A) the conservation benefits of obtaining an easement or other interest in the land;

"(B) the cost-effectiveness of each easement or other interest in eligible land, so as to maximize the environmental benefits per dollar expended; and

"(C) whether the landowner or another person is offering to contribute financially to the cost of the easement or other interest in the land to leverage Federal funds.

"(2) ADDITIONAL CONSIDERATIONS.—In determining the acceptability of easement offers, the Secretary may take into consideration—

"(A) the extent to which the purposes of the easement program would be achieved on the land;

"(B) the productivity of the land; and

"(C) the on-farm and off-farm environmental threats if the land is used for the production of agricultural commodities.".

SEC. 2208. PAYMENT LIMITATIONS UNDER WETLANDS RESERVE CONTRACTS AND AGREEMENTS.

Section 1237D(c)(1) of the Food Security Act of 1985 (16 U.S.C. 3837d(c)(1)) is amended—

(1) by striking "The total amount of easement payments made to a person" and inserting "The total amount of payments that a person or legal entity may receive, directly or indirectly,"; and

(2) by inserting "or under 30-year contracts" before the period at the end.

SEC. 2209. REPEAL OF PAYMENT LIMITATIONS EXCEPTION FOR STATE AGREEMENTS FOR WETLANDS RESERVE ENHANCEMENT.

Section 1237D(c) of the Food Security Act of 1985 (16 U.S.C. 3837d(c)) is amended by striking paragraph (4).

SEC. 2210. REPORT ON IMPLICATIONS OF LONG-TERM NATURE OF CONSERVATION EASEMENTS.

(a) REPORT REQUIRED.—Not later than January 1, 2010, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that evaluates the implications of the long-term nature of conservation easements granted under section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) on resources of the Department of Agriculture.

(b) INCLUSIONS.—The report required by subsection (a) shall include the following:

(1) Data relating to the number and location of conservation easements granted under that section that the Secretary holds or has a significant role in monitoring or managing.

(2) An assessment of the extent to which the oversight of the conservation easement agreements impacts the availability of resources, including technical assistance.

(3) An assessment of the uses and value of agreements with partner organizations.

(4) Any other relevant information relating to costs or other effects that would be helpful to the Committees referred to in subsection (a).

Subtitle D—Conservation Stewardship Program

SEC. 2301. CONSERVATION STEWARDSHIP PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Chapter 2 of subtitle D of title XII of the Food Security Act of 1985 is amended—

(1) by redesignating subchapters B (farmland protection program) and C (grassland reserve program) as subchapters C and D, respectively; and

(2) by inserting after subchapter A the following new subchapter:

"Subchapter B—Conservation Stewardship Program

"SEC. 1238D. DEFINITIONS.

"In this subchapter:

"(1) CONSERVATION ACTIVITIES.—

"(A) IN GENERAL.—The term 'conservation activities' means conservation systems, practices, or management measures that are designed to address a resource concern.

"(B) INCLUSIONS.—The term 'conservation activities' includes—

"(i) structural measures, vegetative measures, and land management measures, including agriculture drainage management systems, as determined by the Secretary; and

"(ii) planning needed to address a resource concern.

"(2) CONSERVATION MEASUREMENT TOOLS.—The term 'conservation measurement tools' means procedures to estimate the level of environmental benefit to be achieved by a producer in implementing conservation activities, including indices or other measures developed by the Secretary.

"(3) CONSERVATION STEWARDSHIP PLAN.—The term 'conservation stewardship plan' means a plan that—

"(A) identifies and inventories resource concerns;

"(B) establishes benchmark data and conservation objectives;

"(C) describes conservation activities to be implemented, managed, or improved; and

"(D) includes a schedule and evaluation plan for the planning, installation, and management of the new and existing conservation activities.

"(4) PRIORITY RESOURCE CONCERN.—The term 'priority resource concern' means a resource concern that is identified at the State level, in consultation with the State Technical Committee, as a priority for a particular watershed or area of the State.

"(5) PROGRAM.—The term 'program' means the conservation stewardship program established by this subchapter.

"(6) RESOURCE CONCERN.—The term 'resource concern' means a specific natural resource impairment or problem, as determined by the Secretary, that—

"(A) represents a significant concern in a State or region; and

"(B) is likely to be addressed successfully through the implementation of conservation activities by producers on land eligible for enrollment in the program.

"(7) STEWARDSHIP THRESHOLD.—The term 'stewardship threshold' means the level of natural resource conservation and environmental management required, as determined by the Secretary using conservation measurement tools, to improve and conserve the quality and condition of a resource concern.

"SEC. 1238E. CONSERVATION STEWARDSHIP PROGRAM.

"(a) ESTABLISHMENT AND PURPOSE.—During each of fiscal years 2009 through 2012, the Secretary shall carry out a conservation stewardship program to encourage producers to address resource concerns in a comprehensive manner—

"(1) by undertaking additional conservation activities; and

"(2) by improving, maintaining and managing existing conservation activities.

"(b) ELIGIBLE LAND.—

"(1) IN GENERAL.—Except as provided in subsection (c), the following land is eligible for enrollment in the program:

"(A) Private agricultural land (including cropland, grassland, prairie land, improved pastureland, rangeland, and land used for agro-forestry).

"(B) Agricultural land under the jurisdiction of an Indian tribe.

"(C) Forested land that is an incidental part of an agricultural operation.

"(D) Other private agricultural land (including cropped woodland, marshes, and agricultural land used for the production of livestock) on which resource concerns related to agricultural production could be addressed by enrolling the land in the program, as determined by the Secretary.

"(2) SPECIAL RULE FOR NONINDUSTRIAL PRIVATE FOREST LAND.—Nonindustrial private forest land is eligible for enroll-

ment in the program, except that not more than 10 percent of the annual acres enrolled nationally in any fiscal year may be nonindustrial private forest land.

"(3) AGRICULTURAL OPERATION.—Eligible land shall include all acres of an agricultural operation of a producer, whether or not contiguous, that are under the effective control of the producer at the time the producer enters into a stewardship contract, and is operated by the producer with equipment, labor, management, and production or cultivation practices that are substantially separate from other agricultural operations, as determined by the Secretary.

"(c) EXCLUSIONS.—

"(1) LAND ENROLLED IN OTHER CONSERVATION PROGRAMS.—Subject to paragraph (2), the following land is not eligible for enrollment in the program:

"(A) Land enrolled in the conservation reserve program.

"(B) Land enrolled in the wetlands reserve program.

"(C) Land enrolled in the grassland reserve program.

"(2) CONVERSION TO CROPLAND.—Land used for crop production after the date of enactment of the Food, Conservation, and Energy Act of 2008 that had not been planted, considered to be planted, or devoted to crop production for at least 4 of the 6 years preceding that date shall not be the basis for any payment under the program, unless the land does not meet the requirement because—

"(A) the land had previously been enrolled in the conservation reserve program;

"(B) the land has been maintained using long-term crop rotation practices, as determined by the Secretary; or

"(C) the land is incidental land needed for efficient operation of the farm or ranch, as determined by the Secretary.

"SEC. 1238F. STEWARDSHIP CONTRACTS.

"(a) SUBMISSION OF CONTRACT OFFERS.—To be eligible to participate in the conservation stewardship program, a producer shall submit to the Secretary for approval a contract offer that—

"(1) demonstrates to the satisfaction of the Secretary that the producer, at the time of the contract offer, is meeting the stewardship threshold for at least one resource concern; and

"(2) would, at a minimum, meet or exceed the stewardship threshold for at least 1 priority resource concern by the end of the stewardship contract by—

"(A) installing and adopting additional conservation activities; and

"(B) improving, maintaining, and managing conservation activities in place at the operation of the producer at the time the contract offer is accepted by the Secretary.

"(b) EVALUATION OF CONTRACT OFFERS.—

"(1) RANKING OF APPLICATIONS.—In evaluating contract offers made by producers to enter into contracts under the program, the Secretary shall rank applications based on—

"(A) the level of conservation treatment on all applicable priority resource concerns at the time of application,

based to the maximum extent practicable on conservation measurement tools;

"(B) the degree to which the proposed conservation treatment on applicable priority resource concerns effectively increases conservation performance, based to the maximum extent possible on conservation measurement tools;

"(C) the number of applicable priority resource concerns proposed to be treated to meet or exceed the stewardship threshold by the end of the contract;

"(D) the extent to which other resource concerns, in addition to priority resource concerns, will be addressed to meet or exceed the stewardship threshold by the end of the contract period; and

"(E) the extent to which the actual and anticipated environmental benefits from the contract are provided at the least cost relative to other similarly beneficial contract offers.

"(2) PROHIBITION.—The Secretary may not assign a higher priority to any application because the applicant is willing to accept a lower payment than the applicant would otherwise be eligible to receive.

"(3) ADDITIONAL CRITERIA.—The Secretary may develop and use such additional criteria for evaluating applications to enroll in the program that the Secretary determines are necessary to ensure that national, State, and local conservation priorities are effectively addressed.

"(c) ENTERING INTO CONTRACTS.—After a determination that a producer is eligible for the program under subsection (a), and a determination that the contract offer ranks sufficiently high under the evaluation criteria under subsection (b), the Secretary shall enter into a conservation stewardship contract with the producer to enroll the land to be covered by the contract.

"(d) CONTRACT PROVISIONS.—

"(1) TERM.—A conservation stewardship contract shall be for a term of 5 years.

"(2) PROVISIONS.—The conservation stewardship contract of a producer shall—

"(A) state the amount of the payment the Secretary agrees to make to the producer for each year of the conservation stewardship contract under section 1238G(e);

"(B) require the producer—

"(i) to implement during the term of the conservation stewardship contract the conservation stewardship plan approved by the Secretary;

"(ii) to maintain, and make available to the Secretary at such times as the Secretary may request, appropriate records showing the effective and timely implementation of the conservation stewardship contract; and

"(iii) not to engage in any activity during the term of the conservation stewardship contract on the eligible land covered by the contract that would interfere with the purposes of the conservation stewardship contract;

"(C) permit all economic uses of the land that—

"(i) maintain the agricultural nature of the land; and

"(ii) are consistent with the conservation purposes of the conservation stewardship contract;

"(D) include a provision to ensure that a producer shall not be considered in violation of the contract for failure to comply with the contract due to circumstances beyond the control of the producer, including a disaster or related condition, as determined by the Secretary; and

"(E) include such other provisions as the Secretary determines necessary to ensure the purposes of the program are achieved.

"(e) CONTRACT RENEWAL.—At the end of an initial conservation stewardship contract of a producer, the Secretary may allow the producer to renew the contract for one additional five-year period if the producer—

"(1) demonstrates compliance with the terms of the existing contract; and

"(2) agrees to adopt new conservation activities, as determined by the Secretary.

"(f) MODIFICATION.—The Secretary may allow a producer to modify a stewardship contract if the Secretary determines that the modification is consistent with achieving the purposes of the program.

"(g) CONTRACT TERMINATION.—

"(1) VOLUNTARY TERMINATION.—A producer may terminate a conservation stewardship contract if the Secretary determines that termination would not defeat the purposes of the program.

"(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under this subchapter if the Secretary determines that the producer violated the contract.

"(3) REPAYMENT.—If a contract is terminated, the Secretary may, consistent with the purposes of the program—

"(A) allow the producer to retain payments already received under the contract; or

"(B) require repayment, in whole or in part, of payments already received and assess liquidated damages.

"(4) CHANGE OF INTEREST IN LAND SUBJECT TO A CONTRACT.—

"(A) IN GENERAL.—Except as provided in paragraph (B), a change in the interest of a producer in land covered by a contract under this chapter shall result in the termination of the contract with regard to that land.

"(B) TRANSFER OF DUTIES AND RIGHTS.—Subparagraph (A) shall not apply if—

"(i) within a reasonable period of time (as determined by the Secretary) after the date of the change in the interest in land covered by a contract under the program, the transferee of the land provides written notice to the Secretary that all duties and rights under the contract have been transferred to, and assumed by, the transferee; and

"(ii) the transferee meets the eligibility requirements of the program.

"(h) COORDINATION WITH ORGANIC CERTIFICATION.—The Secretary shall establish a transparent means by which producers may initiate organic certification under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.) while participating in a contract under this subchapter.

"(i) ON-FARM RESEARCH AND DEMONSTRATION OR PILOT TESTING.—The Secretary may approve a contract offer under this subchapter that includes—

"(1) on-farm conservation research and demonstration activities; and

"(2) pilot testing of new technologies or innovative conservation practices.

"SEC. 1238G. DUTIES OF THE SECRETARY.

"(a) IN GENERAL.—To achieve the conservation goals of a contract under the conservation stewardship program, the Secretary shall—

"(1) make the program available to eligible producers on a continuous enrollment basis with 1 or more ranking periods, one of which shall occur in the first quarter of each fiscal year;

"(2) identify not less than 3 nor more than 5 priority resource concerns in a particular watershed or other appropriate region or area within a State; and

"(3) develop reliable conservation measurement tools for purposes of carrying out the program.

"(b) ALLOCATION TO STATES.—The Secretary shall allocate acres to States for enrollment, based—

"(1) primarily on each State's proportion of eligible acres under section 1238E(b)(1) to the total number of eligible acres in all States; and

"(2) also on consideration of—

"(A) the extent and magnitude of the conservation needs associated with agricultural production in each State;

"(B) the degree to which implementation of the program in the State is, or will be, effective in helping producers address those needs; and

"(C) other considerations to achieve equitable geographic distribution of funds, as determined by the Secretary.

"(c) SPECIALTY CROP AND ORGANIC PRODUCERS.—The Secretary shall ensure that outreach and technical assistance are available, and program specifications are appropriate to enable specialty crop and organic producers to participate in the program.

"(d) ACREAGE ENROLLMENT LIMITATION.—During the period beginning on October 1, 2008, and ending on September 30, 2017, the Secretary shall, to the maximum extent practicable—

"(1) enroll in the program an additional 12,769,000 acres for each fiscal year; and

"(2) manage the program to achieve a national average rate of $18 per acre, which shall include the costs of all financial assistance, technical assistance, and any other expenses associated with enrollment or participation in the program.

"(e) CONSERVATION STEWARDSHIP PAYMENTS.—

"(1) AVAILABILITY OF PAYMENTS.—The Secretary shall provide a payment under the program to compensate the producer for—

"(A) installing and adopting additional conservation activities; and

"(B) improving, maintaining, and managing conservation activities in place at the operation of the producer at the time the contract offer is accepted by the Secretary.

"(2) PAYMENT AMOUNT.—The amount of the conservation stewardship payment shall be determined by the Secretary and based, to the maximum extent practicable, on the following factors:

"(A) Costs incurred by the producer associated with planning, design, materials, installation, labor, management, maintenance, or training.

"(B) Income forgone by the producer.

"(C) Expected environmental benefits as determined by conservation measurement tools.

"(3) EXCLUSIONS.—A payment to a producer under this subsection shall not be provided for—

"(A) the design, construction, or maintenance of animal waste storage or treatment facilities or associated waste transport or transfer devices for animal feeding operations; or

"(B) conservation activities for which there is no cost incurred or income forgone to the producer.

"(4) TIMING OF PAYMENTS.—

"(A) IN GENERAL.—The Secretary shall make payments as soon as practicable after October 1 of each fiscal year for activities carried out in the previous fiscal year.

"(B) ADDITIONAL ACTIVITIES.—The Secretary shall make payments to compensate producers for installation of additional practices at the time at which the practices are installed and adopted.

"(f) SUPPLEMENTAL PAYMENTS FOR RESOURCE-CONSERVING CROP ROTATIONS.—

"(1) AVAILABILITY OF PAYMENTS.—The Secretary shall provide additional payments to producers that, in participating in the program, agree to adopt resource-conserving crop rotations to achieve beneficial crop rotations as appropriate for the land of the producers.

"(2) BENEFICIAL CROP ROTATIONS.—The Secretary shall determine whether a resource-conserving crop rotation is a beneficial crop rotation eligible for additional payments under paragraph (1), based on whether the resource-conserving crop rotation is designed to provide natural resource conservation and production benefits.

"(3) ELIGIBILITY.—To be eligible to receive a payment described in paragraph (1), a producer shall agree to adopt and maintain beneficial resource-conserving crop rotations for the term of the contract.

"(4) RESOURCE-CONSERVING CROP ROTATION.—In this subsection, the term 'resource-conserving crop rotation' means a crop rotation that—

"(A) includes at least 1 resource conserving crop (as defined by the Secretary);

"(B) reduces erosion;

"(C) improves soil fertility and tilth;

"(D) interrupts pest cycles; and

"(E) in applicable areas, reduces depletion of soil moisture or otherwise reduces the need for irrigation.

"(g) PAYMENT LIMITATIONS.—A person or legal entity may not receive, directly or indirectly, payments under this subchapter that, in the aggregate, exceed $200,000 for all contracts entered into during any 5-year period, excluding funding arrangements with federally recognized Indian tribes or Alaska Native corporations, regardless of the number of contracts entered into under the program by the person or entity.

"(h) REGULATIONS.—The Secretary shall promulgate regulations that—

"(1) prescribe such other rules as the Secretary determines to be necessary to ensure a fair and reasonable application of the limitations established under subsection (g); and

"(2) otherwise enable the Secretary to carry out the program.

"(i) DATA.—The Secretary shall maintain detailed and segmented data on contracts and payments under the program to allow for quantification of the amount of payments made for—

"(1) the installation and adoption of additional conservation activities and improvements to conservation activities in place on the operation of a producer at the time the conservation stewardship offer is accepted by the Secretary;

"(2) participation in research, demonstration, and pilot projects; and

"(3) the development and periodic assessment and evaluation of conservation plans developed under this subchapter.".

(b) TERMINATION OF CONSERVATION SECURITY PROGRAM AUTHORITY; EFFECT ON EXISTING CONTRACTS.—Section 1238A of the Food Security Act of 1985 (16 U.S.C. 3838a) is amended by adding at the end the following new subsection:

"(g) PROHIBITION ON CONSERVATION SECURITY PROGRAM CONTRACTS; EFFECT ON EXISTING CONTRACTS.—

"(1) PROHIBITION.—A conservation security contract may not be entered into or renewed under this subchapter after September 30, 2008.

"(2) EXCEPTION.—This subchapter, and the terms and conditions of the conservation security program, shall continue to apply to—

"(A) conservation security contracts entered into on or before September 30, 2008; and

"(B) any conservation security contract entered into after that date, but for which the application for the contract was received during the 2008 sign-up period.

"(3) EFFECT ON PAYMENTS.—The Secretary shall make payments under this subchapter with respect to conservation security contracts described in paragraph (2) during the remaining term of the contracts.

"(4) REGULATIONS.—A contract described in paragraph (2) may not be administered under the regulations issued to carry out the conservation stewardship program.".

(c) REFERENCE TO REDESIGNATED SUBCHAPTER.—Section 1238A(b)(3)(C) of title XII of the Food Security Act of 1985 (16 U.S.C. 3838a(b)(3)(C)) is amended by striking "subchapter C" and inserting "subchapter D".

Subtitle E—Farmland Protection and Grassland Reserve

SEC. 2401. FARMLAND PROTECTION PROGRAM.

(a) DEFINITIONS.—Section 1238H of the Food Security Act of 1985 (16 U.S.C. 3838h) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means—

"(A) any agency of any State or local government or an Indian tribe (including a farmland protection board or land resource council established under State law); or

"(B) any organization that—

"(i) is organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

"(ii) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code; and

"(iii) is—

"(I) described in paragraph (1) or (2) of section 509(a) of that Code; or

"(II) described in section 509(a)(3), and is controlled by an organization described in section 509(a)(2), of that Code."; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking "that—" and inserting "that is subject to a pending offer for purchase from an eligible entity and—"; and

(ii) by striking clauses (i) and (ii) and inserting the following new clauses:

"(i) has prime, unique, or other productive soil;

"(ii) contains historical or archaeological resources; or

"(iii) the protection of which will further a State or local policy consistent with the purposes of the program."; and

(B) in subparagraph (B)—

(i) in clause (iv), by striking "and" at the end; and

(ii) by striking clause (v) and inserting the following new clauses:

"(v) forest land that—

"(I) contributes to the economic viability of an agricultural operation; or

"(II) serves as a buffer to protect an agricultural operation from development; and

"(vi) land that is incidental to land described in clauses (i) through (v), if such land is necessary for the efficient administration of a conservation easement, as determined by the Secretary.".

(b) FARMLAND PROTECTION.—Section 1238I of the Food Security Act of 1985 (16 U.S.C. 3838i) is amended to read as follows:

"SEC. 1238I. FARMLAND PROTECTION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish and carry out a farmland protection program under which the Secretary shall facilitate and provide funding for the purchase of conservation easements or other interests in eligible land.

"(b) PURPOSE.—The purpose of the program is to protect the agricultural use and related conservation values of eligible land by limiting nonagricultural uses of that land.

"(c) COST-SHARE ASSISTANCE.—

"(1) PROVISION OF ASSISTANCE.—The Secretary shall provide cost-share assistance to eligible entities for purchasing a conservation easement or other interest in eligible land.

"(2) FEDERAL SHARE.—The share of the cost provided by the Secretary for purchasing a conservation easement or other interest in eligible land shall not exceed 50 percent of the appraised fair market value of the conservation easement or other interest in eligible land.

"(3) NON-FEDERAL SHARE.—

"(A) SHARE PROVIDED BY ELIGIBLE ENTITY.—The eligible entity shall provide a share of the cost of purchasing a conservation easement or other interest in eligible land in an amount that is not less than 25 percent of the acquisition purchase price.

"(B) LANDOWNER CONTRIBUTION.—As part of the non-Federal share of the cost of purchasing a conservation easement or other interest in eligible land, an eligible entity may include a charitable donation or qualified conservation contribution (as defined by section 170(h) of the Internal Revenue Code of 1986) from the private landowner from which the conservation easement or other interest in land will be purchased.

"(d) DETERMINATION OF FAIR MARKET VALUE.—Effective on the date of enactment of the Food, Conservation, and Energy Act of 2008, the fair market value of the conservation easement or other interest in eligible land shall be determined on the basis of an appraisal using an industry approved method, selected by the eligible entity and approved by the Secretary.

"(e) BIDDING DOWN PROHIBITED.—If the Secretary determines that 2 or more applications for cost-share assistance are comparable in achieving the purpose of the program, the Secretary shall not assign a higher priority to any 1 of those applications solely on the basis of lesser cost to the program.

"(f) CONDITION ON ASSISTANCE.—

"(1) CONSERVATION PLAN.—Any highly erodible cropland for which a conservation easement or other interest is purchased using cost-share assistance provided under the program shall be subject to a conservation plan that requires, at the option of the Secretary, the conversion of the cropland to less intensive uses.

"(2) CONTINGENT RIGHT OF ENFORCEMENT.—The Secretary shall require the inclusion of a contingent right of enforcement for the Secretary in the terms of a conservation easement or other interest in eligible land that is purchased using cost-share assistance provided under the program.

"(g) AGREEMENTS WITH ELIGIBLE ENTITIES.—

"(1) IN GENERAL.—The Secretary shall enter into agreements with eligible entities to stipulate the terms and conditions under which the eligible entity is permitted to use cost-share assistance provided under subsection (c).

"(2) LENGTH OF AGREEMENTS.—An agreement under this subsection shall be for a term that is—

"(A) in the case of an eligible entity certified under the process described in subsection (h), a minimum of five years; and

"(B) for all other eligible entities, at least three, but not more than five years.

"(3) SUBSTITUTION OF QUALIFIED PROJECTS.—An agreement shall allow, upon mutual agreement of the parties, substitution of qualified projects that are identified at the time of the proposed substitution.

"(4) MINIMUM REQUIREMENTS.—An eligible entity shall be authorized to use its own terms and conditions, as approved by the Secretary, for conservation easements and other purchases of interests in land, so long as such terms and conditions—

"(A) are consistent with the purposes of the program;

"(B) permit effective enforcement of the conservation purposes of such easements or other interests; and

"(C) include a limit on the impervious surfaces to be allowed that is consistent with the agricultural activities to be conducted.

"(5) EFFECT OF VIOLATION.—If a violation occurs of a term or condition of an agreement entered into under this subsection—

"(A) the agreement shall remain in force; and

"(B) the Secretary may require the eligible entity to refund all or part of any payments received by the entity under the program, with interest on the payments as determined appropriate by the Secretary.

"(h) CERTIFICATION OF ELIGIBLE ENTITIES.—

"(1) CERTIFICATION PROCESS.—The Secretary shall establish a process under which the Secretary may—

"(A) directly certify eligible entities that meet established criteria;

"(B) enter into long-term agreements with certified entities, as authorized by subsection (g)(2)(A); and

"(C) accept proposals for cost-share assistance to certified entities for the purchase of conservation easements or other interests in eligible land throughout the duration of such agreements.

"(2) CERTIFICATION CRITERIA.—In order to be certified, an eligible entity shall demonstrate to the Secretary that the entity will maintain, at a minimum, for the duration of the agreement—

"(A) a plan for administering easements that is consistent with the purpose of this subchapter;

"(B) the capacity and resources to monitor and enforce conservation easements or other interests in land; and

"(C) policies and procedures to ensure—

"(i) the long-term integrity of conservation easements or other interests in eligible land;

"(ii) timely completion of acquisitions of easements or other interests in eligible land; and

"(iii) timely and complete evaluation and reporting to the Secretary on the use of funds provided by the Secretary under the program.

"(3) REVIEW AND REVISION.—

"(A) REVIEW.—The Secretary shall conduct a review of eligible entities certified under paragraph (1) every three years to ensure that such entities are meeting the criteria established under paragraph (2).

"(B) REVOCATION.—If the Secretary finds that the certified entity no longer meets the criteria established under paragraph (2), the Secretary may—

"(i) allow the certified entity a specified period of time, at a minimum 180 days, in which to take such actions as may be necessary to meet the criteria; and

"(ii) revoke the certification of the entity, if after the specified period of time, the certified entity does not meet the criteria established in paragraph (2).".

SEC. 2402. FARM VIABILITY PROGRAM.

Section 1238J(b) of the Food Security Act of 1985 (16 U.S.C. 3838j(b)) is amended by striking "2007" and inserting "2012".

SEC. 2403. GRASSLAND RESERVE PROGRAM.

Subchapter D of chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838n et seq.), as redesignated by section 2301(a)(1), is amended to read as follows:

"Subchapter D—Grassland Reserve Program

"SEC. 1238N. GRASSLAND RESERVE PROGRAM.

"(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish a grassland reserve program (referred to in this subchapter as the 'program') for the purpose of assisting owners and operators in protecting grazing uses and related conservation values by restoring and conserving eligible land through rental contracts, easements, and restoration agreements.

"(b) ENROLLMENT OF ACREAGE.—

"(1) ACREAGE ENROLLED.—The Secretary shall enroll an additional 1,220,000 acres of eligible land in the program during fiscal years 2009 through 2012.

"(2) METHODS OF ENROLLMENT.—The Secretary shall enroll eligible land in the program through the use of;

"(A) a 10-year, 15-year, or 20-year rental contract;

"(B) a permanent easement; or

"(C) in a State that imposes a maximum duration for easements, an easement for the maximum duration allowed under the law of that State.

"(3) LIMITATION.—Of the total amount of funds expended under the program to acquire rental contracts and easements described in paragraph (2), the Secretary shall use, to the extent practicable—

"(A) 40 percent for rental contacts; and

"(B) 60 percent for easements.

"(4) ENROLLMENT OF CONSERVATION RESERVE LAND.—

"(A) PRIORITY.—Upon expiration of a contract under subchapter B of chapter 1 of this subtitle, the Secretary shall give priority for enrollment in the program to land previously enrolled in the conservation reserve program if—

"(i) the land is eligible land, as defined in subsection (c); and

"(ii) the Secretary determines that the land is of high ecological value and under significant threat of conversion to uses other than grazing.

"(B) MAXIMUM ENROLLMENT.—The number of acres of land enrolled under the priority described in subparagraph (A) in a calendar year shall not exceed 10 percent of the total number of acres enrolled in the program in that calendar year.

"(c) ELIGIBLE LAND DEFINED.—For purposes of the program, the term 'eligible land' means private or tribal land that—

"(1) is grassland, land that contains forbs, or shrubland (including improved rangeland and pastureland) for which grazing is the predominant use;

"(2) is located in an area that has been historically dominated by grassland, forbs, or shrubland, and the land—

"(A) could provide habitat for animal or plant populations of significant ecological value if the land—

"(i) is retained in its current use; or

"(ii) is restored to a natural condition;

"(B) contains historical or archaeological resources; or

"(C) would address issues raised by State, regional, and national conservation priorities; or

"(3) is incidental to land described in paragraph (1) or (2), if the incidental land is determined by the Secretary to be necessary for the efficient administration of a rental contract or easement under the program.

"SEC. 1238O. DUTIES OF OWNERS AND OPERATORS.

"(a) RENTAL CONTRACTS.—To be eligible to enroll eligible land in the program under a rental contract, the owner or operator of the land shall agree—

"(1) to comply with the terms of the contract and, when applicable, a restoration agreement;

"(2) to suspend any existing cropland base and allotment history for the land under another program administered by the Secretary; and

"(3) to implement a grazing management plan, as approved by the Secretary, which may be modified upon mutual agreement of the parties.

"(b) EASEMENTS.—To be eligible to enroll eligible land in the program through an easement, the owner of the land shall agree—

"(1) to grant an easement to the Secretary or to an eligible entity described in section 1238Q;

"(2) to create and record an appropriate deed restriction in accordance with applicable State law to reflect the easement;

"(3) to provide a written statement of consent to the easement signed by persons holding a security interest or any vested interest in the land;

"(4) to provide proof of unencumbered title to the underlying fee interest in the land that is the subject of the easement;

"(5) to comply with the terms of the easement and, when applicable, a restoration agreement;

"(6) to implement a grazing management plan, as approved by the Secretary, which may be modified upon mutual agreement of the parties; and

"(7) to eliminate any existing cropland base and allotment history for the land under another program administered by the Secretary.

"(c) RESTORATION AGREEMENTS.—

"(1) WHEN APPLICABLE.—To be eligible for cost-share assistance to restore eligible land subject to a rental contract or an easement under the program, the owner or operator of the land shall agree to comply with the terms of a restoration agreement.

"(2) TERMS AND CONDITIONS.—The Secretary shall prescribe the terms and conditions of a restoration agreement by which eligible land that is subject to a rental contract or easement under the program shall be restored.

"(3) DUTIES.—The restoration agreement shall describe the respective duties of the owner or operator and the Secretary, including the Federal share of restoration payments and technical assistance.

"(d) TERMS AND CONDITIONS APPLICABLE TO RENTAL CONTRACTS AND EASEMENTS.—

"(1) PERMISSIBLE ACTIVITIES.—The terms and conditions of a rental contract or easement under the program shall permit—

"(A) common grazing practices, including maintenance and necessary cultural practices, on the land in a manner that is consistent with maintaining the viability of grassland, forb, and shrub species appropriate to that locality;

"(B) haying, mowing, or harvesting for seed production, subject to appropriate restrictions during the nesting season for birds in the local area that are in significant decline or are conserved in accordance with Federal or State law, as determined by the State Conservationist;

"(C) fire presuppression, rehabilitation, and construction of fire breaks; and

"(D) grazing related activities, such as fencing and livestock watering.

"(2) PROHIBITIONS.—The terms and conditions of a rental contract or easement under the program shall prohibit—

"(A) the production of crops (other than hay), fruit trees, vineyards, or any other agricultural commodity that is inconsistent with maintaining grazing land; and

"(B) except as permitted under a restoration plan, the conduct of any other activity that would be inconsistent with maintaining grazing land enrolled in the program.

"(3) ADDITIONAL TERMS AND CONDITIONS.—A rental contract or easement under the program shall include such addi-

tional provisions as the Secretary determines are appropriate to carry out or facilitate the purposes and administration of the program.

"(e) VIOLATIONS.—On a violation of the terms or conditions of a rental contract, easement, or restoration agreement entered into under this section—

"(1) the contract or easement shall remain in force; and

"(2) the Secretary may require the owner or operator to refund all or part of any payments received under the program, with interest on the payments as determined appropriate by the Secretary.

"SEC. 1238P. DUTIES OF SECRETARY.

"(a) EVALUATION AND RANKING OF APPLICATIONS.—

"(1) CRITERIA.—The Secretary shall establish criteria to evaluate and rank applications for rental contracts and easements under the program.

"(2) CONSIDERATIONS.—In establishing the criteria, the Secretary shall emphasize support for—

"(A) grazing operations;

"(B) plant and animal biodiversity; and

"(C) grassland, land that contains forbs, and shrubland under the greatest threat of conversion to uses other than grazing.

"(b) PAYMENTS.—

"(1) IN GENERAL.—In return for the execution of a rental contract or the granting of an easement by an owner or operator under the program, the Secretary shall—

"(A) make rental contract or easement payments to the owner or operator in accordance with paragraphs (2) and (3); and

"(B) make payments to the owner or operator under a restoration agreement for the Federal share of the cost of restoration in accordance with paragraph (4).

"(2) RENTAL CONTRACT PAYMENTS.—

"(A) PERCENTAGE OF GRAZING VALUE OF LAND.—In return for the execution of a rental contract by an owner or operator under the program, the Secretary shall make annual payments during the term of the contract in an amount, subject to subparagraph (B), that is not more than 75 percent of the grazing value of the land covered by the contract.

"(B) PAYMENT LIMITATION.—Payments made under 1 or more rental contracts to a person or legal entity, directly or indirectly, may not exceed, in the aggregate, $50,000 per year.

"(3) EASEMENT PAYMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), in return for the granting of an easement by an owner under the program, the Secretary shall make easement payments in an amount not to exceed the fair market value of the land less the grazing value of the land encumbered by the easement.

"(B) METHOD FOR DETERMINATION OF COMPENSATION.—In making a determination under subparagraph

(A), the Secretary shall pay as compensation for an easement acquired under the program the lowest of—

"(i) the fair market value of the land encumbered by the easement, as determined by the Secretary, using—

"(I) the Uniform Standards of Professional Appraisal Practices; or

"(II) an area-wide market analysis or survey;

"(ii) the amount corresponding to a geographical cap, as determined by the Secretary in regulations; or

"(iii) the offer made by the landowner.

"(C) SCHEDULE.—Easement payments may be provided in up to 10 annual payments of equal or unequal amount, as agreed to by the Secretary and the owner.

"(4) RESTORATION AGREEMENT PAYMENTS.—

"(A) FEDERAL SHARE OF RESTORATION.—The Secretary shall make payments to an owner or operator under a restoration agreement of not more than 50 percent of the costs of carrying out measures and practices necessary to restore functions and values of that land.

"(B) PAYMENT LIMITATION.—Payments made under 1 or more restoration agreements to a person or legal entity, directly or indirectly, may not exceed, in the aggregate, $50,000 per year.

"(5) PAYMENTS TO OTHERS.—If an owner or operator who is entitled to a payment under the program dies, becomes incompetent, is otherwise unable to receive the payment, or is succeeded by another person who renders or completes the required performance, the Secretary shall make the payment, in accordance with regulations promulgated by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all the circumstances.

"SEC. 1238Q. DELEGATION OF DUTY.

"(a) AUTHORITY TO DELEGATE.—The Secretary may delegate a duty under the program—

"(1) by transferring title of ownership to an easement to an eligible entity to hold and enforce; or

"(2) by entering into a cooperative agreement with an eligible entity for the eligible entity to own, write, and enforce an easement.

"(b) ELIGIBLE ENTITY DEFINED.—In this section, the term 'eligible entity' means—

"(1) an agency of State or local government or an Indian tribe; or

"(2) an organization that—

"(A) is organized for, and at all times since the formation of the organization has been operated principally for, one or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

"(B) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code; and

"(C) is described in—

"(i) paragraph (1) or (2) of section 509(a) of that Code; or

"(ii) in section 509(a)(3) of that Code, and is controlled by an organization described in section 509(a)(2) of that Code.

"(c) TRANSFER OF TITLE OF OWNERSHIP.—

"(1) TRANSFER.—The Secretary may transfer title of ownership to an easement to an eligible entity to hold and enforce, in lieu of the Secretary, subject to the right of the Secretary to conduct periodic inspections and enforce the easement, if—

"(A) the Secretary determines that the transfer will promote protection of grassland, land that contains forbs, or shrubland;

"(B) the owner authorizes the eligible entity to hold or enforce the easement; and

"(C) the eligible entity agrees to assume the costs incurred in administering and enforcing the easement, including the costs of restoration or rehabilitation of the land as specified by the owner and the eligible entity.

"(2) APPLICATION.—An eligible entity that seeks to hold and enforce an easement shall apply to the Secretary for approval.

"(3) APPROVAL BY SECRETARY.—The Secretary may approve an application described in paragraph (2) if the eligible entity—

"(A) has the relevant experience necessary, as appropriate for the application, to administer an easement on grassland, land that contains forbs, or shrubland;

"(B) has a charter that describes a commitment to conserving ranchland, agricultural land, or grassland for grazing and conservation purposes; and

"(C) has the resources necessary to effectuate the purposes of the charter.

"(d) COOPERATIVE AGREEMENTS.—

"(1) AUTHORIZED; TERMS AND CONDITIONS.—The Secretary shall establish the terms and conditions of a cooperative agreement under which an eligible entity shall use funds provided by the Secretary to own, write, and enforce an easement, in lieu of the Secretary.

"(2) MINIMUM REQUIREMENTS.—At a minimum, the cooperative agreement shall—

"(A) specify the qualification of the eligible entity to carry out the entity's responsibilities under the program, including acquisition, monitoring, enforcement, and implementation of management policies and procedures that ensure the long-term integrity of the easement protections;

"(B) require the eligible entity to assume the costs incurred in administering and enforcing the easement, including the costs of restoration or rehabilitation of the land as specified by the owner and the eligible entity;

"(C) specify the right of the Secretary to conduct periodic inspections to verify the eligible entity's enforcement of the easement;

"(D) subject to subparagraph (E), identify a specific project or a range of projects to be funded under the agreement;

"(E) allow, upon mutual agreement of the parties, substitution of qualified projects that are identified at the time of substitution;

"(F) specify the manner in which the eligible entity will evaluate and report the use of funds to the Secretary;

"(G) allow the eligible entity flexibility to develop and use terms and conditions for easements, if the Secretary finds the terms and conditions consistent with the purposes of the program and adequate to enable effective enforcement of the easements;

"(H) if applicable, allow an eligible entity to include a charitable donation or qualified conservation contribution (as defined by section 170(h) of the Internal Revenue Code of 1986) from the landowner from which the easement will be purchased as part of the entity's share of the cost to purchase an easement; and

"(I) provide for a schedule of payments to an eligible entity, as agreed to by the Secretary and the eligible entity.

"(3) COST SHARING.—

"(A) IN GENERAL.—As part of a cooperative agreement with an eligible entity under this subsection, the Secretary may provide a share of the purchase price of an easement under the program.

"(B) MINIMUM SHARE BY ELIGIBLE ENTITY.—The eligible entity shall be required to provide a share of the purchase price at least equivalent to that provided by the Secretary.

"(C) PRIORITY.—The Secretary may accord a higher priority to proposals from eligible entities that leverage a greater share of the purchase price of the easement.

"(4) VIOLATION.—If an eligible entity violates the terms or conditions of a cooperative agreement entered into under this subsection—

"(A) the cooperative agreement shall remain in force; and

"(B) the Secretary may require the eligible entity to refund all or part of any payments received by the eligible entity under the program, with interest on the payments as determined appropriate by the Secretary.

"(e) PROTECTION OF FEDERAL INVESTMENT.—When delegating a duty under this section, the Secretary shall ensure that the terms of an easement include a contingent right of enforcement for the Department.".

Subtitle F—Environmental Quality Incentives Program

SEC. 2501. PURPOSES OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

(a) REVISED PURPOSES.—Section 1240 of the Food Security Act of 1985 (16 U.S.C. 3839aa) is amended—

(1) in the matter preceding paragraph (1), by inserting ", forest management," after "agricultural production"; and

(2) by striking paragraphs (3) and (4) and inserting the following new paragraphs:

"(3) providing flexible assistance to producers to install and maintain conservation practices that sustain food and fiber production while—

"(A) enhancing soil, water, and related natural resources, including grazing land, forestland, wetland, and wildlife; and

"(B) conserving energy;

"(4) assisting producers to make beneficial, cost effective changes to production systems (including conservation practices related to organic production), grazing management, fuels management, forest management, nutrient management associated with livestock, pest or irrigation management, or other practices on agricultural and forested land; and".

(b) TECHNICAL CORRECTION.—The Food Security Act of 1985 is amended by inserting immediately before section 1240 (16 U.S.C. 3839aa) the following:

"CHAPTER 4—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM".

SEC. 2502. DEFINITIONS.

Section 1240A of the Food Security Act of 1985 (16 U.S.C. 3839aa–1) is amended to read as follows:

"SEC. 1240A. DEFINITIONS.

"In this chapter:

"(1) ELIGIBLE LAND.—

"(A) IN GENERAL.—The term 'eligible land' means land on which agricultural commodities, livestock, or forest-related products are produced.

"(B) INCLUSIONS.—The term 'eligible land' includes the following:

"(i) Cropland.

"(ii) Grassland.

"(iii) Rangeland.

"(iv) Pasture land.

"(v) Nonindustrial private forest land.

"(vi) Other agricultural land (including cropped woodland, marshes, and agricultural land used for the production of livestock) on which resource concerns related to agricultural production could be addressed through a contract under the program, as determined by the Secretary.

"(2) NATIONAL ORGANIC PROGRAM.—The term 'national organic program' means the national organic program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

"(3) ORGANIC SYSTEM PLAN.—The term 'organic system plan' means an organic plan approved under the national organic program.

"(4) PAYMENT.—The term 'payment' means financial assistance provided to a producer for performing practices under this chapter, including compensation for—

"(A) incurred costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training; and

"(B) income forgone by the producer.

"(5) PRACTICE.—The term 'practice' means 1 or more improvements and conservation activities that are consistent with the purposes of the program under this chapter, as determined by the Secretary, including—

"(A) improvements to eligible land of the producer, including—

"(i) structural practices;

"(ii) land management practices;

"(iii) vegetative practices;

"(iv) forest management; and

"(v) other practices that the Secretary determines would further the purposes of the program; and

"(B) conservation activities involving the development of plans appropriate for the eligible land of the producer, including—

"(i) comprehensive nutrient management planning; and

"(ii) other plans that the Secretary determines would further the purposes of the program under this chapter.

"(6) PROGRAM.—The term 'program' means the environmental quality incentives program established by this chapter.".

SEC. 2503. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Section 1240B of the Food Security Act of 1985 (16 U.S.C. 3839aa–2) is amended to read as follows:

"SEC. 1240B. ESTABLISHMENT AND ADMINISTRATION.

"(a) ESTABLISHMENT.—During each of the 2002 through 2012 fiscal years, the Secretary shall provide payments to producers that enter into contracts with the Secretary under the program.

"(b) PRACTICES AND TERM.—

"(1) PRACTICES.—A contract under the program may apply to the performance of one or more practices.

"(2) TERM.—A contract under the program shall have a term that—

"(A) at a minimum, is equal to the period beginning on the date on which the contract is entered into and ending on the date that is one year after the date on which all practices under the contract have been implemented; but

"(B) not to exceed 10 years.

"(c) BIDDING DOWN.—If the Secretary determines that the environmental values of two or more applications for payments are comparable, the Secretary shall not assign a higher priority to the application only because it would present the least cost to the program.

"(d) PAYMENTS.—

"(1) AVAILABILITY OF PAYMENTS.—Payments are provided to a producer to implement one or more practices under the program.

"(2) LIMITATION ON PAYMENT AMOUNTS.—A payment to a producer for performing a practice may not exceed, as determined by the Secretary—

"(A) 75 percent of the costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training;

"(B) 100 percent of income foregone by the producer; or

"(C) in the case of a practice consisting of elements covered under subparagraphs (A) and (B)—

"(i) 75 percent of the costs incurred for those elements covered under subparagraph (A); and

"(ii) 100 percent of income foregone for those elements covered under subparagraph (B).

"(3) SPECIAL RULE INVOLVING PAYMENTS FOR FOREGONE INCOME.—In determining the amount and rate of payments under paragraph (2)(B), the Secretary may accord great significance to a practice that, as determined by the Secretary, promotes—

"(A) residue management;

"(B) nutrient management;

"(C) air quality management;

"(D) invasive species management;

"(E) pollinator habitat;

"(F) animal carcass management technology; or

"(G) pest management.

"(4) INCREASED PAYMENTS FOR CERTAIN PRODUCERS.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), in the case of a producer that is a limited resource, socially disadvantaged farmer or rancher or a beginning farmer or rancher, the Secretary shall increase the amount that would otherwise be provided to a producer under this subsection—

"(i) to not more than 90 percent of the costs associated with planning, design, materials, equipment, installation, labor, management, maintenance, or training; and

"(ii) to not less than 25 percent above the otherwise applicable rate.

"(B) ADVANCE PAYMENTS.—Not more than 30 percent of the amount determined under subparagraph (A) may be provided in advance for the purpose of purchasing materials or contracting.

"(5) FINANCIAL ASSISTANCE FROM OTHER SOURCES.—Except as provided in paragraph (6), any payments received by a producer from a State or private organization or person for the implementation of one or more practices on eligible land of the producer shall be in addition to the payments provided to the producer under this subsection.

"(6) OTHER PAYMENTS.—A producer shall not be eligible for payments for practices on eligible land under the program if the producer receives payments or other benefits for the same practice on the same land under another program under this subtitle.

"(e) MODIFICATION OR TERMINATION OF CONTRACTS.—

"(1) VOLUNTARY MODIFICATION OR TERMINATION.—The Secretary may modify or terminate a contract entered into with a producer under the program if—

"(A) the producer agrees to the modification or termination; and

"(B) the Secretary determines that the modification or termination is in the public interest.

"(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under the program if the Secretary determines that the producer violated the contract.

"(f) ALLOCATION OF FUNDING.—For each of fiscal years 2002 through 2012, 60 percent of the funds made available for payments under the program shall be targeted at practices relating to livestock production.

"(g) FUNDING FOR FEDERALLY RECOGNIZED NATIVE AMERICAN INDIAN TRIBES AND ALASKA NATIVE CORPORATIONS.—The Secretary may enter into alternative funding arrangements with federally recognized Native American Indian Tribes and Alaska Native Corporations (including their affiliated membership organizations) if the Secretary determines that the goals and objectives of the program will be met by such arrangements, and that statutory limitations regarding contracts with individual producers will not be exceeded by any Tribal or Native Corporation member.

"(h) WATER CONSERVATION OR IRRIGATION EFFICIENCY PRACTICE.—

"(1) AVAILABILITY OF PAYMENTS.—The Secretary may provide payments under this subsection to a producer for a water conservation or irrigation practice.

"(2) PRIORITY.—In providing payments to a producer for a water conservation or irrigation practice, the Secretary shall give priority to applications in which—

"(A) consistent with the law of the State in which the eligible land of the producer is located, there is a reduction in water use in the operation of the producer; or

"(B) the producer agrees not to use any associated water savings to bring new land, other than incidental land needed for efficient operations, under irrigated production, unless the producer is participating in a watershed-wide project that will effectively conserve water, as determined by the Secretary.

"(i) PAYMENTS FOR CONSERVATION PRACTICES RELATED TO ORGANIC PRODUCTION.—

"(1) PAYMENTS AUTHORIZED.—The Secretary shall provide payments under this subsection for conservation practices, on some or all of the operations of a producer, related—

"(A) to organic production; and

"(B) to the transition to organic production.

"(2) ELIGIBILITY REQUIREMENTS.—As a condition for receiving payments under this subsection, a producer shall agree—

"(A) to develop and carry out an organic system plan; or

"(B) to develop and implement conservation practices for certified organic production that are consistent with an organic system plan and the purposes of this chapter.

"(3) PAYMENT LIMITATIONS.—Payments under this subsection to a person or legal entity, directly or indirectly, may not exceed, in the aggregate, $20,000 per year or $80,000 during any 6-year period. In applying these limitations, the Secretary shall not take into account payments received for technical assistance.

"(4) EXCLUSION OF CERTAIN ORGANIC CERTIFICATION COSTS.—Payments may not be made under this subsection to cover the costs associated with organic certification that are eligible for cost-share payments under section 10606 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 6523).

"(5) TERMINATION OF CONTRACTS.—The Secretary may cancel or otherwise nullify a contract to provide payments under this subsection if the Secretary determines that the producer—

"(A) is not pursuing organic certification; or

"(B) is not in compliance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).".

SEC. 2504. EVALUATION OF APPLICATIONS.

Section 1240C of the Food Security Act of 1985 (16 U.S.C. 3839aa–3) is amended to read as follows:

"SEC. 1240C. EVALUATION OF APPLICATIONS.

"(a) EVALUATION CRITERIA.—The Secretary shall develop criteria for evaluating applications that will ensure that national, State, and local conservation priorities are effectively addressed.

"(b) PRIORITIZATION OF APPLICATIONS.—In evaluating applications under this chapter, the Secretary shall prioritize applications—

"(1) based on their overall level of cost-effectiveness to ensure that the conservation practices and approaches proposed are the most efficient means of achieving the anticipated environmental benefits of the project;

"(2) based on how effectively and comprehensively the project addresses the designated resource concern or resource concerns;

"(3) that best fulfill the purpose of the environmental quality incentives program specified in section 1240(1); and

"(4) that improve conservation practices or systems in place on the operation at the time the contract offer is accepted or that will complete a conservation system.

"(c) GROUPING OF APPLICATIONS.—To the greatest extent practicable, the Secretary shall group applications of similar crop or livestock operations for evaluation purposes or otherwise evaluate applications relative to other applications for similar farming operations.".

SEC. 2505. DUTIES OF PRODUCERS UNDER ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Section 1240D of the Food Security Act of 1985 (16 U.S.C. 3839aa–4) is amended—

(1) in the matter preceding paragraph (1), by striking "technical assistance, cost-share payments, or incentive";

(2) in paragraph (2), by striking "farm or ranch" and inserting "farm, ranch, or forest land"; and

(3) in paragraph (4), by striking "cost-share payments and incentive".

SEC. 2506. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

(a) PLAN OF OPERATIONS.—Section 1240E(a) of the Food Security Act of 1985 (16 U.S.C. 3839aa–5(a)) is amended—

(1) in the subsection heading, by striking "IN GENERAL" and inserting "PLAN OF OPERATIONS";

(2) in matter preceding paragraph (1), by striking "cost-share payments or incentive";

(3) in paragraph (2), by striking "and" after the semicolon at the end;

(4) in paragraph (3), by striking the period at the end and inserting "; and"; and

(5) by adding at the end the following new paragraph:

"(4) in the case of forest land, is consistent with the provisions of a forest management plan that is approved by the Secretary, which may include—

"(A) a forest stewardship plan described in section 5 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103a);

"(B) another practice plan approved by the State forester; or

"(C) another plan determined appropriate by the Secretary.".

(b) AVOIDANCE OF DUPLICATION.—Subsection (b) of section 1240E of the Food Security Act of 1985 (16 U.S.C. 3839aa–5) is amended to read as follows:

"(b) AVOIDANCE OF DUPLICATION.—The Secretary shall—

"(1) consider a plan developed in order to acquire a permit under a water or air quality regulatory program as the equivalent of a plan of operations under subsection (a), if the plan contains elements equivalent to those elements required by a plan of operations; and

"(2) to the maximum extent practicable, eliminate duplication of planning activities under the program under this chapter and comparable conservation programs.".

SEC. 2507. DUTIES OF THE SECRETARY.

Section 1240F(1) of the Food Security Act of 1985 (16 U.S.C. 3839aa–6(1)) is amended by striking "cost-share payments or incentive".

SEC. 2508. LIMITATION ON ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PAYMENTS.

Section 1240G of the Food Security Act of 1985 (16 U.S.C. 3839aa–7) is amended—

*(1) by striking "An individual or entity" and inserting "(a) **LIMITATION**.—Subject to subsection (b), a person or legal entity";*

(2) by striking "$450,000" and inserting "$300,000";

(3) by striking "the individual" both places it appears and inserting "the person"; and

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

"(b) WAIVER AUTHORITY.—In the case of contracts under this chapter for projects of special environmental significance (including projects involving methane digesters), as determined by the Secretary, the Secretary may—

"(1) waive the limitation otherwise applicable under subsection (a); and

"(2) raise the limitation to not more than $450,000 during any six-year period.".

SEC. 2509. CONSERVATION INNOVATION GRANTS AND PAYMENTS.

Section 1240H of the Food Security Act of 1985 (16 U.S.C. 3839aa–8) is amended to read as follows:

"SEC. 1240H. CONSERVATION INNOVATION GRANTS AND PAYMENTS.

"(a) COMPETITIVE GRANTS FOR INNOVATIVE CONSERVATION APPROACHES.—

"(1) GRANTS.—Out of the funds made available to carry out this chapter, the Secretary may pay the cost of competitive grants that are intended to stimulate innovative approaches to leveraging the Federal investment in environmental enhancement and protection, in conjunction with agricultural production or forest resource management, through the program.

"(2) USE.—The Secretary may provide grants under this subsection to governmental and non-governmental organizations and persons, on a competitive basis, to carry out projects that—

"(A) involve producers who are eligible for payments or technical assistance under the program;

"(B) leverage Federal funds made available to carry out the program under this chapter with matching funds provided by State and local governments and private organizations to promote environmental enhancement and protection in conjunction with agricultural production;

"(C) ensure efficient and effective transfer of innovative technologies and approaches demonstrated through projects that receive funding under this section, such as market systems for pollution reduction and practices for the storage of carbon in soil; and

"(D) provide environmental and resource conservation benefits through increased participation by producers of specialty crops.

"(b) AIR QUALITY CONCERNS FROM AGRICULTURAL OPERATIONS.—

"(1) IMPLEMENTATION ASSISTANCE.—The Secretary shall provide payments under this subsection to producers to implement practices to address air quality concerns from agricultural operations and to meet Federal, State, and local regulatory requirements. The funds shall be made available on the basis of air quality concerns in a State and shall be used to provide payments to producers that are cost effective and reflect innovative technologies.

"(2) FUNDING.—Of the funds made available to carry out this chapter, the Secretary shall carry out this subsection using $37,500,000 for each of fiscal years 2009 through 2012.".

SEC. 2510. AGRICULTURAL WATER ENHANCEMENT PROGRAM.

Section 1240I of the Food Security Act of 1985 (16 U.S.C. 3839aa–9) is amended to read as follows:

"SEC. 1240I. AGRICULTURAL WATER ENHANCEMENT PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) AGRICULTURAL WATER ENHANCEMENT ACTIVITY.—The term 'agricultural water enhancement activity' includes the following activities carried out with respect to agricultural land:

"(A) Water quality or water conservation plan development, including resource condition assessment and modeling.

"(B) Water conservation restoration or enhancement projects, including conversion to the production of less water-intensive agricultural commodities or dryland farming.

"(C) Water quality or quantity restoration or enhancement projects.

"(D) Irrigation system improvement and irrigation efficiency enhancement.

"(E) Activities designed to mitigate the effects of drought.

"(F) Related activities that the Secretary determines will help achieve water quality or water conservation benefits on agricultural land.

"(2) PARTNER.—The term 'partner' means an entity that enters into a partnership agreement with the Secretary to carry out agricultural water enhancement activities on a regional basis, including—

"(A) an agricultural or silvicultural producer association or other group of such producers;

"(B) a State or unit of local government; or

"(C) a federally recognized Indian tribe.

"(3) PARTNERSHIP AGREEMENT.—The term 'partnership agreement' means an agreement between the Secretary and a partner.

"(4) PROGRAM.—The term 'program' means the agricultural water enhancement program established under subsection (b).

"(b) ESTABLISHMENT OF PROGRAM.—Beginning in fiscal year 2009, the Secretary shall carry out, in accordance with this section and using such procedures as the Secretary determines to be appropriate, an agricultural water enhancement program as part of the environmental quality incentives program to promote ground and surface water conservation and improve water quality on agricultural lands—

"(1) by entering into contracts with, and making payments to, producers to carry out agricultural water enhancement activities; or

"(2) by entering into partnership agreements with partners, in accordance with subsection (c), on a regional level to benefit working agricultural land.

"(c) PARTNERSHIP AGREEMENTS.—

"(1) AGREEMENTS AUTHORIZED.—The Secretary may enter into partnership agreements to meet the objectives of the program described in subsection (b).

"(2) APPLICATIONS.—An application to the Secretary to enter into a partnership agreement under paragraph (1) shall include the following:

"(A) A description of the geographical area to be covered by the partnership agreement.

"(B) A description of the agricultural water quality or water conservation issues to be addressed by the partnership agreement.

"(C) A description of the agricultural water enhancement objectives to be achieved through the partnership.

"(D) A description of the partners collaborating to achieve the project objectives and the roles, responsibilities, and capabilities of each partner.

"(E) A description of the program resources, including payments the Secretary is requested to make.

"(F) Such other elements as the Secretary considers necessary to adequately evaluate and competitively select applications for partnership agreements.

"(3) DUTIES OF PARTNERS.—A partner under a partnership agreement shall—

"(A) identify producers participating in the project and act on their behalf in applying for the program;

"(B) leverage funds provided by the Secretary with additional funds to help achieve project objectives;

"(C) conduct monitoring and evaluation of project effects; and

"(D) at the conclusion of the project, report to the Secretary on project results.

"(d) AGRICULTURAL WATER ENHANCEMENT ACTIVITIES BY PRODUCERS.—The Secretary shall select agricultural water enhancement activities proposed by producers according to applicable requirements under the environmental quality incentives program.

"(e) AGRICULTURAL WATER ENHANCEMENT ACTIVITIES BY PARTNERS.—

"(1) COMPETITIVE PROCESS.—The Secretary shall conduct a competitive process to select partners. In carrying out the process, the Secretary shall make public the criteria used in evaluating applications.

"(2) AUTHORITY TO GIVE PRIORITY TO CERTAIN PROPOSALS.—The Secretary may give a higher priority to proposals from partners that—

"(A) include high percentages of agricultural land and producers in a region or other appropriate area;

"(B) result in high levels of applied agricultural water quality and water conservation activities;

"(C) significantly enhance agricultural activity;

"(D) allow for monitoring and evaluation; and

"(E) assist producers in meeting a regulatory requirement that reduces the economic scope of the producer's operation.

"(3) PRIORITY TO PROPOSALS FROM STATES WITH WATER QUANTITY CONCERNS.—The Secretary shall give a higher priority to proposals from partners that—

"(A) include the conversion of agricultural land from irrigated farming to dryland farming;

"(B) leverage Federal funds provided under the program with funds provided by partners; and

"(C) assist producers in States with water quantity concerns, as determined by the Secretary.

"(4) ADMINISTRATION.—In carrying out this subsection, the Secretary shall—

"(A) accept qualified applications—

"(i) directly from partners applying on behalf of producers; or

"(ii) from producers applying through a partner as part of a regional agricultural water enhancement project; and

"(B) ensure that resources made available for regional agricultural water enhancement activities are delivered in accordance with applicable program rules.

"(f) AREAS EXPERIENCING EXCEPTIONAL DROUGHT.—Notwithstanding the purposes described in section 1240, the Secretary shall consider as an eligible agricultural water enhancement activity the use of a water impoundment to capture surface water runoff on agricultural land if the agricultural water enhancement activity—

"(1) is located in an area that is experiencing or has experienced exceptional drought conditions during the previous two calendar years; and

"(2) will capture surface water runoff through the construction, improvement, or maintenance of irrigation ponds or small, on-farm reservoirs.

"(g) WAIVER AUTHORITY.—To assist in the implementation of agricultural water enhancement activities under the program, the Secretary shall waive the applicability of the limitation in section 1001D(b)(2)(B) of this Act for participating producers if the Secretary determines that the waiver is necessary to fulfill the objectives of the program.

"(h) PAYMENTS UNDER PROGRAM.—

"(1) IN GENERAL.—The Secretary shall provide appropriate payments to producers participating in agricultural water enhancement activities in an amount determined by the secretary to be necessary to achieve the purposes of the program described in subsection (b).

"(2) PAYMENTS TO PRODUCERS IN STATES WITH WATER QUANTITY CONCERNS.—The Secretary shall provide payments for a period of five years to producers participating in agricultural water enhancement activities under proposals described in subsection (e)(3) in an amount sufficient to encourage producers to convert from irrigated farming to dryland farming.

"(i) CONSISTENCY WITH STATE LAW.—Any agricultural water enhancement activity conducted under the program shall be conducted in a manner consistent with State water law.

"(j) FUNDING.—

"(1) AVAILABILITY OF FUNDS.—In addition to funds made available to carry out this chapter under section 1241(a), the Secretary shall carry out the program using, of the funds of the Commodity Credit Corporation—

"(A) $73,000,000 for each of fiscal years 2009 and 2010;

"(B) $74,000,000 for fiscal year 2011; and

"(C) $60,000,000 for fiscal year 2012 and each fiscal year thereafter.

"(2) LIMITATION ON ADMINISTRATIVE EXPENSES.—None of the funds made available for regional agricultural water conservation activities under the program may be used to pay for the administrative expenses of partners.".

Subtitle G—Other Conservation Programs of the Food Security Act of 1985

SEC. 2601. CONSERVATION OF PRIVATE GRAZING LAND.

Section 1240M(e) of the Food Security Act of 1985 (16 U.S.C. 3839bb(e)) is amended by striking "2007" and inserting "2012".

SEC. 2602. WILDLIFE HABITAT INCENTIVE PROGRAM.

(a) ELIGIBILITY.—Section 1240N of the Food Security Act of 1985 (16 U.S.C. 3839bb–1) is amended—

(1) in subsection (a), by inserting before the period at the end the following: "for the development of wildlife habitat on private agricultural land, nonindustrial private forest land, and tribal lands".

(2) in subsection (b)(1), by striking "landowners" and inserting "owners of lands referred to in subsection (a)".

(b) INCLUSION OF PIVOT CORNERS AND IRREGULAR AREAS.—Section 1240N(b)(1)(E) of the Food Security Act of 1985 (16 U.S.C. 3839bb–1(b)(1)(E)) is amended by inserting before the period at the end the following: ", including habitat developed on pivot corners and irregular areas".

(c) COST SHARE FOR LONG-TERM AGREEMENTS.—Section 1240N(b)(2)(B) of the Food Security Act of 1985 (16 U.S.C. 3839bb–1(b)(2)(B)) is amended by striking "15 percent" and inserting "25 percent".

(d) PRIORITY FOR CERTAIN CONSERVATION INITIATIVES; PAYMENT LIMITATION.—Section 1240N of the Food Security Act of 1985 (16 U.S.C. 3839bb–1) is amended by adding at the end the following new subsections:

"(d) PRIORITY FOR CERTAIN CONSERVATION INITIATIVES.—In carrying out this section, the Secretary may give priority to projects that would address issues raised by State, regional, and national conservation initiatives.

"(e) PAYMENT LIMITATION.—Payments made to a person or legal entity, directly or indirectly, under the program may not exceed, in the aggregate, $50,000 per year.".

SEC. 2603. GRASSROOTS SOURCE WATER PROTECTION PROGRAM.

Section 1240O(b) of the Food Security Act of 1985 (16 U.S.C. 3839bb–2(b)) is amended by striking "$5,000,000 for each of fiscal years 2002 through 2007" and inserting "$20,000,000 for each of fiscal years 2008 through 2012".

SEC. 2604. GREAT LAKES BASIN PROGRAM FOR SOIL EROSION AND SEDIMENT CONTROL.

Section 1240P of the Food Security Act of 1985 (16 U.S.C. 3839bb–3) is amended to read as follows:

"SEC. 1240P. GREAT LAKES BASIN PROGRAM FOR SOIL EROSION AND SEDIMENT CONTROL.

"(a) PROGRAM AUTHORIZED.—The Secretary may carry out the Great Lakes basin program for soil erosion and sediment control (referred to in this section as the 'program'), including providing assistance to implement the recommendations of the Great Lakes Regional Collaboration Strategy to Restore and Protect the Great Lakes.

"(b) CONSULTATION AND COOPERATION.—The Secretary shall carry out the program in consultation with the Great Lakes Com-

mission created by Article IV of the Great Lakes Basin Compact (82 Stat. 415) and in cooperation with the Administrator of the Environmental Protection Agency and the Secretary of the Army.

"(c) ASSISTANCE.—In carrying out the program, the Secretary may—

"(1) provide project demonstration grants, provide technical assistance, and carry out information and educational programs to improve water quality in the Great Lakes basin by reducing soil erosion and improving sediment control; and

"(2) establish a priority for projects and activities that—

"(A) directly reduce soil erosion or improve sediment control;

"(B) reduce soil loss in degraded rural watersheds; or

"(C) improve water quality for downstream watersheds.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out the program $5,000,000 for each of fiscal years 2008 through 2012.".

SEC. 2605. CHESAPEAKE BAY WATERSHED PROGRAM.

Chapter 5 of subtitle D of title XII of the Food Security Act of 1985 is amended by inserting after section 1240P (16 U.S.C. 3839bb–3) the following new section:

"SEC. 1240Q. CHESAPEAKE BAY WATERSHED.

"(a) CHESAPEAKE BAY WATERSHED DEFINED.—In this section, the term 'Chesapeake Bay watershed' means all tributaries, backwaters, and side channels, including their watersheds, draining into the Chesapeake Bay.

"(b) ESTABLISHMENT AND PURPOSE.—The Secretary shall assist producers in implementing conservation activities on agricultural lands in the Chesapeake Bay watershed for the purposes of—

"(1) improving water quality and quantity in the Chesapeake Bay watershed; and

"(2) restoring, enhancing, and preserving soil, air, and related resources in the Chesapeake Bay watershed.

"(c) CONSERVATION ACTIVITIES.—The Secretary shall deliver the funds made available to carry out this section through applicable programs under this subtitle to assist producers in enhancing land and water resources—

"(1) by controlling erosion and reducing sediment and nutrient levels in ground and surface water; and

"(2) by planning, designing, implementing, and evaluating habitat conservation, restoration, and enhancement measures where there is significant ecological value if the lands are—

"(A) retained in their current use; or

"(B) restored to their natural condition.

"(d) AGREEMENTS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) enter into agreements with producers to carry out the purposes of this section; and

"(B) use the funds made available to carry out this section to cover the costs of the program involved with each agreement.

"(2) SPECIAL CONSIDERATIONS.—In entering into agreements under this subsection, the Secretary shall give special

consideration to, and begin evaluating, applications with producers in the following river basins:

"(A) The Susquehanna River.

"(B) The Shenandoah River.

"(C) The Potomac River (including North and South Potomac).

"(D) The Patuxent River.

"(e) DUTIES OF THE SECRETARY.—In carrying out the purposes in this section, the Secretary shall—

"(1) where available, use existing plans, models, and assessments to assist producers in implementing conservation activities; and

"(2) proceed expeditiously with the implementation of any agreement with a producer that is consistent with State strategies for the restoration of the Chesapeake Bay watershed.

"(f) CONSULTATION.—The Secretary, in consultation with appropriate Federal agencies, shall ensure conservation activities carried out under this section complement Federal and State programs, including programs that address water quality, in the Chesapeake Bay watershed.

"(g) SENSE OF CONGRESS REGARDING CHESAPEAKE BAY EXECUTIVE COUNCIL.—It is the sense of Congress that the Secretary should be a member of the Chesapeake Bay Executive Council, and is authorized to do so under section 1(3) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a(3)).

"(h) FUNDING.—

"(1) AVAILABILITY.—Of the funds of the Commodity Credit Corporation, the Secretary shall use, to the maximum extent practicable—

"(A) $23,000,000 for fiscal year 2009;

"(B) $43,000,000 for fiscal year 2010;

"(C) $72,000,000 for fiscal year 2011; and

"(D) $50,000,000 for fiscal year 2012.

"(2) DURATION OF AVAILABILITY.—Funds made available under paragraph (1) shall remain available until expended."

SEC. 2606. VOLUNTARY PUBLIC ACCESS AND HABITAT INCENTIVE PROGRAM.

Chapter 5 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839bb et seq.) is amended by inserting after section 1240Q, as added by section 2605, the following new section:

"SEC. 1240R. VOLUNTARY PUBLIC ACCESS AND HABITAT INCENTIVE PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish a voluntary public access program under which States and tribal governments may apply for grants to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make that land available for access by the public for wildlife-dependent recreation, including hunting or fishing under programs administered by the States and tribal governments.

"(b) APPLICATIONS.—In submitting applications for a grant under the program, a State or tribal government shall describe—

"(1) the benefits that the State or tribal government intends to achieve by encouraging public access to private farm and ranch land for—

"(A) hunting and fishing; and

"(B) to the maximum extent practicable, other recreational purposes; and

"(2) the methods that will be used to achieve those benefits.

"(c) PRIORITY.—In approving applications and awarding grants under the program, the Secretary shall give priority to States and tribal governments that propose—

"(1) to maximize participation by offering a program the terms of which are likely to meet with widespread acceptance among landowners;

"(2) to ensure that land enrolled under the State or tribal government program has appropriate wildlife habitat;

"(3) to strengthen wildlife habitat improvement efforts on land enrolled in a special conservation reserve enhancement program described in section 1234(f)(4) by providing incentives to increase public hunting and other recreational access on that land;

"(4) to use additional Federal, State, tribal government, or private resources in carrying out the program; and

"(5) to make available to the public the location of land enrolled.

"(d) RELATIONSHIP TO OTHER LAWS.—

"(1) NO PREEMPTION.—Nothing in this section preempts a State or tribal government law, including any State or tribal government liability law.

"(2) EFFECT OF INCONSISTENT OPENING DATES FOR MIGRATORY BIRD HUNTING.—The Secretary shall reduce by 25 percent the amount of a grant otherwise determined for a State under the program if the opening dates for migratory bird hunting in the State are not consistent for residents and non-residents.

"(e) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out this section.

"(f) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use, to the maximum extent practicable, $50,000,000 for the period of fiscal years 2009 through 2012.".

Subtitle H—Funding and Administration of Conservation Programs

SEC. 2701. FUNDING OF CONSERVATION PROGRAMS UNDER FOOD SECURITY ACT OF 1985.

(a) IN GENERAL.—Section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended in the matter preceding paragraph (1), by striking "2007" and inserting "2012".

(b) CONSERVATION RESERVE PROGRAM.—Paragraph (1) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended by striking the period at the end and inserting the following: ", including to the maximum extent practicable—

"(A) $100,000,000 for the period of fiscal years 2009 through 2012 to provide cost share payments under paragraph (3) of section 1234(b) in connection with thinning activities conducted on land described in subparagraph (A)(iii) of such paragraph; and

"(B) $25,000,000 for the period of fiscal years 2009 through 2012 to carry out section 1235(f) to facilitate the transfer of land subject to contracts from retired or retiring

owners and operators to beginning farmers or ranchers and socially disadvantaged farmers or ranchers.".

(c) CONSERVATION SECURITY AND CONSERVATION STEWARDSHIP PROGRAMS.—Paragraph (3) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended to read as follows:

"(3)(A) CONSERVATION SECURITY PROGRAM.—The conservation security program under subchapter A of chapter 2, using such sums as are necessary to administer contracts entered into before September 30, 2008.

"(B) CONSERVATION STEWARDSHIP PROGRAM.—The conservation stewardship program under subchapter B of chapter 2.".

(d) FARMLAND PROTECTION PROGRAM.—Paragraph (4) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended to read as follows:

"(4) The farmland protection program under subchapter C of chapter 2, using, to the maximum extent practicable—

"(A) $97,000,000 in fiscal year 2008;
"(B) $121,000,000 in fiscal year 2009;
"(C) $150,000,000 in fiscal year 2010;
"(D) $175,000,000 in fiscal year 2011; and
"(E) $200,000,000 in fiscal year 2012.".

(e) GRASSLAND RESERVE PROGRAM.—Paragraph (5) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended to read as follows:

"(5) The grassland reserve program under subchapter D of chapter 2.".

(f) ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.—Paragraph (6) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended to read as follows:

"(6) The environmental quality incentives program under chapter 4, using, to the maximum extent practicable—

"(A) $1,200,000,000 in fiscal year 2008;
"(B) $1,337,000,000 in fiscal year 2009;
"(C) $1,450,000,000 in fiscal year 2010;
"(D) $1,588,000,000 in fiscal year 2011; and
"(E) $1,750,000,000 in fiscal year 2012.".

(g) WILDLIFE HABITAT INCENTIVES PROGRAM.—Paragraph (7)(D) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended by striking "2007" and inserting "2012".

SEC. 2702. AUTHORITY TO ACCEPT CONTRIBUTIONS TO SUPPORT CONSERVATION PROGRAMS.

Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by adding at the end the following new subsection:

"(e) ACCEPTANCE AND USE OF CONTRIBUTIONS.—

"(1) AUTHORITY TO ESTABLISH CONTRIBUTION ACCOUNTS.—Subject to paragraph (2), the Secretary may establish a sub-account for each conservation program administered by the Secretary under subtitle D to accept contributions of non-Federal funds to support the purposes of the program.

"(2) DEPOSIT AND USE OF CONTRIBUTIONS.—Contributions of non-Federal funds received for a conservation program administered by the Secretary under subtitle D shall be deposited into the sub-account established under this subsection for the program and shall be available to the Secretary, without fur-

ther appropriation and until expended, to carry out the program.".

SEC. 2703. REGIONAL EQUITY AND FLEXIBILITY.

(a) REGIONAL EQUITY AND FLEXIBILITY.—Section 1241(d) of the Food Security Act of 1985 (16 U.S.C. 3841(d)) is amended—

(1) by striking "Before April 1" and inserting the following:

"(1) PRIORITY FUNDING TO PROMOTE EQUITY.—Before April 1";

(2) by striking "$12,000,000" and inserting "$15,000,000"; and

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

"(2) SPECIFIC FUNDING ALLOCATIONS.—In determining the specific funding allocations for States under paragraph (1), the Secretary shall consider the respective demand in each State for each program covered by such paragraph.".

(b) ALLOCATIONS REVIEW AND UPDATE.—Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by inserting after subsection (e), as added by section 2702, the following new subsection:

"(f) ALLOCATIONS REVIEW AND UPDATE.—

"(1) REVIEW.—Not later than January 1, 2012, the Secretary shall conduct a review of conservation programs and authorities under this title that utilize allocation formulas to determine the sufficiency of the formulas in accounting for State-level economic factors, level of agricultural infrastructure, or related factors that affect conservation program costs.

"(2) UPDATE.—The Secretary shall improve conservation program allocation formulas as necessary to ensure that the formulas adequately reflect the costs of carrying out the conservation programs.".

SEC. 2704. ASSISTANCE TO CERTAIN FARMERS AND RANCHERS TO IMPROVE THEIR ACCESS TO CONSERVATION PROGRAMS.

Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by inserting after subsection (f), as added by section 2703(b), the following new subsection:

"(g) ASSISTANCE TO CERTAIN FARMERS OR RANCHERS FOR CONSERVATION ACCESS.—

"(1) ASSISTANCE.—Of the funds made available for each of fiscal years 2009 through 2012 to carry out the environmental quality incentives program and the acres made available for each of such fiscal years to carry out the conservation stewardship program, the Secretary shall use, to the maximum extent practicable—

"(A) 5 percent to assist beginning farmers or ranchers; and

"(B) 5 percent to assist socially disadvantaged farmers or ranchers.

"(2) REPOOLING OF FUNDS.—In any fiscal year, amounts not obligated under paragraph (1) by a date determined by the Secretary shall be available for payments and technical assistance to all persons eligible for payments or technical assistance in that fiscal year under the environmental quality incentives program.

"(3) REPOOLING OF ACRES.—In any fiscal year, acres not obligated under paragraph (1) by a date determined by the Secretary shall be available for use in that fiscal year under the conservation stewardship program.".

SEC. 2705. REPORT REGARDING ENROLLMENTS AND ASSISTANCE UNDER CONSERVATION PROGRAMS.

Section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841) is amended by inserting after subsection (g), as added by section 2704, the following new subsection:

"(h) REPORT ON PROGRAM ENROLLMENTS AND ASSISTANCE.—Beginning in calendar year 2009, and each year thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a semiannual report containing statistics by State related to enrollments in conservation programs under this subtitle, as follows:

"(1) Payments made under the wetlands reserve program for easements valued at $250,000 or greater.

"(2) Payments made under the farmland protection program for easements in which the Federal share is $250,000 or greater.

"(3) Payments made under the grassland reserve program valued at $250,000 or greater.

"(4) Payments made under the environmental quality incentives program for land determined to have special environmental significance pursuant to section 1240G(b).

"(5) Payments made under the agricultural water enhancement program subject to the waiver of adjusted gross income limitations pursuant to section 1240I(g).

"(6) Waivers granted by the Secretary under section 1001D(b)(2) of this Act in order to protect environmentally sensitive land of special significance.".

SEC. 2706. DELIVERY OF CONSERVATION TECHNICAL ASSISTANCE.

Section 1242 of the Food Security Act of 1985 (16 U.S.C. 3842) is amended to read as follows:

"SEC. 1242. DELIVERY OF TECHNICAL ASSISTANCE.

"(a) DEFINITION OF ELIGIBLE PARTICIPANT.—In this section, the term 'eligible participant' means a producer, landowner, or entity that is participating in, or seeking to participate in, programs for which the producer, landowner, or entity is otherwise eligible to participate in under this title or the agricultural management assistance program under section 524 of the Federal Crop Insurance Act (7 U.S.C. 1524).

"(b) PURPOSE OF TECHNICAL ASSISTANCE.—The purpose of technical assistance authorized by this section is to provide eligible participants with consistent, science-based, site-specific practices designed to achieve conservation objectives on land active in agricultural, forestry, or related uses.

"(c) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance under this title to an eligible participant—

"(1) directly;

"(2) through an agreement with a third-party provider; or

"(3) at the option of the eligible participant, through a payment, as determined by the Secretary, to the eligible participant for an approved third-party provider, if available.

"(d) NON-FEDERAL ASSISTANCE.—The Secretary may request the services of, and enter into cooperative agreements or contracts with, other agencies within the Department or non-Federal entities to assist the Secretary in providing technical assistance necessary to assist in implementing conservation programs under this title.

"(e) CERTIFICATION OF THIRD-PARTY PROVIDERS.—

"(1) PURPOSE.—The purpose of the third-party provider program is to increase the availability and range of technical expertise available to eligible participants to plan and implement conservation measures.

"(2) REGULATIONS.—Not later than 180 days after the date of the enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall promulgate such regulations as are necessary to carry out this section.

"(3) EXPERTISE.—In promulgating such regulations, the Secretary, to the maximum extent practicable, shall—

"(A) ensure that persons with expertise in the technical aspects of conservation planning, watershed planning, and environmental engineering, including commercial entities, nonprofit entities, State or local governments or agencies, and other Federal agencies, are eligible to become approved providers of the technical assistance;

"(B) provide national criteria for the certification of third-party providers; and

"(C) approve any unique certification standards established at the State level.

"(f) ADMINISTRATION.—

"(1) FUNDING.—Effective for fiscal year 2008 and each subsequent fiscal year, funds of the Commodity Credit Corporation made available to carry out technical assistance for each of the programs specified in section 1241 shall be available for the provision of technical assistance from third-party providers under this section.

"(2) TERM OF AGREEMENT.—An agreement with a third-party provider under this section shall have a term that—

"(A) at a minimum, is equal to the period beginning on the date on which the agreement is entered into and ending on the date that is 1 year after the date on which all activities performed pursuant to the agreement have been completed;

"(B) does not exceed 3 years; and

"(C) can be renewed, as determined by the Secretary.

"(3) REVIEW OF CERTIFICATION REQUIREMENTS.—Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall—

"(A) review certification requirements for third-party providers; and

"(B) make any adjustments considered necessary by the Secretary to improve participation.

"(4) ELIGIBLE ACTIVITIES.—

"(A) INCLUSION OF ACTIVITIES.—The Secretary may include as activities eligible for payments to a third party provider—

"(i) technical services provided directly to eligible participants, such as conservation planning, education and outreach, and assistance with design and implementation of conservation practices; and

"(ii) related technical assistance services that accelerate conservation program delivery.

"(B) EXCLUSIONS.—The Secretary shall not designate as an activity eligible for payments to a third party provider any service that is provided by a business, or equivalent, in connection with conducting business and that is customarily provided at no cost.

"(5) PAYMENT AMOUNTS.—The Secretary shall establish fair and reasonable amounts of payments for technical services provided by third-party providers.

"(g) AVAILABILITY OF TECHNICAL SERVICES.—

"(1) IN GENERAL.—In carrying out the programs under this title and the agricultural management assistance program under section 524 of the Federal Crop Insurance Act (7 U.S.C. 1524), the Secretary shall make technical services available to all eligible participants who are installing an eligible practice.

"(2) TECHNICAL SERVICE CONTRACTS.—In any case in which financial assistance is not provided under a program referred to in paragraph (1), the Secretary may enter into a technical service contract with the eligible participant for the purposes of assisting in the planning, design, or installation of an eligible practice.

"(h) REVIEW OF CONSERVATION PRACTICE STANDARDS.—

"(1) REVIEW REQUIRED.—The Secretary shall—

"(A) review conservation practice standards, including engineering design specifications, in effect on the date of the enactment of the Food, Conservation, and Energy Act of 2008;

"(B) ensure, to the maximum extent practicable, the completeness and relevance of the standards to local agricultural, forestry, and natural resource needs, including specialty crops, native and managed pollinators, bioenergy crop production, forestry, and such other needs as are determined by the Secretary; and

"(C) ensure that the standards provide for the optimal balance between meeting site-specific conservation needs and minimizing risks of design failure and associated costs of construction and installation.

"(2) CONSULTATION.—In conducting the review under paragraph (1), the Secretary shall consult with eligible participants, crop consultants, cooperative extension and land grant universities, nongovernmental organizations, and other qualified entities.

"(3) EXPEDITED REVISION OF STANDARDS.—If the Secretary determines under paragraph (1) that revisions to the conservation practice standards, including engineering design specifications, are necessary, the Secretary shall establish an administrative process for expediting the revisions.

"(i) ADDRESSING CONCERNS OF SPECIALITY CROP, ORGANIC, AND PRECISION AGRICULTURE PRODUCERS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) to the maximum extent practicable, fully incorporate specialty crop production, organic crop production, and precision agriculture into the conservation practice standards; and

"(B) provide for the appropriate range of conservation practices and resource mitigation measures available to producers involved with organic or specialty crop production or precision agriculture.

"(2) AVAILABILITY OF ADEQUATE TECHNICAL ASSISTANCE.—

"(A) IN GENERAL.—The Secretary shall ensure that adequate technical assistance is available for the implementation of conservation practices by producers involved with organic, specialty crop production, or precision agriculture through Federal conservation programs.

"(B) REQUIREMENTS.—In carrying out subparagraph (A), the Secretary shall develop—

"(i) programs that meet specific needs of producers involved with organic, specialty crop production or precision agriculture through cooperative agreements with other agencies and nongovernmental organizations; and

"(ii) program specifications that allow for innovative approaches to engage local resources in providing technical assistance for planning and implementation of conservation practices.".

SEC. 2707. COOPERATIVE CONSERVATION PARTNERSHIP INITIATIVE.

(a) TRANSFER OF EXISTING PROVISIONS.—Subsections (a), (c), and (d) of section 1243 of the Food Security Act of 1985 (16 U.S.C. 3843) are—

(1) redesignated as subsections (c), (d), and (e), respectively; and

(2) transferred to appear at the end of section 1244 of such Act (16 U.S.C. 3844).

(b) ESTABLISHMENT OF PARTNERSHIP INITIATIVE.—Section 1243 of the Food Security Act of 1985 (16 U.S.C. 3843), as amended by subsection (a), is amended to read as follows:

"SEC. 1243. COOPERATIVE CONSERVATION PARTNERSHIP INITIATIVE.

"(a) ESTABLISHMENT OF INITIATIVE.—The Secretary shall establish a cooperative conservation partnership initiative (in this section referred to as the 'Initiative') to work with eligible partners to provide assistance to producers enrolled in a program described in subsection (c)(1) that will enhance conservation outcomes on agricultural and nonindustrial private forest land.

"(b) PURPOSES.—The purposes of a partnership entered into under the Initiative shall be—

"(1) to address conservation priorities involving agriculture and nonindustrial private forest land on a local, State, multi-State, or regional level;

"(2) to encourage producers to cooperate in meeting applicable Federal, State, and local regulatory requirements related to

production involving agriculture and nonindustrial private forest land;

"(3) to encourage producers to cooperate in the installation and maintenance of conservation practices that affect multiple agricultural or nonindustrial private forest operations; or

"(4) to promote the development and demonstration of innovative conservation practices and delivery methods, including those for specialty crop and organic production and precision agriculture producers.

"(c) INITIATIVE PROGRAMS.—

"(1) COVERED PROGRAMS.—Except as provided in paragraph (2), the Initiative applies to all conservation programs under subtitle D.

"(2) EXCLUDED PROGRAMS.—The Initiative shall not include the following programs:

"(A) Conservation reserve program.

"(B) Wetlands reserve program.

"(C) Farmland protection program.

"(D) Grassland reserve program.

"(d) ELIGIBLE PARTNERS.—The Secretary may enter into a partnership under the Initiative with one or more of the following:

"(1) States and local governments.

"(2) Indian tribes.

"(3) Producer associations.

"(4) Farmer cooperatives.

"(5) Institutions of higher education.

"(6) Nongovernmental organizations with a history of working cooperatively with producers to effectively address conservation priorities related to agricultural production and nonindustrial private forest land.

"(e) IMPLEMENTATION AGREEMENTS.—The Secretary shall carry out the Initiative—

"(1) by selecting, through a competitive process, eligible partners from among applications submitted under subsection (f); and

"(2) by entering into multi-year agreements with eligible partners so selected for a period not to exceed 5 years.

"(f) APPLICATIONS.—

"(1) REQUIRED INFORMATION.—An application to enter into a partnership agreement under the Initiative shall include the following:

"(A) A description of the area covered by the agreement, conservation priorities in the area, conservation objectives to be achieved, and the expected level of participation by agricultural producers and nonindustrial private forest landowners.

"(B) A description of the partner, or partners, collaborating to achieve the objectives of the agreement, and the roles, responsibilities, and capabilities of the partner.

"(C) A description of the resources that are requested from the Secretary, and the non-Federal resources that will be leveraged by the Federal contribution.

"(D) A description of the plan for monitoring, evaluating, and reporting on progress made towards achieving the objectives of the agreement.

"(E) Such other information that may be required by the Secretary.

"(2) PRIORITIES.—The Secretary shall give priority to applications for agreements that—

"(A) have a high percentage of producers involved and working agricultural or nonindustrial private forest land included in the area covered by the agreement;

"(B) significantly leverage non-Federal financial and technical resources and coordinate with other local, State, or Federal efforts;

"(C) deliver high percentages of applied conservation to address water quality, water conservation, or State, regional, or national conservation initiatives;

"(D) provide innovation in conservation methods and delivery, including outcome-based performance measures and methods; or

"(E) meet other factors, as determined by the Secretary.

"(g) RELATIONSHIP TO COVERED PROGRAMS.—

"(1) COMPLIANCE WITH PROGRAM RULES.—Except as provided in paragraph (2), the Secretary shall ensure that resources made available under the Initiative are delivered in accordance with the applicable rules of programs specified in subsection (c)(1) through normal program mechanisms relating to program functions, including rules governing appeals, payment limitations, and conservation compliance.

"(2) ADJUSTMENT.—The Secretary may adjust the elements of any program specified in subsection (c)(1)—

"(A) to better reflect unique local circumstances and purposes if the Secretary determines such adjustments are necessary to achieve the purposes of the Initiative; and

"(B) to provide preferential enrollment to producers who are eligible for the applicable program and to participate in the Initiative.

"(h) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary shall provide appropriate technical and financial assistance to producers participating in the Initiative in an amount determined to be necessary to achieve the purposes of the Initiative.

"(i) FUNDING.—

"(1) RESERVATION.—Of the funds and acres made available for each of fiscal years 2009 through 2012 to implement the programs described in subsection (c)(1), the Secretary shall reserve 6 percent of the funds and acres to ensure an adequate source of funds and acres for the Initiative.

"(2) ALLOCATION REQUIREMENTS.—Of the funds and acres reserved for the Initiative for a fiscal year, the Secretary shall allocate—

"(A) 90 percent of the funds and acres to projects based on the direction of State conservationists, with the advice of State technical committees; and

"(B) 10 percent of the funds and acres to projects based on a national competitive process established by the Secretary.

"(3) UNUSED FUNDING.—Any funds and acres reserved for a fiscal year under paragraph (1) that are not obligated by April 1 of that fiscal year may be used to carry out other activi-

ties under the program that is the source of the funds or acres during the remainder of that fiscal year.

"(4) ADMINISTRATIVE COSTS OF PARTNERS.—Overhead or administrative costs of partners may not be covered by funds provided through the Initiative.".

SEC. 2708. ADMINISTRATIVE REQUIREMENTS FOR CONSERVATION PROGRAMS.

Section 1244 of the Food Security Act of 1985 (16 U.S.C. 3844), as amended by section 2707, is further amended—

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

"(a) INCENTIVES FOR CERTAIN FARMERS AND RANCHERS AND INDIAN TRIBES.—

"(1) INCENTIVES AUTHORIZED.—In carrying out any conservation program administered by the Secretary, the Secretary may provide to a person or entity specified in paragraph (2) incentives to participate in the conservation program—

"(A) to foster new farming and ranching opportunities; and

"(B) to enhance long-term environmental goals.

"(2) COVERED PERSONS.—Incentives authorized by paragraph (1) may be provided to the following:

"(A) Beginning farmers or ranchers.

"(B) Socially disadvantaged farmers or ranchers.

"(C) Limited resource farmers or ranchers.

"(D) Indian tribes."; and

(2) by adding at the end the following new subsections:

"(f) ACREAGE LIMITATIONS.—

"(1) LIMITATIONS.—

"(A) ENROLLMENTS.—The Secretary shall not enroll more than 25 percent of the cropland in any county in the programs administered under subchapters B and C of chapter 1 of subtitle D.

"(B) EASEMENTS.—Not more than 10 percent of the cropland in a country may be subject to an easement acquired under subchapter C of chapter 1 of subtitle D.

"(2) EXCEPTIONS.—The Secretary may exceed the limitation in paragraph (1)(A), if the Secretary determines that—

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

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

"(3) WAIVER TO EXCLUDE CERTAIN ACREAGE.—The Secretary may grant a waiver to exclude acreage enrolled under subsection (c)(2)(B) or (f)(4) of section 1234 from the limitations in paragraph (1)(A) with the concurrence of the county government of the county involved.

"(4) SHELTERBELTS AND WINDBREAKS.—The limitations established under paragraph (1) shall not apply to cropland that is subject to an easement under subchapter C of chapter 1 that is used for the establishment of shelterbelts and windbreaks.

"(g) COMPLIANCE AND PERFORMANCE.—For each conservation program under subtitle D, the Secretary shall develop procedures—

"(1) to monitor compliance with program requirements;

"(2) to measure program performance;

"(3) to demonstrate whether the long-term conservation benefits of the program are being achieved;

"(4) to track participation by crop and livestock types; and

"(5) to coordinate activities described in this subsection with the national conservation program authorized under section 5 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2004).

"(h) ENCOURAGEMENT OF POLLINATOR HABITAT DEVELOPMENT AND PROTECTION.—In carrying out any conservation program administered by the Secretary, the Secretary may, as appropriate, encourage—

"(1) the development of habitat for native and managed pollinators; and

"(2) the use of conservation practices that benefit native and managed pollinators.

"(i) STREAMLINED APPLICATION PROCESS.—

"(1) IN GENERAL.—In carrying out each conservation program under this title, the Secretary shall ensure that the application process used by producers and landowners is streamlined to minimize complexity and eliminate redundancy.

"(2) REVIEW AND STREAMLINING.—

"(A) REVIEW.—The Secretary shall carry out a review of the application forms and processes for each conservation program covered by this subsection.

"(B) STREAMLINING.—On completion of the review the Secretary shall revise application forms and processes, as necessary, to ensure that—

"(i) all required application information is essential for the efficient, effective, and accountable implementation of conservation programs;

"(ii) conservation program applicants are not required to provide information that is readily available to the Secretary through existing information systems of the Department of Agriculture;

"(iii) information provided by the applicant is managed and delivered efficiently for use in all stages of the application process, or for multiple applications; and

"(iv) information technology is used effectively to minimize data and information input requirements.

"(3) IMPLEMENTATION AND NOTIFICATION.—Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall submit to Congress a written notification of completion of the requirements of this subsection.".

SEC. 2709. ENVIRONMENTAL SERVICES MARKETS.

Subtitle E of title XII of the Food Security Act of 1985 is amended by inserting after section 1244 (16 U.S.C. 3844) the following new section:

"SEC. 1245. ENVIRONMENTAL SERVICES MARKETS.

"(a) TECHNICAL GUIDELINES REQUIRED.—The Secretary shall establish technical guidelines that outline science-based methods to measure the environmental services benefits from conservation and

land management activities in order to facilitate the participation of farmers, ranchers, and forest landowners in emerging environmental services markets. The Secretary shall give priority to the establishment of guidelines related to farmer, rancher, and forest landowner participation in carbon markets.

"(b) ESTABLISHMENT.—The Secretary shall establish guidelines under subsection (a) for use in developing the following:

"(1) A procedure to measure environmental services benefits.

"(2) A protocol to report environmental services benefits.

"(3) A registry to collect, record and maintain the benefits measured.

"(c) VERIFICATION REQUIREMENTS.—

"(1) VERIFICATION OF REPORTS.—The Secretary shall establish guidelines for a process to verify that a farmer, rancher, or forest landowner who reports an environmental services benefit pursuant to the protocol required by paragraph (2) of subsection (b) for inclusion in the registry required by paragraph (3) of such subsection has implemented the conservation or land management activity covered by the report.

"(2) ROLE OF THIRD PARTIES.—In establishing the verification guidelines required by paragraph (1), the Secretary shall consider the role of third-parties in conducting independent verification of benefits produced for environmental services markets and other functions, as determined by the Secretary.

"(d) USE OF EXISTING INFORMATION.—In carrying out subsection (b), the Secretary shall build on activities or information in existence on the date of the enactment of the Food, Conservation, and Energy Act of 2008 regarding environmental services markets.

"(e) CONSULTATION.—In carrying out this section, the Secretary shall consult with the following:

"(1) Federal and State government agencies.

"(2) Nongovernmental interests including—

"(A) farm, ranch, and forestry producers;

"(B) financial institutions involved in environmental services trading;

"(C) institutions of higher education with relevant expertise or experience;

"(D) nongovernmental organizations with relevant expertise or experience; and

"(E) private sector representatives with relevant expertise or experience.

"(3) Other interested persons, as determined by the Secretary.".

SEC. 2710. AGRICULTURE CONSERVATION EXPERIENCED SERVICES PROGRAM.

Subtitle F of title XII of the Food Security Act of 1985 is amended by inserting after section 1251 (16 U.S.C. 2005a) the following new section:

"SEC. 1252. AGRICULTURE CONSERVATION EXPERIENCED SERVICES PROGRAM.

"(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish a conservation experienced services program (in this section referred to as the 'ACES Program') for the purpose of utilizing the tal-

ents of individuals who are age 55 or older, but who are not employees of the Department of Agriculture or a State agriculture department, to provide technical services in support of the conservation-related programs and authorities carried out by the Secretary. Such technical services may include conservation planning assistance, technical consultation, and assistance with design and implementation of conservation practices.

"(b) PROGRAM AGREEMENTS.—

"(1) RELATION TO OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM.—Notwithstanding any other provision of law relating to Federal grants, cooperative agreements, or contracts, to carry out the ACES program during a fiscal year, the Secretary may enter into agreements with nonprofit private agencies and organizations eligible to receive grants for that fiscal year under the Community Service Senior Opportunities Act (42 U.S.C. 3056 et seq.) to secure participants for the ACES program who will provide technical services under the ACES program.

"(2) REQUIRED DETERMINATION.—Before entering into an agreement under paragraph (1), the Secretary shall ensure that the agreement would not—

"(A) result in the displacement of individuals employed by the Department, including partial displacement through reduction of non-overtime hours, wages, or employment benefits;

"(B) result in the use of an individual under the ACES program for a job or function in a case in which a Federal employee is in a layoff status from the same or a substantially-equivalent job or function with the Department; or

"(C) affect existing contracts for services.

"(c) FUNDING SOURCE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may carry out the ACES program using funds made available to carry out each program under this title.

"(2) EXCLUSIONS.—Funds made available to carry out the following programs may not be used to carry out the ACES program:

"(A) The conservation reserve program.

"(B) The wetlands reserve program.

"(C) The grassland reserve program.

"(D) The conservation stewardship program.

"(d) LIABILITY.—An individual providing technical services under the ACES program is deemed to be an employee of the United States Government for purposes of chapter 171 of title 28, United States Code, if the individual—

"(1) is providing technical services pursuant to an agreement entered into under subsection (b); and

"(2) is acting within the scope of the agreement.".

SEC. 2711. ESTABLISHMENT OF STATE TECHNICAL COMMITTEES AND THEIR RESPONSIBILITIES.

Subtitle G of title XII of the Farm Security Act of 1985 (16 U.S.C. 3861, 3862) is amended to read as follows:

"Subtitle G—State Technical Committees

"SEC. 1261. ESTABLISHMENT OF STATE TECHNICAL COMMITTEES.

"(a) ESTABLISHMENT.—The Secretary shall establish a technical committee in each State to assist the Secretary in the considerations relating to implementation and technical aspects of the conservation programs under this title.

"(b) STANDARDS.—Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall develop—

"(1) standard operating procedures to standardize the operations of State technical committees; and

"(2) standards to be used by State technical committees in the development of technical guidelines under section 1262(b) for the implementation of the conservation provisions of this title.

"(c) COMPOSITION.—Each State technical committee shall be composed of agricultural producers and other professionals that represent a variety of disciplines in the soil, water, wetland, and wildlife sciences. The technical committee for a State shall include representatives from among the following:

"(1) The Natural Resources Conservation Service.

"(2) The Farm Service Agency.

"(3) The Forest Service.

"(4) The National Institute of Food and Agriculture.

"(5) The State fish and wildlife agency.

"(6) The State forester or equivalent State official.

"(7) The State water resources agency.

"(8) The State department of agriculture.

"(9) The State association of soil and water conservation districts.

"(10) Agricultural producers representing the variety of crops and livestock or poultry raised within the State.

"(11) Owners of nonindustrial private forest land.

"(12) Nonprofit organizations within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986 with demonstrable conservation expertise and experience working with agriculture producers in the State.

"(13) Agribusiness.

"SEC. 1262. RESPONSIBILITIES.

"(a) IN GENERAL.—Each State technical committee established under section 1261 shall meet regularly to provide information, analysis, and recommendations to appropriate officials of the Department of Agriculture who are charged with implementing the conservation provisions of this title.

"(b) PUBLIC NOTICE AND ATTENDANCE.—Each State technical committee shall provide public notice of, and permit public attendance at, meetings considering issues of concern related to carrying out this title.

"(c) ROLE.—

"(1) IN GENERAL.—The role of State technical committees is advisory in nature, and such committees shall have no implementation or enforcement authority. However, the Secretary shall give strong consideration to the recommendations of such committees in administering the programs under this title.

"(2) ADVISORY ROLE IN ESTABLISHING PROGRAM PRIORITIES AND CRITERIA.—Each State technical committee shall advise the Secretary in establishing priorities and criteria for the programs in this title, including the review of whether local working groups are addressing those priorities.

"(d) FACA REQUIREMENTS.—

"(1) EXEMPTION.—Each State technical committee shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

"(2) LOCAL WORKING GROUPS.—For purposes of the Federal Advisory Committee Act (5 U.S.C. App.), any local working group established under this subtitle shall be considered to be a subcommittee of the applicable State technical committee.".

Subtitle I—Conservation Programs Under Other Laws

SEC. 2801. AGRICULTURAL MANAGEMENT ASSISTANCE PROGRAM.

(a) ELIGIBLE STATES.—Section 524(b)(1) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(1)) is amended by inserting "Hawaii," after "Delaware,".

(b) FUNDING.—Section 524(b)(4)(B) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(4)(B)) is amended—

(1) in clause (i), by striking "Except as provided in clauses (ii) and (iii)" and inserting "Except as provided in clause (ii)"; and

(2) by striking clauses (ii) and (iii) and inserting the following new clause:

"(ii) EXCEPTION FOR FISCAL YEARS 2008 THROUGH 2012.—For each of fiscal years 2008 through 2012, the Commodity Credit Corporation shall make available to carry out this subsection $15,000,000.".

(c) CERTAIN USES.—Section 524(b)(4) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(4)) is amended by adding at the end the following new subparagraph:

"(C) CERTAIN USES.—Of the amounts made available to carry out this subsection for a fiscal year, the Commodity Credit Corporation shall use not less than—

"(i) 50 percent to carry out subparagraphs (A), (B), and (C) of paragraph (2) through the Natural Resources Conservation Service;

"(ii) 10 percent to provide organic certification cost share assistance through the Agricultural Marketing Service; and

"(iii) 40 percent to conduct activities to carry out subparagraph (F) of paragraph (2) through the Risk Management Agency.".

SEC. 2802. TECHNICAL ASSISTANCE UNDER SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.

(a) PREVENTION OF SOIL EROSION.—

(1) IN GENERAL.—The first section of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a) is amended—

(A) by striking "That it" and inserting the following:

"SECTION 1. PURPOSE.

"It"; and

(B) in the matter preceding paragraph (1), by striking "and thereby to preserve natural resources," and inserting "to preserve soil, water, and related resources, promote soil and water quality,".

(2) POLICIES AND PURPOSES.—Section 7(a)(1) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g(a)(1)) is amended by striking "fertility" and inserting "and water quality and related resources".

(b) DEFINITIONS.—Section 10 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590j) is amended to read as follows:

"SEC. 10. DEFINITIONS.

"In this Act:

"(1) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' means—

"(A) an agricultural commodity; and

"(B) any regional or market classification, type, or grade of an agricultural commodity.

"(2) TECHNICAL ASSISTANCE.—

"(A) IN GENERAL.—The term 'technical assistance' means technical expertise, information, and tools necessary for the conservation of natural resources on land active in agricultural, forestry, or related uses.

"(B) INCLUSIONS.—The term 'technical assistance' includes—

"(i) technical services provided directly to farmers, ranchers, and other eligible entities, such as conservation planning, technical consultation, and assistance with design and implementation of conservation practices; and

"(ii) technical infrastructure, including activities, processes, tools, and agency functions needed to support delivery of technical services, such as technical standards, resource inventories, training, data, technology, monitoring, and effects analyses.".

SEC. 2803. SMALL WATERSHED REHABILITATION PROGRAM.

(a) AVAILABILITY OF FUNDS.—Section 14(h)(1) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(1)) is amended by adding at the end the following new subparagraph:

"(G) $100,000,000 for fiscal year 2009, to be available until expended.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 14(h)(2)(E) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(2)(E)) is amended by striking "fiscal year 2007" and inserting "each of fiscal years 2008 through 2012".

SEC. 2804. AMENDMENTS TO SOIL AND WATER RESOURCES CONSERVATION ACT OF 1977.

(a) CONGRESSIONAL FINDINGS.—Section 2 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2001) is amended—

(1) in paragraph (2), by striking "base, of the" and inserting "base of the"; and

(2) in paragraph (3), by striking "(3)" and all that follows through "Since individual" and inserting the following:

"(3) Appraisal and inventory of resources, assessment and inventory of conservation needs, evaluation of the effects of con-

servation practices, and analyses of alternative approaches to existing conservation programs are basic to effective soil, water, and related natural resource conservation.

"(4) Since individual".

(b) CONTINUING APPRAISAL OF SOIL, WATER, AND RELATED RESOURCES.—Section 5 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2004) is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(7) data on conservation plans, conservation practices planned or implemented, environmental outcomes, economic costs, and related matters under conservation programs administered by the Secretary.";

(2) by redesignating subsection (d) as subsection (e);

(3) by inserting after subsection (c) the following new subsection:

"(d) EVALUATION OF APPRAISAL.—In conducting the appraisal described in subsection (a), the Secretary shall concurrently solicit and evaluate recommendations for improving the appraisal, including the content, scope, process, participation in, and other elements of the appraisal, as determined by the Secretary."; and

(4) in subsection (e), as redesignated by paragraph (2), by striking the first sentence and inserting the following: "The Secretary shall conduct comprehensive appraisals under this section, to be completed by December 31, 2010, and December 31, 2015.".

(c) SOIL AND WATER CONSERVATION PROGRAM.—Section 6 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2005) is amended—

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

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

"(b) EVALUATION OF EXISTING CONSERVATION PROGRAMS.—In evaluating existing conservation programs, the Secretary shall emphasize demonstration, innovation, and monitoring of specific program components in order to encourage further development and adoption of practices and performance-based standards.

"(c) IMPROVEMENT TO PROGRAM.—In developing a national soil and water conservation program under subsection (a), the Secretary shall solicit and evaluate recommendations for improving the program, including the content, scope, process, participation in, and other elements of the program, as determined by the Secretary."; and

(3) in subsection (d), as redesignated by paragraph (1), by striking "December 31, 1979" and all that follows through "December 31, 2007" and inserting "December 31, 2011, and December 31, 2016".

(d) REPORTS TO CONGRESS.—Section 7 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2006) is amended to read as follows:

"SEC. 7. REPORTS TO CONGRESS.

"(a) APPRAISAL.—Not later than the date on which Congress convenes in 2011 and 2016, the President shall transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate the appraisal developed under section 5 and completed before the end of the previous year.

"(b) PROGRAM AND STATEMENT OF POLICY.—Not later than the date on which Congress convenes in 2012 and 2017, the President shall transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate—

"(1) the initial program or updated program developed under section 6 and completed before the end of the previous year;

"(2) a detailed statement of policy regarding soil and water conservation activities of the Department of Agriculture; and

"(3) a special evaluation of the status, conditions, and trends of soil quality on cropland in the United States that addresses the challenges and opportunities for reducing soil erosion to tolerance levels.

"(c) IMPROVEMENTS TO APPRAISAL AND PROGRAM.—Not later than the date on which Congress convenes in 2012, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the plans of the Department of Agriculture for improving the resource appraisal and national conservation program required under this Act, based on the recommendations received under sections 5(d) and 6(c).".

(e) TERMINATION OF PROGRAM.—Section 10 of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2009) is amended by striking "2008" and inserting "2018".

SEC. 2805. RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.

(a) LOCALLY LED PLANNING PROCESS.—Section 1528 of the Agriculture and Food Act of 1981 (16 U.S.C. 3451) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking "planning process" and inserting "locally led planning process";

(2) by redesignating paragraphs (8) and (9) as paragraphs (9) and (8), respectively, and moving those paragraphs so as to appear in numerical order;

(3) in paragraph (8) (as so redesignated)—

*(A) by striking "**PLANNING PROCESS**" and inserting "**LOCALLY LED PLANNING PROCESS**"; and*

(B) by striking "council" and inserting "locally led council".

(b) AUTHORIZED TECHNICAL ASSISTANCE.—Section 1528(13) of the Agriculture and Food Act of 1981 (16 U.S.C. 3451(13)) is amended by striking subparagraphs (C) and (D) and inserting the following new subparagraphs:

"(C) providing assistance for the implementation of area plans and projects; and

"(D) providing services that involve the resources of Department of Agriculture programs in a local community, as defined in the locally led planning process.".

(c) IMPROVED PROVISION OF TECHNICAL ASSISTANCE.—Section 1531 of the Agriculture and Food Act of 1981 (16 U.S.C. 3454) is amended—

(1) by inserting "(a) IN GENERAL.—" before "In carrying"; and

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

"(b) COORDINATOR.—

"(1) IN GENERAL.—To improve the provision of technical assistance to councils under this subtitle, the Secretary shall designate for each council an individual to be the coordinator for the council.

"(2) RESPONSIBILITY.—A coordinator for a council shall be directly responsible for the provision of technical assistance to the council.".

(d) PROGRAM EVALUATION.—Section 1534 of the Agriculture and Food Act of 1981 (16 U.S.C. 3457) is repealed.

SEC. 2806. USE OF FUNDS IN BASIN FUNDS FOR SALINITY CONTROL ACTIVITIES UPSTREAM OF IMPERIAL DAM.

(a) IN GENERAL.—Section 202(a) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(a)) is amended by adding at the end the following new paragraph:

"(7) BASIN STATES PROGRAM.—

"(A) IN GENERAL.—A Basin States Program that the Secretary, acting through the Bureau of Reclamation, shall implement to carry out salinity control activities in the Colorado River Basin using funds made available under section 205(f).

"(B) ASSISTANCE.—The Secretary, in consultation with the Colorado River Basin Salinity Control Advisory Council, shall carry out this paragraph using funds described in subparagraph (A) directly or by providing grants, grant commitments, or advance funds to Federal or non-Federal entities under such terms and conditions as the Secretary may require.

"(C) ACTIVITIES.—Funds described in subparagraph (A) shall be used to carry out, as determined by the Secretary—

"(i) cost-effective measures and associated works to reduce salinity from saline springs, leaking wells, irrigation sources, industrial sources, erosion of public and private land, or other sources;

"(ii) operation and maintenance of salinity control features constructed under the Colorado River Basin salinity control program; and

"(iii) studies, planning, and administration of salinity control activities.

"(D) REPORT.—

"(i) IN GENERAL.—Not later than 30 days before implementing the program established under this paragraph, the Secretary shall submit to the appropriate committees of Congress a planning report that describes the proposed implementation of the program.

"(ii) IMPLEMENTATION.—The Secretary may not expend funds to implement the program established under this paragraph before the expiration of the 30-

day period beginning on the date on which the Secretary submits the report, or any revision to the report, under clause (i).".

(b) CONFORMING AMENDMENTS.—

(1) Section 202 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592) is amended—

(A) in subsection (a), in the matter preceding paragraph (1), by striking "program" and inserting "programs"; and

(B) in subsection (b)(4)—

(i) by striking "program" and inserting "programs"; and

(ii) by striking "and (6)" and inserting "(6), and (7)".

(2) Section 205 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1595) is amended by striking subsection (f) and inserting the following new subsection:

"(f) UP-FRONT COST SHARE.—

"(1) IN GENERAL.—Effective beginning on the date of enactment of this paragraph, subject to paragraph (3), the cost share obligations required by this section shall be met through an up-front cost share from the Basin Funds, in the same proportions as the cost allocations required under subsection (a), as provided in paragraph (2).

"(2) BASIN STATES PROGRAM.—The Secretary shall expend the required cost share funds described in paragraph (1) through the Basin States Program for salinity control activities established under section 202(a)(7).

"(3) EXISTING SALINITY CONTROL ACTIVITIES.—The cost share contribution required by this section shall continue to be met through repayment in a manner consistent with this section for all salinity control activities for which repayment was commenced prior to the date of enactment of this paragraph.".

SEC. 2807. DESERT TERMINAL LAKES.

Section 2507 of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171) is amended—

(1) in subsection (a)—

(A) by striking "(a)" and all that follows through "$200,000,000" and inserting "(a) TRANSFER.—Subject to subsection (b) and paragraph (1) of section 207(a) of Public Law 108–7 (117 Stat. 146), notwithstanding paragraph (3) of that section, on the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary of Agriculture shall transfer $175,000,000"; and

(B) by striking the quotation marks at the beginning of paragraphs (1) and (2); and

(2) by striking subsection (b) and inserting the following new subsection:

"(b) PERMITTED USES.—In any case in which there are willing sellers, the funds described in subsection (a) may be used—

"(1) to lease water; or

"(2) to purchase land, water appurtenant to the land, and related interests in the Walker River Basin in accordance with section 208(a)(1)(A) of the Energy and Water Development Appropriations Act, 2006 (Public Law 109–103; 119 Stat. 2268).".

Subtitle J—Miscellaneous Conservation Provisions

SEC. 2901. HIGH PLAINS WATER STUDY.

Notwithstanding any other provision of this Act, no person shall become ineligible for any program benefits under this Act or an amendment made by this Act solely as a result of participating in a 1-time study of recharge potential for the Ogallala Aquifer in the High Plains of the State of Texas.

SEC. 2902. NAMING OF NATIONAL PLANT MATERIALS CENTER AT BELTSVILLE, MARYLAND, IN HONOR OF NORMAN A. BERG.

The National Plant Materials Center at Beltsville, Maryland, referenced in section 613.5(a) of title 7, Code of Federal Regulations, shall be known and designated as the "Norman A. Berg National Plant Materials Center". Any reference in a law, map, regulation, document, paper, or other record of the United States to such National Plant Materials Center shall be deemed to be a reference to the Norman A. Berg National Plant Materials Center.

SEC. 2903. TRANSITION.

(a) CONTINUATION OF PROGRAMS IN FISCAL YEAR 2008.—Except as otherwise provided by an amendment made by this title, the Secretary of Agriculture shall continue to carry out any program or activity covered by title XII of the Food Security Act (16 U.S.C. 3801 et seq.) until September 30, 2008, using the provisions of law applicable to the program or activity as they existed on the day before the date of the enactment of this Act and using funds made available under such title for fiscal year 2008 for the program or activity.

(b) GROUND AND SURFACE WATER CONSERVATION PROGRAM.—During the period beginning on the date of the enactment of this Act and ending on September 30, 2008, the Secretary of Agriculture shall continue to carry out the ground and surface water conservation program under section 1240I of the Food Security Act of 1985 (16 U.S.C. 3839aa–9), as in effect before the amendment made by section 2510, using the terms, conditions, and funds available to the Secretary to carry out such program on the day before the date of the enactment of this Act.

SEC. 2904. REGULATIONS.

(a) ISSUANCE.—Except as otherwise provided in this title or an amendment made by this title, not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture, in consultation with the Commodity Credit Corporation, shall promulgate such regulations as are necessary to implement this title.

(b) APPLICABLE AUTHORITY.—The promulgation of regulations under subsection (a) and administration of this title—

(1) shall be carried out without regard to—

(A) chapter 35 of title 44, United States Code (commonly known as the Paperwork Reduction Act); and

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

(2) may—

(A) be promulgated with an opportunity for notice and comment; or

(B) if determined to be appropriate by the Secretary of Agriculture or the Commodity Credit Corporation, as an interim rule effective on publication with an opportunity for notice and comment.

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808(2) of title 5, United States Code.

TITLE III—TRADE

Subtitle A—Food for Peace Act

SEC. 3001. SHORT TITLE.

(a) IN GENERAL.—Section 1 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 note; 104 Stat. 3633) is amended by striking "Agricultural Trade Development and Assistance Act of 1954" and inserting "Food for Peace Act".

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Each provision of law described in paragraph (2) is amended—

(A) by striking "Agricultural Trade Development and Assistance Act of 1954" each place it appears and inserting "Food for Peace Act"; and

*(B) in each section heading, by striking "**AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954**" each place it appears and inserting "**FOOD FOR PEACE ACT**".*

(2) PROVISIONS OF LAW.—The provisions of law referred to in paragraph (1) are the following:

(A) The Agriculture and Food Act of 1981 (Public Law 97–98; 95 Stat. 1213).

(B) The Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

(C) Section 9(a) of the Military Construction Codification Act (7 U.S.C. 1704c).

(D) Section 201 of the Africa: Seeds of Hope Act of 1998 (7 U.S.C. 1721 note; Public Law 105–385).

(E) The Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1 et seq.).

(F) The Food for Progress Act of 1985 (7 U.S.C. 1736o).

(G) Section 3107 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736o–1).

(H) Sections 605B and 606C of the Act of August 28, 1954 (commonly known as the "Agricultural Act of 1954") (7 U.S.C. 1765b, 1766b).

(I) Section 206 of the Agricultural Act of 1956 (7 U.S.C. 1856).

(J) The Agricultural Competitiveness and Trade Act of 1988 (7 U.S.C. 5201 et seq.).

(K) The Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.).

(L) The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.).

(M) Section 301 of title 13, United States Code.

(N) Section 8 of the Endangered Species Act of 1973 (16 U.S.C. 1537).

(O) Section 604 of the Enterprise for the Americas Act of 1992 (22 U.S.C. 2077).

(P) Section 5 of the International Health Research Act of 1960 (22 U.S.C. 2103).

(Q) The Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.).

(R) The Horn of Africa Recovery and Food Security Act (22 U.S.C. 2151 note; Public Law 102–274).

(S) Section 105 of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455).

(T) Section 35 of the Foreign Military Sales Act (22 U.S.C. 2775).

(U) The Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401 et seq.).

(V) Section 1707 of the Cuban Democracy Act of 1992 (22 U.S.C. 6006).

(W) The Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6021 et seq.).

(X) Section 902 of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7201).

(Y) Chapter 553 of title 46, United State Code.

(Z) Section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(AA) The Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3359).

(BB) Section 738 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat 1549A–34).

(c) REFERENCES.—Any reference in any Federal, State, tribal, or local law (including regulations) to the "Agricultural Trade Development and Assistance Act of 1954" shall be considered to be a reference to the "Food for Peace Act".

SEC. 3002. UNITED STATES POLICY.

Section 2 of the Food for Peace Act (7 U.S.C. 1691) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

SEC. 3003. FOOD AID TO DEVELOPING COUNTRIES.

Section 3(b) of the Food for Peace Act (7 U.S.C. 1691a(b)) is amended by striking "(b)" and all that follows through paragraph (1) and inserting the following:

"(b) SENSE OF CONGRESS.—It is the sense of Congress that—

"(1) in negotiations at the Food Aid Convention, the World Trade Organization, the United Nations Food and Agriculture Organization, and other appropriate venues, the President shall—

"(A) seek commitments of higher levels of food aid by donors in order to meet the legitimate needs of developing countries;

"(B) ensure, to the maximum extent practicable, that humanitarian nongovernmental organizations, recipient

country governments, charitable bodies, and international organizations shall continue—

"(i) to be eligible to receive resources based on assessments of need conducted by those organizations and entities; and

"(ii) to implement food aid programs in agreements with donor countries; and

"(C) ensure, to the maximum extent practicable, that options for providing food aid for emergency and non-emergency needs shall not be subject to limitation, including in-kind commodities, provision of funds for agricultural commodity procurement, and monetization of commodities, on the condition that the provision of those commodities or funds—

"(i) is based on assessments of need and intended to benefit the food security of, or otherwise assist, recipients, and

"(ii) is provided in a manner that avoids disincentives to local agricultural production and marketing and with minimal potential for disruption of commercial markets; and".

SEC. 3004. TRADE AND DEVELOPMENT ASSISTANCE.

*(a) Title I of the Food for Peace Act (7 U.S.C. 1701 et seq.) is amended in the title heading, by striking "**TRADE AND DEVELOPMENT ASSISTANCE**" and inserting "**ECONOMIC ASSISTANCE AND FOOD SECURITY**".*

*(b) Section 101 of the Food for Peace Act (7 U.S.C. 1701) is amended in the section heading, by striking "**TRADE AND DEVELOPMENT ASSISTANCE**" and inserting "**ECONOMIC ASSISTANCE AND FOOD SECURITY**".*

SEC. 3005. AGREEMENTS REGARDING ELIGIBLE COUNTRIES AND PRIVATE ENTITIES.

Section 102 of the Food for Peace Act (7 U.S.C. 1702) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(2) by striking subsection (c).

SEC. 3006. USE OF LOCAL CURRENCY PAYMENTS.

Section 104(c) of the Food for Peace Act (7 U.S.C. 1704(c)) is amended—

(1) in the matter preceding paragraph (1), by inserting ", through agreements with recipient governments, private voluntary organizations, and cooperatives," after "developing country";

(2) by striking paragraph (1);

(3) in paragraph (2)—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(E) the improvement of the trade capacity of the recipient country.";

(4) in paragraph (3), by striking "agricultural business development and agricultural trade expansion" and inserting "development of agricultural businesses and agricultural trade capacity";

(5) in paragraph (4), by striking ", or otherwise" and all that follows through "United States";

(6) in paragraph (5), by inserting "to promote agricultural products produced in appropriate developing countries" after "trade fairs"; and

(7) by redesignating paragraphs (2) through (9) as paragraphs (1) through (8), respectively.

SEC. 3007. GENERAL AUTHORITY.

Section 201 of the Food for Peace Act (7 U.S.C. 1721) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) address famine and food crises, and respond to emergency food needs, arising from man-made and natural disasters;";

(2) in paragraph (5)—

(A) by inserting "food security and support" after "promote"; and

(B) by striking "; and" and inserting a semicolon;

(3) in paragraph (6), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(7) promote economic and nutritional security by increasing educational, training, and other productive activities.".

SEC. 3008. PROVISION OF AGRICULTURAL COMMODITIES.

Section 202 of the Food for Peace Act (7 U.S.C. 1722) is amended—

(1) in subsection (b)(2), by striking "may not deny a request for funds" and inserting "may not use as a sole rationale for denying a request for funds";

(2) in subsection (e)(1)—

(A) in the matter preceding subparagraph (A), by striking "not less than 5 percent nor more than 10 percent" and inserting "not less than 7.5 percent nor more than 13 percent";

(B) in subparagraph (A), by striking "; and" and inserting a semicolon;

(C) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(C) improving and implementing methodologies for food aid programs, including needs assessments (upon the request of the Administrator), monitoring, and evaluation."; and

(3) by striking subsection (h) and inserting the following:

"(h) FOOD AID QUALITY.—

"(1) IN GENERAL.—The Administrator shall use funds made available for fiscal year 2009 and subsequent fiscal years to carry out this title—

"(A) to assess the types and quality of agricultural commodities and products donated for food aid;

"(B) to adjust products and formulations (including the potential introduction of new fortificants and products) as necessary to cost-effectively meet nutrient needs of target populations; and

"(C) to test prototypes.

"(2) ADMINISTRATION.—The Administrator—

"(A) shall carry out this subsection in consultation with and through independent entities with proven expertise in food aid commodity quality enhancements;

"(B) may enter into contracts to obtain the services of such entities; and

"(C) shall consult with the Food Aid Consultative Group on how to carry out this subsection.

"(3) FUNDING LIMITATION.—Of the funds made available under section 207(f), for fiscal years 2009 through 2011, not more than $4,500,000 may be used to carry out this subsection.".

SEC. 3009. GENERATION AND USE OF CURRENCIES BY PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES.

Section 203(b) of the Food for Peace Act (7 U.S.C. 1723(b)) is amended by striking "1 or more recipient countries" and inserting "in 1 or more recipient countries".

SEC. 3010. LEVELS OF ASSISTANCE.

Section 204(a) of the Food for Peace Act (7 U.S.C. 1724(a)) is amended—

(1) in paragraph (1), by striking "2002 through 2007" and inserting "2008 through 2012"; and

(2) in paragraph (2), by striking "2002 through 2007" and inserting "2008 through 2012".

SEC. 3011. FOOD AID CONSULTATIVE GROUP.

Section 205 of the Food for Peace Act (7 U.S.C. 1725) is amended—

(1) in subsection (b)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period and inserting "; and"; and

(C) by inserting at the end the following:

"(7) representatives from the maritime transportation sector involved in transporting agricultural commodities overseas for programs under this Act."; and

(2) in subsection (f), by striking "2007" and inserting "2012".

SEC. 3012. ADMINISTRATION.

Section 207 of the Food for Peace Act (7 U.S.C. 1726a) is amended—

(1) in subsection (a)(3), by striking "and the conditions that must be met for the approval of such proposal";

(2) in subsection (c), by striking paragraph (3);

(3) by striking subsection (d) and inserting the following:

"(d) TIMELY PROVISION OF COMMODITIES.—The Administrator, in consultation with the Secretary, shall develop procedures that ensure expedited processing of commodity call forwards in order to provide commodities overseas in a timely manner and to the extent feasible, according to planned delivery schedules."; and

(4) by adding at the end the following:

"(f) PROGRAM OVERSIGHT, MONITORING, AND EVALUATION.—

"(1) DUTIES OF ADMINISTRATOR.—The Administrator, in consultation with the Secretary, shall establish systems and carry out activities—

"(A) to determine the need for assistance provided under this title; and

"(B) to improve, monitor, and evaluate the effectiveness and efficiency of the assistance provided under this title to maximize the impact of the assistance.

"(2) REQUIREMENTS OF SYSTEMS AND ACTIVITIES.—The systems and activities described in paragraph (1) shall include—

"(A) program monitors in countries that receive assistance under this title;

"(B) country and regional food aid impact evaluations;

"(C) the identification and implementation of best practices for food aid programs;

"(D) the evaluation of monetization programs;

"(E) early warning assessments and systems to help prevent famines; and

"(F) upgraded information technology systems.

"(3) IMPLEMENTATION REPORT.—Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Administrator shall submit to the appropriate committees of Congress a report on efforts undertaken by the Administrator to conduct oversight of nonemergency programs under this title.

"(4) GOVERNMENT ACCOUNTABILITY OFFICE REPORT.—Not later than 270 days after the date of submission of the report under paragraph (3), the Comptroller General of the United States shall submit to the appropriate committees of Congress a report that contains—

"(A) a review of, and comments addressing, the report described in paragraph (3); and

"(B) recommendations relating to any additional actions that the Comptroller General of the United States determines to be necessary to improve the monitoring and evaluation of assistance provided under this title.

"(5) CONTRACT AUTHORITY.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in carrying out administrative and management activities relating to each activity carried out by the Administrator under paragraph (1), the Administrator may enter into contracts with 1 or more individuals for personal service to be performed in recipient countries or neighboring countries.

"(B) PROHIBITION.—An individual who enters into a contract with the Administrator under subparagraph (A) shall not be considered to be an employee of the Federal Government for the purpose of any law (including regulations) administered by the Office of Personnel Management.

"(C) PERSONAL SERVICE.—Subparagraph (A) does not limit the ability of the Administrator to enter into a contract with any individual for personal service under section 202(a).

"(6) FUNDING.—

"(A) IN GENERAL.—Subject to section 202(h)(3), in addition to other funds made available to the Administrator to carry out the monitoring of emergency food assistance, the Administrator may implement this subsection using up to $22,000,000 of the funds made available under this title for each of fiscal years 2009 through 2012, except for paragraph (2)(F), for which only $2,500,000 shall be made available during fiscal year 2009.

"(B) LIMITATIONS.—

"(i) IN GENERAL.—Subject to clause (ii), of the funds made available under subparagraph (A), for each of fiscal years 2009 through 2012, not more than $8,000,000 may be used by the Administrator to carry out paragraph (2)(E).

"(ii) CONDITION.—No funds shall be made available under subparagraph (A), in accordance with clause (i), unless not less than $8,000,000 is made available under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) for such purposes for such fiscal year.

"(g) PROJECT REPORTING.—

"(1) IN GENERAL.—In submitting project reports to the Administrator, a private voluntary organization or cooperative shall provide a copy of the report in such form as is necessary for the report to be displayed for public use on the website of the United States Agency for International Development.

"(2) CONFIDENTIAL INFORMATION.—An organization or cooperative described in paragraph (1) may omit any confidential information from the copy of the report submitted for public display under that paragraph.".

SEC. 3013. ASSISTANCE FOR STOCKPILING AND RAPID TRANSPORTATION, DELIVERY, AND DISTRIBUTION OF SHELF-STABLE PREPACKAGED FOODS.

Section 208(f) of the Food for Peace Act (7 U.S.C. 1726b(f)) is amended—

(1) by striking "$3,000,000" and inserting "$8,000,000"; and

(2) by striking "2007" and inserting "2012".

SEC. 3014. GENERAL AUTHORITIES AND REQUIREMENTS.

(a) IN GENERAL.—Section 401 of the Food for Peace Act (7 U.S.C. 1731) is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively; and

(3) in subsection (b) (as so redesignated), by striking "(b)(1)" and inserting "(a)(1)".

(b) CONFORMING AMENDMENTS.—

(1) Section 406(a) of the Food for Peace Act (7 U.S.C. 1736(a)) is amended by striking "(that have been determined to be available under section 401(a))".

(2) Subsection (e)(1) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(e)(1)) is amended by striking "determined to be available under section 401 of the Food for Peace Act".

SEC. 3015. DEFINITIONS.

Section 402 of the Food for Peace Act (7 U.S.C. 1732) is amended—

(1) by redesignating paragraphs (3) through (8) as paragraphs (4) through (9), respectively; and

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

"(3) APPROPRIATE COMMITTEE OF CONGRESS.—The term 'appropriate committee of Congress' means—

"(A) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

"(B) the Committee on Agriculture of the House of Representatives; and

"(C) the Committee on Foreign Affairs of the House of Representatives.".

SEC. 3016. USE OF COMMODITY CREDIT CORPORATION.

Section 406(b)(2) of the Food for Peace Act (7 U.S.C. 1736(b)(2)) is amended by inserting ", including the costs of carrying out section 415" before the semicolon.

SEC. 3017. ADMINISTRATIVE PROVISIONS.

Section 407(c) of the Food for Peace Act (7 U.S.C. 1736a(c)) is amended—

(1) in paragraph (4)—

(A) by striking "Funds made" and inserting the following:

"(A) IN GENERAL.—Funds made";

(B) in subparagraph (A) (as so designated)—

(i) by striking "2007" and inserting "2012"; and

(ii) by striking "$2,000,000" and inserting "$10,000,000"; and

(C) by adding at the end the following:

"(B) ADDITIONAL PREPOSITIONING SITES.—

"(i) FEASIBILITY ASSESSMENTS.—The Administrator may carry out assessments for the establishment of not less than 2 sites to determine the feasibility of, and costs associated with, using the sites to store and handle agricultural commodities for prepositioning in foreign countries.

"(ii) ESTABLISHMENT OF SITES.—Based on the results of each assessment carried out under clause (i), the Administrator may establish additional sites for prepositioning in foreign countries."; and

(2) by adding at the end the following:

"(5) NONEMERGENCY OR MULTIYEAR AGREEMENTS.—Annual resource requests for ongoing nonemergency or ongoing multiyear agreements under title II shall be finalized not later than October 1 of the fiscal year in which the agricultural commodities will be shipped under the agreement.".

SEC. 3018. CONSOLIDATION AND MODIFICATION OF ANNUAL REPORTS REGARDING AGRICULTURAL TRADE ISSUES.

(a) ANNUAL REPORTS.—Section 407 of the Food for Peace Act (7 U.S.C. 1736a) is amended by striking subsection (f) and inserting the following:

"(f) ANNUAL REPORTS.—

"(1) ANNUAL REPORT REGARDING AGRICULTURAL TRADE PROGRAMS AND ACTIVITIES.—

"(A) ANNUAL REPORT.—Not later than April 1 of each fiscal year, the Administrator and the Secretary shall jointly prepare and submit to the appropriate committees of Congress a report regarding each program and activity carried out under this Act during the prior fiscal year.

"(B) CONTENTS.—An annual report described in subparagraph (A) shall include, with respect to the prior fiscal year—

"(i) a list that contains a description of each country and organization that receives food and other assistance under this Act (including the quantity of food and assistance provided to each country and organization);

"(ii) a general description of each project and activity implemented under this Act (including each activity funded through the use of local currencies);

"(iii) a statement describing the quantity of agricultural commodities made available to each country pursuant to—

"(I) section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)); and

"(II) the Food for Progress Act of 1985 (7 U.S.C. 1736o);

"(iv) an assessment of the progress made through programs under this Act towards reducing food insecurity in the populations receiving food assistance from the United States;

"(v) a description of efforts undertaken by the Food Aid Consultative Group under section 205 to achieve an integrated and effective food assistance program;

"(vi) an assessment of—

"(I) each program oversight, monitoring, and evaluation system implemented under section 207(f); and

"(II) the impact of each program oversight, monitoring, and evaluation system on the effectiveness and efficiency of assistance provided under this title; and

"(vii) an assessment of the progress made by the Administrator in addressing issues relating to quality with respect to the provision of food assistance.

"(2) ANNUAL REPORT REGARDING THE PROVISION OF AGRICULTURAL COMMODITIES TO FOREIGN COUNTRIES.—

"(A) ANNUAL REPORT.—Not later than February 1 of each fiscal year, the Administrator shall prepare and submit to the appropriate committees of Congress a report regarding the administration of food assistance programs under title II to benefit foreign countries during the prior fiscal year.

"(B) CONTENTS.—An annual report described in subparagraph (A) shall include, with respect to the prior fiscal year—

"(i) a list that contains a description of each program, country, and commodity approved for assistance under section 207; and

"(ii) a statement that contains a description of the total amount of funds approved for transportation and administrative costs under section 207.".

(b) CONFORMING AMENDMENT.—Section 207(e) of the Food for Peace Act (7 U.S.C. 1726a(e)) is amended—

(1) by striking "TIMELY APPROVAL." and all that follows through "The Administrator" and inserting "TIMELY APPROVAL.—The Administrator"; and

(2) by striking paragraph (2).

SEC. 3019. EXPIRATION OF ASSISTANCE.

Section 408 of the Food for Peace Act (7 U.S.C. 1736b) is amended by striking "2007" and inserting "2012".

SEC. 3020. AUTHORIZATION OF APPROPRIATIONS.

Section 412 of the Food for Peace Act (7 U.S.C. 1736f) is amended by striking subsection (a) and inserting the following:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(1) for fiscal year 2008 and each fiscal year thereafter, $2,500,000,000 to carry out the emergency and nonemergency food assistance programs under title II; and

"(2) such sums as are necessary—

"(A) to carry out the concessional credit sales program established under title I;

"(B) to carry out the grant program established under title III; and

"(C) to make payments to the Commodity Credit Corporation to the extent the Commodity Credit Corporation is not reimbursed under the programs under this Act for the actual costs incurred or to be incurred by the Commodity Credit Corporation in carrying out such programs.".

SEC. 3021. MINIMUM LEVEL OF NONEMERGENCY FOOD ASSISTANCE.

Section 412 of the Food for Peace Act (7 U.S.C. 1736f) is amended by adding at the end the following:

"(e) MINIMUM LEVEL OF NONEMERGENCY FOOD ASSISTANCE.—

"(1) FUNDS AND COMMODITIES.—Of the amounts made available to carry out emergency and nonemergency food assistance programs under title II, not less than $375,000,000 for fiscal year 2009, $400,000,000 for fiscal year 2010, $425,000,000 for fiscal year 2011, and $450,000,000 for fiscal year 2012 shall be expended for nonemergency food assistance programs under title II.

"(2) EXCEPTION.—The President may use less than the amount specified in paragraph (1) in a fiscal year for nonemergency food assistance programs under title II only if—

"(A) the President has made a determination that there is an urgent need for additional emergency food assistance;

"(B) the funds and commodities held in the Bill Emerson Humanitarian Trust have been exhausted; and

"(C) the President has submitted to Congress a supplemental appropriations request for a sum equal to the amount needed to reach the required spending level for

nonemergency food assistance under paragraph (1) and the amount exhausted under paragraph (2)(B).

"(3) NOTIFICATION TO CONGRESS.—If the President makes the determination described in paragraph (2)(A), the President shall submit to Congress written notification that the determination has been made.".

SEC. 3022. COORDINATION OF FOREIGN ASSISTANCE PROGRAMS.

Section 413 of the Food for Peace Act (7 U.S.C. 1736g) is amended—

(1) by striking "To the maximum" and inserting the following:

"(a) IN GENERAL.—To the maximum"; and

(2) by adding at the end the following:

"(b) REPORT REGARDING EFFORTS TO IMPROVE PROCUREMENT PLANNING.—

"(1) REPORT REQUIRED.—Not later than 90 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Administrator and the Secretary shall submit to each appropriate committee of Congress a report that contains a description of each effort taken by the Administrator and the Secretary to improve planning for food and transportation procurement (including efforts to eliminate bunching of food purchases).

"(2) CONTENTS.—A report required under paragraph (1) should include a description of each effort taken by the Administrator and the Secretary—

"(A) to improve the coordination of food purchases made by—

"(i) the United States Agency for International Development; and

"(ii) the Department of Agriculture;

"(B) to increase flexibility with respect to procurement schedules;

"(C) to increase the use of historical analyses and forecasting; and

"(D) to improve and streamline legal claims processes for resolving transportation disputes.".

SEC. 3023. MICRONUTRIENT FORTIFICATION PROGRAMS.

Section 415 of the Food for Peace Act (7 U.S.C. 1736g–2) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "Not later than September 30, 2003, the Administrator, in consultation with the Secretary" and inserting "Not later than September 30, 2008, the Administrator, in consultation with the Secretary"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by adding "and" after the semicolon at the end; and

(ii) by striking subparagraphs (B) and (C) and inserting the following:

"(B) assess and apply technologies and systems to improve and ensure the quality, shelf life, bioavailability, and safety of fortified food aid agricultural commodities, and

products of those agricultural commodities, using recommendations included in the report entitled 'Micronutrient Compliance Review of Fortified Public Law 480 Commodities', published in October 2001, with implementation by independent entities with proven experience and expertise in food aid commodity quality enhancements.";

(2) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively; and

(3) in subsection (c) (as redesignated by paragraph (2)), by striking "2007" and inserting "2012".

SEC. 3024. JOHN OGONOWSKI AND DOUG BEREUTER FARMER-TO-FARMER PROGRAM.

(a) MINIMUM FUNDING.—Section 501(d) of the Food for Peace Act (7 U.S.C. 1737(d)) is amended in the matter preceding paragraph (1)—

(1) by striking "not less than" and inserting "not less than the greater of $10,000,000 or"; and

(2) by striking "2002 through 2007" and inserting "2008 through 2012".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 501(e) of the Food for Peace Act (7 U.S.C. 1737(e)) is amended by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—There are authorized to be appropriated for each of fiscal years 2008 through 2012 to carry out the programs under this section—

"(A) $10,000,000 for sub-Saharan African and Caribbean Basin countries; and

"(B) $5,000,000 for other developing or middle-income countries or emerging markets not described in subparagraph (A).".

Subtitle B—Agricultural Trade Act of 1978 and Related Statutes

SEC. 3101. EXPORT CREDIT GUARANTEE PROGRAM.

(a) REPEAL OF SUPPLIER CREDIT GUARANTEE PROGRAM AND INTERMEDIATE EXPORT CREDIT GUARANTEE PROGRAM.—Section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622) is amended—

(1) in subsection (a)—

(A) by striking "GUARANTEES.—" and all that follows through "The Commodity" in paragraph (1) and inserting "GUARANTEES.—The Commodity"; and

(B) by striking paragraphs (2) and (3);

(2) by striking subsections (b) and (c);

(3) by redesignating subsections (d) through (l) as subsections (b) through (j), respectively; and

(4) by adding at the end the following:

"(k) ADMINISTRATION.—

"(1) DEFINITION OF LONG TERM.—In this subsection, the term 'long term' means a period of 10 or more years.

"(2) GUARANTEES.—In administering the export credit guarantees authorized under this section, the Secretary shall—

"(A) maximize the export sales of agricultural commodities;

"(B) maximize the export credit guarantees that are made available and used during the course of a fiscal year;

"(C) develop an approach to risk evaluation that facilitates accurate country risk designations and timely adjustments to the designations (on an ongoing basis) in response to material changes in country risk conditions, with ongoing opportunity for input and evaluation from the private sector;

"(D) adjust risk-based guarantees as necessary to ensure program effectiveness and United States competitiveness; and

"(E) work with industry to ensure, to the maximum extent practicable, that risk-based fees associated with the guarantees cover, but do not exceed, the operating costs and losses over the long term.".

(b) FUNDING LEVELS.—Section 211 of the Agricultural Trade Act of 1978 (7 U.S.C. 5641) is amended by striking subsection (b) and inserting the following:

"(b) EXPORT CREDIT GUARANTEE PROGRAMS.—The Commodity Credit Corporation shall make available for each of fiscal years 1996 through 2012 credit guarantees under section 202(a) in an amount equal to but not more than the lesser of—

"(1) $5,500,000,000 in credit guarantees; or

"(2) the sum of—

"(A) the amount of credit guarantees that the Commodity Credit Corporation can make available using budget authority of $40,000,000 for each fiscal year for the costs of the credit guarantees; and

"(B) the amount of credit guarantees that the Commodity Credit Corporation can make available using unobligated budget authority for prior fiscal years.".

(c) CONFORMING AMENDMENTS.—Section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622) is amended—

(1) in subsection (b)(4) (as redesignated by subsection (a)(3)), by striking ", consistent with the provisions of subsection (c)";

(2) in subsection (d) (as redesignated by subsection (a)(3))—

(A) by striking "(1)" and all that follows through "The Commodity" and inserting "The Commodity"; and

(B) by striking paragraph (2); and

(3) in subsection (g)(2) (as redesignated by subsection (a)(3)), by striking "subsections (a) and (b)" and inserting "subsection (a)".

SEC. 3102. MARKET ACCESS PROGRAM.

(a) ORGANIC COMMODITIES.—Section 203(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5623(a)) is amended by inserting after "agricultural commodities" the following: "(including commodities that are organically produced (as defined in section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502)))".

(b) FUNDING.—Section 211(c)(1)(A) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)(1)(A)) is amended by striking "$200,000,000 for each of fiscal years 2006 and 2007" and inserting "$200,000,000 for each of fiscal years 2008 through 2012".

SEC. 3103. EXPORT ENHANCEMENT PROGRAM.

(a) IN GENERAL.—Section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651) is repealed.

(b) CONFORMING AMENDMENTS.—The Agricultural Trade Act of 1978 is amended—

(1) in title III, by striking the title heading and inserting the following:

"TITLE III—BARRIERS TO EXPORTS";

(2) by redesignating sections 302 and 303 (7 U.S.C. 5652 and 5653) as sections 301 and 302, respectively;

(3) in section 302 (as redesignated by paragraph (2)), by striking ", such as that established under section 301,";

(4) in section 401 (7 U.S.C. 5661)—

(A) in subsection (a), by striking "section 201, 202, or 301" and inserting "section 201 or 202"; and

(B) in subsection (b), by striking "sections 201, 202, and 301" and inserting "sections 201 and 202"; and

(5) in section 402(a)(1) (7 U.S.C. 5662(a)(1)), by striking "sections 201, 202, 203, and 301" and inserting "sections 201, 202, and 203".

SEC. 3104. FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM.

(a) REPORT TO CONGRESS.—Section 702(c) of the Agricultural Trade Act of 1978 (7 U.S.C. 5722(c)) is amended by striking "Committee on International Relations" and inserting "Committee on Foreign Affairs".

(b) FUNDING.—Section 703(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5723(a)) is amended by striking "2002 through 2007" and inserting "2008 through 2012".

SEC. 3105. FOOD FOR PROGRESS ACT OF 1985.

(a) IN GENERAL.—The Food for Progress Act of 1985 (7 U.S.C. 1736o) is amended by striking "2007" each place it appears and inserting "2012".

(b) DESIGNATION OF PROJECT IN SUB-SAHARAN AFRICA.—The Food for Progress Act of 1985 (7 U.S.C. 1736o) is amended in subsection (f) by adding at the end the following:

"(6) PROJECT IN MALAWI.—

"(A) IN GENERAL.—In carrying out this section during fiscal year 2009, the President shall approve not less than 1 multiyear project for Malawi—

"(i) to promote sustainable agriculture; and

"(ii) to increase the number of women in leadership positions.

"(B) USE OF ELIGIBLE COMMODITIES.—Of the eligible commodities used to carry out this section during the period in which the project described in subparagraph (A) is carried out, the President shall carry out the project using eligible commodities with a total value of not less than $3,000,000 during the course of the project.".

SEC. 3106. MCGOVERN-DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD NUTRITION PROGRAM.

Section 3107 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736o–1) is amended—

(1) in subsections (b), (c)(2)(B), (f)(1), (h), (i), and (l)(1), by striking "President" each place it appears and inserting "Secretary";

(2) in subsection (d), by striking "The President shall designate 1 or more Federal agencies" and inserting "The Secretary shall";

(3) in paragraph (f)(2), by striking "implementing agency" and inserting "Secretary"; and

(4) in subsection (l)—

(A) by striking paragraph (1) and inserting the following:

"(1) USE OF COMMODITY CREDIT CORPORATION FUNDS.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section $84,000,000 for fiscal year 2009, to remain available until expended.";

(B) in paragraph (2), by striking "2004 through 2007" and inserting "2008 through 2012"; and

(C) in paragraph (3), by striking "any Federal agency implementing or assisting" and inserting "the Department of Agriculture or any other Federal agency assisting".

Subtitle C—Miscellaneous

SEC. 3201. BILL EMERSON HUMANITARIAN TRUST.

Section 302 of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1) is amended—

(1) in subsection (a)—

(A) by striking "establish a trust stock" and inserting "establish and maintain a trust"; and

(B) by striking "or any combination of the commodities, totaling not more than 4,000,000 metric tons" and inserting "any combination of the commodities, or funds";

(2) in subsection (b)—

(A) in paragraph (1), by striking subparagraph (D) and inserting the following:

"(D) funds made available—

"(i) under paragraph (2)(B);

"(ii) as a result of an exchange of any commodity held in the trust for an equivalent amount of funds from the market, if the Secretary determines that such a sale of the commodity on the market will not unduly disrupt domestic markets; or

"(iii) to maximize the value of the trust, in accordance with subsection (d)(3)."; and

(B) in paragraph (2)(B)—

(i) in clause (i)—

(I) by striking "2007" each place it appears and inserting "2012";

(II) by striking "(c)(2)" and inserting "(c)(1)"; and

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

(ii) in clause (ii), by striking the period at the end and inserting "; or"; and

(iii) by adding at the end the following:

"(iii) from funds accrued through the management of the trust under subsection (d).";

(3) in subsection (c)—

(A) by striking paragraphs (1) and (2) and inserting the following:

"(1) RELEASES FOR EMERGENCY ASSISTANCE.—

"(A) DEFINITION OF EMERGENCY.—

"(i) IN GENERAL.—In this paragraph, the term 'emergency' means an urgent situation—

"(I) in which there is clear evidence that an event or series of events described in clause (ii) has occurred—

"(aa) that causes human suffering; and

"(bb) for which a government concerned has not chosen, or has not the means, to remedy; or

"(II) created by a demonstrably abnormal event or series of events that produces dislocation in the lives of residents of a country or region of a country on an exceptional scale.

"(ii) EVENT OR SERIES OF EVENTS.—An event or series of events referred to in clause (i) includes 1 or more of—

"(I) a sudden calamity, such as an earthquake, flood, locust infestation, or similar unforeseen disaster;

"(II) a human-made emergency resulting in—

"(aa) a significant influx of refugees;

"(bb) the internal displacement of populations; or

"(cc) the suffering of otherwise affected populations;

"(III) food scarcity conditions caused by slow-onset events, such as drought, crop failure, pest infestation, and disease, that result in an erosion of the ability of communities and vulnerable populations to meet food needs; and

"(IV) severe food access or availability conditions resulting from sudden economic shocks, market failure, or economic collapse, that result in an erosion of the ability of communities and vulnerable populations to meet food needs.

"(B) RELEASES.—

"(i) IN GENERAL.—Any funds or commodities held in the trust may be released to provide food, and cover any associated costs, under title II of the Food for Peace Act (7 U.S.C. 1721 et seq.)—

"(I) to assist in averting an emergency, including during the period immediately preceding the emergency;

"(II) to respond to an emergency; or

"(III) for recovery and rehabilitation after an emergency.

"(ii) PROCEDURE.—A release under clause (i) shall be carried out in the same manner, and pursuant to the same authority as provided in title II of that Act.

"(C) INSUFFICIENCY OF OTHER FUNDS.—The funds and commodities held in the trust shall be made immediately available on a determination by the Administrator that funds available for emergency needs under title II of that Act (7 U.S.C. 1721 et seq.) for a fiscal year are insufficient to meet emergency needs during the fiscal year.

"(D) WAIVER RELATING TO MINIMUM TONNAGE REQUIREMENTS.—Nothing in this paragraph requires a waiver by the Administrator of the Agency for International Development under section 204(a)(3) of the Food for Peace Act (7 U.S.C. 1724(a)(3)) as a condition for a release of funds or commodities under subparagraph (B)."; and

(B) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

(4) in subsection (d)—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively, and indenting the subparagraphs appropriately;

(B) by striking the subsection designation and heading and all that follows through "provide—" and inserting the following:

"(d) MANAGEMENT OF TRUST.—

"(1) IN GENERAL.—The Secretary shall provide for the management of eligible commodities and funds held in the trust in a manner that is consistent with maximizing the value of the trust, as determined by the Secretary.

"(2) ELIGIBLE COMMODITIES.—The Secretary shall provide—";

(C) in paragraph (2) (as redesignated by subparagraph (B))—

(i) in subparagraph (B) (as redesignated by subparagraph (A)), by striking "and" at the end; and

(ii) in subparagraph (C) (as redesignated by subparagraph (A)), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(3) FUNDS.—

"(A) EXCHANGES.—If any commodity held in the trust is exchanged for funds under subsection (b)(1)(D)(ii), the funds shall be held in the trust until the date on which the funds are released in the case of an emergency under subsection (c).

"(B) INVESTMENT.—The Secretary may invest funds held in the trust in any short-term obligation of the United States or any other low-risk short-term instrument or security insured by the Federal Government in which a regulated insurance company may invest under the laws of the District of Columbia."; and

(5) in subsection (h), in each of paragraphs (1) and (2), by striking "2007" each place it appears and inserting "2012".

SEC. 3202. GLOBAL CROP DIVERSITY TRUST.

(a) CONTRIBUTION.—The Administrator of the United States Agency for International Development shall contribute funds to endow the Global Crop Diversity Trust (referred to in this section as the "Trust") to assist in the conservation of genetic diversity in

food crops through the collection and storage of the germplasm of food crops in a manner that provides for—

(1) the maintenance and storage of seed collections;

(2) the documentation and cataloguing of the genetics and characteristics of conserved seeds to ensure efficient reference for researchers, plant breeders, and the public;

(3) building the capacity of seed collection in developing countries;

(4) making information regarding crop genetic data publicly available for researchers, plant breeders, and the public (including through the provision of an accessible Internet website);

(5) the operation and maintenance of a back-up facility in which are stored duplicate samples of seeds, in the case of natural or man-made disasters; and

(6) oversight designed to ensure international coordination of those actions and efficient, public accessibility to that diversity through a cost-effective system.

(b) UNITED STATES CONTRIBUTION LIMIT.—The aggregate contributions of funds of the Federal Government provided to the Trust shall not exceed 25 percent of the total amount of funds contributed to the Trust from all sources.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $60,000,000 for the period of fiscal years 2008 through 2012.

SEC. 3203. TECHNICAL ASSISTANCE FOR SPECIALTY CROPS.

Section 3205 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 5680) is amended by striking subsection (d) and inserting the following:

"(d) ANNUAL REPORT.—Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008 and annually thereafter, the Secretary shall submit to the appropriate committees of Congress a report that contains, for the period covered by the report, a description of each factor that affects the export of specialty crops, including each factor relating to any—

"(1) significant sanitary or phytosanitary issue; or

"(2) trade barrier.

"(e) FUNDING.—

"(1) COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

"(2) FUNDING AMOUNTS.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section—

"(A) $4,000,000 for fiscal year 2008;

"(B) $7,000,000 for fiscal year 2009;

"(C) $8,000,000 for fiscal year 2010;

"(D) $9,000,000 for fiscal year 2011; and

"(E) $9,000,000 for fiscal year 2012.".

SEC. 3204. EMERGING MARKETS AND FACILITY GUARANTEE LOAN PROGRAM.

Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note; Public Law 101–624) is amended—

(1) in subsection (a), by striking "2007" and inserting "2012";

(2) in subsection (b)—

(A) in the first sentence, by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(B) by striking "A portion" and inserting the following: "(1) IN GENERAL.—A portion";

(C) in the second sentence, by striking "The Commodity Credit Corporation" and inserting the following:

"(2) PRIORITY.—The Commodity Credit Corporation"; and

(D) by adding at the end the following:

"(3) CONSTRUCTION WAIVER.—The Secretary may waive any applicable requirements relating to the use of United States goods in the construction of a proposed facility, if the Secretary determines that—

"(A) goods from the United States are not available; or

"(B) the use of goods from the United States is not practicable.

"(4) TERM OF GUARANTEE.—A facility payment guarantee under this subsection shall be for a term that is not more than the lesser of—

"(A) the term of the depreciation schedule of the facility assisted; or

"(B) 20 years."; and

(3) in subsection (d)(1)(A)(i) by striking "2007" and inserting "2012".

SEC. 3205. CONSULTATIVE GROUP TO ELIMINATE THE USE OF CHILD LABOR AND FORCED LABOR IN IMPORTED AGRICULTURAL PRODUCTS.

(a) DEFINITIONS.—In this section:

(1) CHILD LABOR.—The term "child labor" means the worst forms of child labor as defined in International Labor Convention 182, the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, done at Geneva on June 17, 1999.

(2) CONSULTATIVE GROUP.—The term "Consultative Group" means the Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products established under subsection (b).

(3) FORCED LABOR.—The term "forced labor" means all work or service—

(A) that is exacted from any individual under menace of any penalty for nonperformance of the work or service, and for which—

(i) the work or service is not offered voluntarily; or

(ii) the work or service is performed as a result of coercion, debt bondage, or involuntary servitude (as those terms are defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)); and

(B) by 1 or more individuals who, at the time of performing the work or service, were being subjected to a severe form of trafficking in persons (as that term is defined in that section).

(b) ESTABLISHMENT.—There is established a group to be known as the "Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products" to develop recommendations relating to guidelines to reduce the likelihood that agricultural products or commodities imported into the United States are produced with the use of forced labor and child labor.

(c) DUTIES.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act and in accordance with section 105(d) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7103(d)), as applicable to the importation of agricultural products made with the use of child labor or forced labor, the Consultative Group shall develop, and submit to the Secretary, recommendations relating to a standard set of practices for independent, third-party monitoring and verification for the production, processing, and distribution of agricultural products or commodities to reduce the likelihood that agricultural products or commodities imported into the United States are produced with the use of forced labor or child labor.

(2) GUIDELINES.—

(A) IN GENERAL.—Not later than 1 year after the date on which the Secretary receives recommendations under paragraph (1), the Secretary shall release guidelines for a voluntary initiative to enable entities to address issues raised by the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.).

(B) REQUIREMENTS.—Guidelines released under subparagraph (A) shall be published in the Federal Register and made available for public comment for a period of 90 days.

(d) MEMBERSHIP.—The Consultative Group shall be composed of not more than 13 individuals, of whom—

(1) 2 members shall represent the Department of Agriculture, as determined by the Secretary;

(2) 1 member shall be the Deputy Under Secretary for International Affairs of the Department of Labor;

(3) 1 member shall represent the Department of State, as determined by the Secretary of State;

(4) 3 members shall represent private agriculture-related enterprises, which may include retailers, food processors, importers, and producers, of whom at least 1 member shall be an importer, food processor, or retailer who utilizes independent, third-party supply chain monitoring for forced labor or child labor;

(5) 2 members shall represent institutions of higher education and research institutions, as determined appropriate by the Bureau of International Labor Affairs of the Department of Labor;

(6) 1 member shall represent an organization that provides independent, third-party certification services for labor standards for producers or importers of agricultural commodities or products; and

(7) 3 members shall represent organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 that have expertise on the issues of international child labor and do not

possess a conflict of interest associated with establishment of the guidelines issued under subsection (c)(2), as determined by the Bureau of International Labor Affairs of the Department of Labor, including representatives from consumer organizations and trade unions, if appropriate.

(e) CHAIRPERSON.—A representative of the Department of Agriculture appointed under subsection (d)(1), as determined by the Secretary, shall serve as the chairperson of the Consultative Group.

(f) REQUIREMENTS.—Not less than 4 times per year, the Consultative Group shall meet at the call of the Chairperson, after reasonable notice to all members, to develop recommendations described in subsection (c)(1).

(g) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Consultative Group.

(h) ANNUAL REPORTS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter through December 31, 2012, the Secretary shall submit to the Committees on Agriculture and Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the activities and recommendations of the Consultative Group.

(i) TERMINATION OF AUTHORITY.—The Consultative Group shall terminate on December 31, 2012.

SEC. 3206. LOCAL AND REGIONAL FOOD AID PROCUREMENT PROJECTS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Agency for International Development.

(2) APPROPRIATE COMMITTEE OF CONGRESS.—The term "appropriate committee of Congress" means—

(A) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(B) the Committee on Agriculture of the House of Representatives; and

(C) the Committee on Foreign Affairs of the House of Representatives.

(3) ELIGIBLE COMMODITY.—The term "eligible commodity" means an agricultural commodity (or the product of an agricultural commodity) that—

(A) is produced in, and procured from, a developing country; and

(B) at a minimum, meets each nutritional, quality, and labeling standard of the country that receives the agricultural commodity, as determined by the Secretary.

(4) ELIGIBLE ORGANIZATION.—The term "eligible organization" means an organization that is—

(A) described in section 202(d) of the Food for Peace Act (7 U.S.C. 1722(d)); and

(B) with respect to nongovernmental organizations, subject to regulations promulgated or guidelines issued to carry out this section, including United States audit requirements that are applicable to nongovernmental organizations.

(b) STUDY; FIELD-BASED PROJECTS.—

(1) STUDY.—

(A) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall initiate a study of prior local and regional procurements for food aid programs conducted by—

(i) other donor countries;

(ii) private voluntary organizations; and

(iii) the World Food Program of the United Nations.

(B) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report containing the results of the study conducted under subparagraph (A).

(2) FIELD-BASED PROJECTS.—

(A) IN GENERAL.—In accordance with subparagraph (B), the Secretary shall provide grants to, or enter into cooperative agreements with, eligible organizations to carry out field-based projects that consist of local or regional procurements of eligible commodities to respond to food crises and disasters in accordance with this section.

(B) CONSULTATION WITH ADMINISTRATOR.—In carrying out the development and implementation of field-based projects under subparagraph (A), the Secretary shall consult with the Administrator.

(c) PROCUREMENT.—

(1) IN GENERAL.—Any eligible commodity that is procured for a field-based project carried out under subsection (b)(2) shall be procured through any approach or methodology that the Secretary considers to be an effective approach or methodology to provide adequate information regarding the manner by which to expedite, to the maximum extent practicable, the provision of food aid to affected populations without significantly increasing commodity costs for low-income consumers who procure commodities sourced from the same markets at which the eligible commodity is procured.

(2) REQUIREMENTS.—

(A) IMPACT ON LOCAL FARMERS AND COUNTRIES.—The Secretary shall ensure that the local or regional procurement of any eligible commodity under this section will not have a disruptive impact on farmers located in, or the economy of—

(i) the recipient country of the eligible commodity; or

(ii) any country in the region in which the eligible commodity may be procured.

(B) TRANSSHIPMENT.—The Secretary shall, in accordance with such terms and conditions as the Secretary considers to be appropriate, require from each eligible organization commitments designed to prevent or restrict—

(i) the resale or transshipment of any eligible commodity procured under this section to any country other than the recipient country; and

(ii) the use of the eligible commodity for any purpose other than food aid.

(C) WORLD PRICES.—

(i) IN GENERAL.—In carrying out this section, the Secretary shall take any precaution that the Secretary considers to be reasonable to ensure that the procurement of eligible commodities will not unduly disrupt—

(I) world prices for agricultural commodities; or

(II) normal patterns of commercial trade with foreign countries.

(ii) PROCUREMENT PRICE.—The procurement of any eligible commodity shall be made at a reasonable market price with respect to the economy of the country in which the eligible commodity is procured, as determined by the Secretary.

(d) REGULATIONS; GUIDELINES.—

(1) IN GENERAL.—In accordance with paragraph (2), not later than 180 days after the date of completion of the study under subsection (b)(1), the Secretary shall promulgate regulations or issue guidelines to carry out field-based projects under this section.

(2) REQUIREMENTS.—

(A) USE OF STUDY.—In promulgating regulations or issuing guidelines under paragraph (1), the Secretary shall take into consideration the results of the study described in subsection (b)(1).

(B) PUBLIC REVIEW AND COMMENT.—In promulgating regulations or issuing guidelines under paragraph (1), the Secretary shall provide an opportunity for public review and comment.

(3) AVAILABILITY.—The Secretary shall not approve the procurement of any eligible commodity under this section until the date on which the Secretary promulgates regulations or issues guidelines under paragraph (1).

(e) FIELD-BASED PROJECT GRANTS OR COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary shall award grants to, or enter into cooperative agreements with, eligible organizations to carry out field-based projects.

(2) REQUIREMENTS OF ELIGIBLE ORGANIZATIONS.—

(A) APPLICATION.—

(i) IN GENERAL.—To be eligible to receive a grant from, or enter into a cooperative agreement with, the Secretary under this subsection, an eligible organization shall submit to the Secretary an application by such date, in such manner, and containing such information as the Secretary may require.

(ii) OTHER APPLICABLE REQUIREMENTS.—Any other applicable requirement relating to the submission of proposals for consideration shall apply to the submission of an application required under clause (i), as determined by the Secretary.

(B) COMPLETION REQUIREMENT.—To be eligible to receive a grant from, or enter into a cooperative agreement with, the Secretary under this subsection, an eligible organization shall agree—

(i) to collect by September 30, 2011, data containing the information required under subsection (f)(1)(B) relating to the field-based project funded through the grant; and

(ii) to provide to the Secretary the data collected under clause (i).

(3) REQUIREMENTS OF SECRETARY.—

(A) PROJECT DIVERSITY.—

(i) IN GENERAL.—Subject to clause (ii) and subparagraph (B), in selecting proposals for field-based projects to fund under this section, the Secretary shall select a diversity of projects, including projects located in—

(I) food surplus regions;

(II) food deficit regions (that are carried out using regional procurement methods); and

(III) multiple geographical regions.

(ii) PRIORITY.—In selecting proposals for field-based projects under clause (i), the Secretary shall ensure that the majority of selected proposals are for field-based projects that—

(I) are located in Africa; and

(II) procure eligible commodities that are produced in Africa.

(B) DEVELOPMENT ASSISTANCE.—A portion of the funds provided under this subsection shall be made available for field-based projects that provide development assistance for a period of not less than 1 year.

(4) AVAILABILITY.—The Secretary shall not award a grant to any eligible organization under paragraph (1) until the date on which the Secretary promulgates regulations or issues guidelines under subsection (d)(1).

(f) INDEPENDENT EVALUATIONS; REPORT.—

(1) INDEPENDENT EVALUATIONS.—

(A) IN GENERAL.—Not later than November 1, 2011, the Secretary shall ensure that an independent third party conducts an independent evaluation of all field-based projects that—

(i) addresses each factor described in subparagraph (B); and

(ii) is conducted in accordance with this section.

(B) REQUIRED FACTORS.—The Secretary shall require the independent third party to develop—

(i) with respect to each relevant market in which an eligible commodity was procured under this section, a description of—

(I) the prevailing and historic supply, demand, and price movements of the market (including the extent of competition for procurement bids);

(II) the impact of the procurement of the eligible commodity on producer and consumer prices in the market;

(III) each government market interference or other activity of the donor country that might have significantly affected the supply or demand of the

eligible commodity in the area at which the local or regional procurement occurred;

(IV) the quantities and types of eligible commodities procured in the market;

(V) the time frame for procurement of each eligible commodity; and

(VI) the total cost of the procurement of each eligible commodity (including storage, handling, transportation, and administrative costs);

(ii) an assessment regarding—

(I) whether the requirements of this section have been met;

(II) the impact of different methodologies and approaches on—

(aa) local and regional agricultural producers (including large and small agricultural producers);

(bb) markets;

(cc) low-income consumers; and

(dd) program recipients; and

(III) the length of the period beginning on the date on which the Secretary initiated the procurement process and ending on the date of delivery of eligible commodities;

(iii) a comparison of different methodologies used to carry out this section, with respect to—

(I) the benefits to local agriculture;

(II) the impact on markets and consumers;

(III) the period of time required for procurement and delivery;

(IV) quality and safety assurances; and

(V) implementation costs; and

(iv) to the extent adequate information is available (including the results of the report required under subsection (b)(1)(B)), a comparison of the different methodologies used by other donor countries to make local and regional procurements.

(C) INDEPENDENT THIRD PARTY ACCESS TO RECORDS AND REPORTS.—The Secretary shall provide to the independent third party access to each record and report that the independent third party determines to be necessary to complete the independent evaluation.

(D) PUBLIC ACCESS TO RECORDS AND REPORTS.—Not later than 180 days after the date described in paragraph (2), the Secretary shall provide public access to each record and report described in subparagraph (C).

(2) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that contains the analysis and findings of the independent evaluation conducted under paragraph (1)(A).

(g) FUNDING.—

(1) COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

(2) FUNDING AMOUNTS.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section—

(A) $5,000,000 for fiscal year 2009;
(B) $25,000,000 for fiscal year 2010;
(C) $25,000,000 for fiscal year 2011; and
(D) $5,000,000 for fiscal year 2012.

Subtitle D—Softwood Lumber

SEC. 3301. SOFTWOOD LUMBER.

(a) IN GENERAL.—The Tariff Act of 1930 (19 U.S.C. 1202 et seq.) is amended by adding at the end the following new title:

"TITLE VIII—SOFTWOOD LUMBER

"SEC. 801. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This title may be cited as the 'Softwood Lumber Act of 2008'.

"(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

"TITLE VIII—SOFTWOOD LUMBER

"Sec. 801. Short title; table of contents.
"Sec. 802. Definitions.
"Sec. 803. Establishment of softwood lumber importer declaration program.
"Sec. 804. Scope of softwood lumber importer declaration program.
"Sec. 805. Export charge determination and publication.
"Sec. 806. Reconciliation.
"Sec. 807. Verification.
"Sec. 808. Penalties.
"Sec. 809. Reports.

"SEC. 802. DEFINITIONS.

"In this title:

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

"(2) COUNTRY OF EXPORT.—The term 'country of export' means the country (including any political subdivision of the country) from which softwood lumber or a softwood lumber product is exported before entering the United States.

"(3) CUSTOMS LAWS OF THE UNITED STATES.—The term 'customs laws of the United States' means any law or regulation enforced or administered by U.S. Customs and Border Protection.

"(4) EXPORT CHARGES.—The term 'export charges' means any tax, charge, or other fee collected by the country from which softwood lumber or a softwood lumber product, described in section 804(a), is exported pursuant to an international agreement entered into by that country and the United States.

"(5) EXPORT PRICE.—

"(A) IN GENERAL.—The term 'export price' means one of the following:

"(i) In the case of softwood lumber or a softwood lumber product that has undergone only primary processing, the value that would be determined F.O.B. at

the facility where the product underwent the last primary processing before export.

"(ii)(I) In the case of softwood lumber or a softwood lumber product described in subclause (II), the value that would be determined F.O.B. at the facility where the lumber or product underwent the last primary processing.

"(II) Softwood lumber or a softwood lumber product described in this subclause is lumber or a product that underwent the last remanufacturing before export by a manufacturer who—

"(aa) does not hold tenure rights provided by the country of export;

"(bb) did not acquire standing timber directly from the country of export; and

"(cc) is not related to the person who holds tenure rights or acquired standing timber directly from the country of export.

"(iii)(I) In the case of softwood lumber or a softwood lumber product described in subclause (II), the value that would be determined F.O.B. at the facility where the product underwent the last processing before export.

"(II) Softwood lumber or a softwood lumber product described in this subclause is lumber or a product that undergoes the last remanufacturing before export by a manufacturer who—

"(aa) holds tenure rights provided by the country of export;

"(bb) acquired standing timber directly from the country of export; or

"(cc) is related to a person who holds tenure rights or acquired standing timber directly from the country of export.

"(B) RELATED PERSONS.—For purposes of this paragraph, a person is related to another person if—

"(i) the person bears a relationship to such other person described in section 152(a) of the Internal Revenue Code of 1986;

"(ii) the person bears a relationship to such other person described in section 267(b) of such Code, except that '5 percent' shall be substituted for '50 percent' each place it appears;

"(iii) the person and such other person are part of a controlled group of corporations, as that term is defined in section 1563(a) of such Code, except that '5 percent' shall be substituted for '80 percent' each place it appears;

"(iv) the person is an officer or director of such other person; or

"(v) the person is the employer of such other person.

"(C) TENURE RIGHTS.—For purposes of this paragraph, the term 'tenure rights' means rights to harvest timber from public land granted by the country of export.

"(D) EXPORT PRICE WHERE F.O.B. VALUE CANNOT BE DETERMINED.—

"(i) IN GENERAL.—In the case of softwood lumber or a softwood lumber product described in clause (i), (ii), or (iii) of subparagraph (A) for which an F.O.B. value cannot be determined, the export price shall be the market price for the identical lumber or product sold in an arm's-length transaction in the country of export at approximately the same time as the exported lumber or product. The market price shall be determined in the following order of preference:

"(I) The market price for the lumber or a product sold at substantially the same level of trade as the exported lumber or product but in different quantities.

"(II) The market price for the lumber or a product sold at a different level of trade than the exported lumber or product but in similar quantities.

"(III) The market price for the lumber or a product sold at a different level of trade than the exported lumber or product and in different quantities.

"(ii) LEVEL OF TRADE.—For purposes of clause (i), 'level of trade' shall be determined in the same manner as provided under section 351.412(c) of title 19, Code of Federal Regulations (as in effect on January 1, 2008).

"(6) F.O.B.—The term 'F.O.B.' means a value consisting of all charges payable by a purchaser, including those charges incurred in the placement of merchandise on board of a conveyance for shipment, but does not include the actual shipping charges or any applicable export charges.

"(7) HTS.—The term 'HTS' means the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202) (as in effect on January 1, 2008).

"(8) PERSON.—The term 'person' includes any individual, partnership, corporation, association, organization, business trust, government entity, or other entity subject to the jurisdiction of the United States.

"(9) UNITED STATES.—The term 'United States' means the customs territory of the United States, as defined in General Note 2 of the HTS.

"SEC. 803. ESTABLISHMENT OF SOFTWOOD LUMBER IMPORTER DECLARATION PROGRAM.

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—The President shall establish and maintain an importer declaration program with respect to the importation of softwood lumber and softwood lumber products described in section 804(a). The importer declaration program shall require importers of softwood lumber and softwood lumber products described in section 804(a) to provide the information required under subsection (b) and declare the information required by subsection (c), and require that such information accompany the entry summary documentation.

"(2) ELECTRONIC RECORD.—The President shall establish an electronic record that includes the importer information required under subsection (b) and the declarations required under subsection (c).

"(b) REQUIRED INFORMATION.—The President shall require the following information to be submitted by any person seeking to import softwood lumber or softwood lumber products described in section 804(a):

"(1) The export price for each shipment of softwood lumber or softwood lumber products.

"(2) The estimated export charge, if any, applicable to each shipment of softwood lumber or softwood lumber products as calculated by applying the percentage determined and published by the Under Secretary for International Trade of the Department of Commerce pursuant to section 805 to the export price provided in subsection (b)(1).

"(c) IMPORTER DECLARATIONS.—Pursuant to procedures prescribed by the President, any person seeking to import softwood lumber or softwood lumber products described in section 804(a) shall declare that—

"(1) the person has made appropriate inquiry, including seeking appropriate documentation from the exporter and consulting the determinations published by the Under Secretary for International Trade of the Department of Commerce pursuant to section 805(b); and

"(2) to the best of the person's knowledge and belief—

"(A) the export price provided pursuant to subsection (b)(1) is determined in accordance with the definition provided in section 802(5);

"(B) the export price provided pursuant to subsection (b)(1) is consistent with the export price provided on the export permit, if any, granted by the country of export; and

"(C) the exporter has paid, or committed to pay, all export charges due—

"(i) in accordance with the volume, export price, and export charge rate or rates, if any, as calculated under an international agreement entered into by the country of export and the United States; and

"(ii) consistent with the export charge determinations published by the Under Secretary for International Trade pursuant to section 805(b).

"SEC. 804. SCOPE OF SOFTWOOD LUMBER IMPORTER DECLARATION PROGRAM.

"(a) PRODUCTS INCLUDED IN PROGRAM.—The following products shall be subject to the importer declaration program established under section 803:

"(1) IN GENERAL.—All softwood lumber and softwood lumber products classified under subheading 4407.10.00, 4409.10.10, 4409.10.20, or 4409.10.90 of the HTS, including the following softwood lumber, flooring, and siding:

"(A) Coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded, or finger-jointed, of a thickness exceeding 6 millimeters.

"(B) Coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously

shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces, whether or not planed, sanded, or finger-jointed.

"(C) Other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces (other than wood moldings and wood dowel rods) whether or not planed, sanded, or finger-jointed.

"(D) Coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces, whether or not planed, sanded, or finger-jointed.

"(E) Coniferous drilled and notched lumber and angle cut lumber.

"(2) PRODUCTS CONTINUALLY SHAPED.—Any product classified under subheading 4409.10.05 of the HTS that is continually shaped along its end or side edges.

"(3) OTHER LUMBER PRODUCTS.—Except as otherwise provided in subsection (b) or (c), softwood lumber products that are stringers, radius-cut box-spring frame components, fence pickets, truss components, pallet components, and door and window frame parts classified under subheading 4418.90.46.95, 4421.90.70.40, or 4421.90.97.40 of the HTS.

"(b) PRODUCTS EXCLUDED FROM PROGRAM.—The following products shall be excluded from the importer declaration program established under section 803:

"(1) Trusses and truss kits, properly classified under subheading 4418.90 of the HTS.

"(2) I-joist beams.

"(3) Assembled box-spring frames.

"(4) Pallets and pallet kits, properly classified under subheading 4415.20 of HTS.

"(5) Garage doors.

"(6) Edge-glued wood, properly classified under subheading 4421.90.97.40 of the HTS.

"(7) Complete door frames.

"(8) Complete window frames.

"(9) Furniture.

"(10) Articles brought into the United States temporarily and for which an exemption from duty is claimed under subchapter XIII of chapter 98 of the HTS.

"(11) Household and personal effects.

"(c) EXCEPTIONS FOR CERTAIN PRODUCTS.—The following softwood lumber products shall not be subject to the importer declaration program established under section 803:

"(1) STRINGERS.—Stringers (pallet components used for runners), if the stringers—

"(A) have at least 2 notches on the side, positioned at equal distance from the center, to properly accommodate forklift blades; and

"(B) are properly classified under subheading 4421.90.97.40 of the HTS.

"(2) BOX-SPRING FRAME KITS.—

"(A) IN GENERAL.—Box-spring frame kits, if—

"(i) the kits contain—

"(I) 2 wooden side rails;

"(II) 2 wooden end (or top) rails; and

"(III) varying numbers of wooden slats; and

"(ii) the side rails and the end rails are radius-cut at both ends.

"(B) PACKAGING.—Any kit described in subparagraph (A) shall be individually packaged, and contain the exact number of wooden components needed to make the box-spring frame described on the entry documents, with no further processing required. None of the components contained in the package may exceed 1 inch in actual thickness or 83 inches in length.

"(3) RADIUS-CUT BOX-SPRING FRAME COMPONENTS.—Radius-cut box-spring frame components, not exceeding 1 inch in actual thickness or 83 inches in length, ready for assembly without further processing, if radius cuts are present on both ends of the boards and are substantial cuts so as to completely round 1 corner.

"(4) FENCE PICKETS.—Fence pickets requiring no further processing and properly classified under subheading 4421.90.70 of the HTS, 1 inch or less in actual thickness, up to 8 inches wide, and 6 feet or less in length, and having finials or decorative cuttings that clearly identify them as fence pickets. In the case of dog-eared fence pickets, the corners of the boards shall be cut off so as to remove pieces of wood in the shape of isosceles right angle triangles with sides measuring 3/4 of an inch or more.

"(5) UNITED STATES-ORIGIN LUMBER.—Lumber originating in the United States that is exported to another country for minor processing and imported into the United States if—

"(A) the processing occurring in another country is limited to kiln drying, planing to create smooth-to-size board, and sanding; and

"(B) the importer establishes to the satisfaction of U.S. Customs and Border Protection upon entry that the lumber originated in the United States.

"(6) SOFTWOOD LUMBER.—Any softwood lumber or softwood lumber product that originated in the United States, if the importer, exporter, foreign processor, or original United States producer establishes to the satisfaction of U.S. Customs and Border Protection upon entry that the softwood lumber entered and documented as originating in the United States was first produced in the United States.

"(7) HOME PACKAGES OR KITS.—

"(A) IN GENERAL.—Softwood lumber or softwood lumber products contained in a single family home package or kit, regardless of the classification under the HTS, if the importer declares that the following requirements have been met:

"(i) The package or kit constitutes a full package of the number of wooden pieces specified in the plan, design, or blueprint necessary to produce a home of at

least 700 square feet produced to a specified plan, design, or blueprint.

"(ii) The package or kit contains—

"(I) all necessary internal and external doors and windows, nails, screws, glue, subfloor, sheathing, beams, posts, and connectors; and

"(II) if included in the purchase contract, the decking, trim, drywall, and roof shingles specified in the plan, design, or blueprint.

"(iii) Prior to importation, the package or kit is sold to a United States retailer that sells complete home packages or kits pursuant to a valid purchase contract referencing the particular home design, plan, or blueprint, and the contract is signed by a customer not affiliated with the importer.

"(iv) Softwood lumber products entered as part of the package or kit, whether in a single entry or multiple entries on multiple days, are to be used solely for the construction of the single family home specified by the home design, plan, or blueprint matching the U.S. Customs and Border Protection import entry.

"(B) ADDITIONAL DOCUMENTATION REQUIRED FOR HOME PACKAGES AND KITS.—In the case of each entry of products described in clauses (i) through (iv) of subparagraph (A) the following documentation shall be retained by the importer and made available to U.S. Customs and Border Protection upon request:

"(i) A copy of the appropriate home design, plan, or blueprint matching the customs entry in the United States.

"(ii) A purchase contract from a retailer of home kits or packages signed by a customer not affiliated with the importer.

"(iii) A listing of all parts in the package or kit being entered into the United States that conforms to the home design, plan, or blueprint for which such parts are being imported.

"(iv) If a single contract involves multiple entries, an identification of all the items required to be listed under clause (iii) that are included in each individual shipment.

"(d) PRODUCTS COVERED.—For purposes of determining if a product is covered by the importer declaration program, the President shall be guided by the article descriptions provided in this section.

"SEC. 805. EXPORT CHARGE DETERMINATION AND PUBLICATION.

"(a) DETERMINATION.—The Under Secretary for International Trade of the Department of Commerce shall determine, on a monthly basis, any export charges (expressed as a percentage of export price) to be collected by a country of export from exporters of softwood lumber or softwood lumber products described in section 804(a) in order to ensure compliance with any international agreement entered into by that country and the United States.

"(b) PUBLICATION.—The Under Secretary for International Trade shall immediately publish any determination made under

subsection (a) on the website of the International Trade Administration of the Department of Commerce, and in any other manner the Under Secretary considers appropriate.

"SEC. 806. RECONCILIATION.

"The Secretary of the Treasury shall conduct reconciliations to ensure the proper implementation and operation of international agreements entered into between a country of export of softwood lumber or softwood lumber products described in section 804(a) and the United States. The Secretary of Treasury shall reconcile the following:

"(1) The export price declared by a United States importer pursuant to section 803(b)(1) with the export price reported to the United States by the country of export, if any.

"(2) The export price declared by a United States importer pursuant to section 803(b)(1) with the revised export price reported to the United States by the country of export, if any.

"SEC. 807. VERIFICATION.

"(a) IN GENERAL.—The Secretary of Treasury shall periodically verify the declarations made by a United States importer pursuant to section 803(c), including by determining whether—

"(1) the export price declared by a United States importer pursuant to section 803(b)(1) is the same as the export price provided on the export permit, if any, issued by the country of export; and

"(2) the estimated export charge declared by a United States importer pursuant to section 803(b)(2) is consistent with the determination published by the Under Secretary for International Trade pursuant to section 805(b).

"(b) EXAMINATION OF BOOKS AND RECORDS.—

"(1) IN GENERAL.—Any record relating to the importer declaration program required under section 803 shall be treated as a record required to be maintained and produced under title V of this Act.

"(2) EXAMINATION OF RECORDS.—The Secretary of the Treasury is authorized to take such action, and examine such records, under section 509 of this Act, as the Secretary determines necessary to verify the declarations made pursuant to section 803(c) are true and accurate.

"SEC. 808. PENALTIES.

"(a) IN GENERAL.—It shall be unlawful for any person to import into the United States softwood lumber or softwood lumber products in knowing violation of this title.

"(b) CIVIL PENALTIES.—Any person who commits an unlawful act as set forth in subsection (a) shall be liable for a civil penalty not to exceed $10,000 for each knowing violation.

"(c) OTHER PENALTIES.—In addition to the penalties provided for in subsection (b), any violation of this title that violates any other customs law of the United States shall be subject to any applicable civil and criminal penalty, including seizure and forfeiture, that may be imposed under such custom law or title 18, United States Code, with respect to the importation of softwood lumber and softwood lumber products described in section 804(a).

"(d) FACTORS TO CONSIDER IN ASSESSING PENALTIES.—In determining the amount of civil penalties to be assessed under this

section, consideration shall be given to any history of prior violations of this title by the person, the ability of the person to pay the penalty, the seriousness of the violation, and such other matters as fairness may require.

"(e) NOTICE.—No penalty may be assessed under this section against a person for violating a provision of this title unless the person is given notice and opportunity to make statements, both oral and written, with respect to such violation.

"(f) EXCEPTION.—Notwithstanding any other provision of this title, and without limitation, an importer shall not be found to have violated subsection 803(c) if—

"(1) the importer made an appropriate inquiry in accordance with section 803(c)(1) with respect to the declaration;

"(2) the importer produces records maintained pursuant to section 807(b) that substantiate the declaration; and

"(3) there is not substantial evidence indicating that the importer knew that the fact to which the importer made the declaration was false.

"SEC. 809. REPORTS.

"(a) SEMIANNUAL REPORTS.—Not later than 180 days after the effective date of this title, and every 180 days thereafter, the President shall submit to the appropriate congressional committees a report—

"(1) describing the reconciliations conducted under section 806, and the verifications conducted under section 807;

"(2) identifying the manner in which the United States importers subject to reconciliations conducted under section 806 and verifications conducted under section 807 were chosen;

"(3) identifying any penalties imposed under section 808;

"(4) identifying any patterns of noncompliance with this title; and

"(5) identifying any problems or obstacles encountered in the implementation and enforcement of this title.

"(b) SUBSIDIES REPORTS.—Not later than 180 days after the date of the enactment of this title, and every 180 days thereafter, the Secretary of Commerce shall provide to the appropriate congressional committees a report on any subsidies on softwood lumber or softwood lumber products, including stumpage subsidies, provided by countries of export.

"(c) GAO REPORTS.—The Comptroller General of the United States shall submit the following reports to the appropriate congressional committees:

"(1) Not later than 18 months after the date of the enactment of this title, a report on the effectiveness of the reconciliations conducted under section 806, and verifications conducted under section 807.

"(2) Not later than 12 months after the date of the enactment of this title, a report on whether countries that export softwood lumber or softwood lumber products to the United States are complying with any international agreements entered into by those countries and the United States.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 60 days after the date of the enactment of this Act.

TITLE IV—NUTRITION

Subtitle A—Food Stamp Program

PART I—RENAMING OF FOOD STAMP ACT AND PROGRAM

SEC. 4001. RENAMING OF FOOD STAMP ACT AND PROGRAM.

(a) SHORT TITLE.—The first section of the Food Stamp Act of 1977 (7 U.S.C. 2011 note; Public Law 88–525) is amended by striking "Food Stamp Act of 1977" and inserting "Food and Nutrition Act of 2008".

(b) PROGRAM.—The Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) (as amended by subsection (a)) is amended by striking "food stamp program" each place it appears and inserting "supplemental nutrition assistance program".

SEC. 4002. CONFORMING AMENDMENTS.

(a) IN GENERAL.—

*(1) Section 4 of the Food and Nutrition Act of 2008 (7 U.S.C. 2013) is amended in the section heading by striking "**FOOD STAMP PROGRAM**" and inserting "**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**".*

(2) Section 5(h)(2)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(h)(2)(A)) is amended by striking "Food Stamp Disaster Task Force" and inserting "Disaster Task Force".

(3) Section 6 of the Food and Nutrition Act of 2008 (7 U.S.C. 2015) is amended—

(A) in subsection (d)(3), by striking "for food stamps";

(B) in subsection (j), in the subsection heading, by striking "FOOD STAMP"; and

(C) in subsection (o)—

(i) in paragraph (2), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits"; and

(ii) in paragraph (6)—

(I) in subparagraph (A)—

(aa) in clause (i), by striking "food stamps" and inserting "supplemental nutrition assistance program benefits"; and

(bb) in clause (ii)—

(AA) in the matter preceding subclause (I), by striking "a food stamp recipient" and inserting "a member of a household that receives supplemental nutrition assistance program benefits"; and

(BB) by striking "food stamp benefits" each place it appears and inserting "supplemental nutrition assistance program benefits"; and

(II) in subparagraphs (D) and (E), by striking "food stamp recipients" each place it appears and inserting "members of households that receive supplemental nutrition assistance program benefits".

(4) Section 7 of the Food and Nutrition Act of 2008 (7 U.S.C. 2016) is amended—

(A) in subsection (i)—

(i) in paragraph (3)(B)(ii), by striking "food stamp households" and inserting "households receiving supplemental nutrition assistance program benefits"; and

(ii) in paragraph (7), by striking "food stamp issuance" and inserting "supplemental nutrition assistance issuance"; and

(B) in subsection (k)—

(i) in paragraph (2), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits"; and

(ii) in paragraph (3), by striking "food stamp retail" and inserting "retail".

(5) Section 9(b)(1) of that Food and Nutrition Act of 2008 (7 U.S.C. 2018(b)(1)) is amended by striking "food stamp households" and inserting "households that receive supplemental nutrition assistance program benefits".

(6) Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended—

(A) in subsection (e)—

(i) by striking "food stamps" each place it appears and inserting "supplemental nutrition assistance program benefits";

(ii) by striking "food stamp offices" each place it appears and inserting "supplemental nutrition assistance program offices";

(iii) by striking "food stamp office" each place it appears and inserting "supplemental nutrition assistance program office"; and

(iv) in paragraph (25)—

(I) in the matter preceding subparagraph (A), by striking "Simplified Food Stamp Program" and inserting "Simplified Supplemental Nutrition Assistance Program"; and

(II) in subparagraph (A), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits";

(B) in subsection (k), by striking "may issue, upon request by the State agency, food stamps" and inserting "may provide, on request by the State agency, supplemental nutrition assistance program benefits";

(C) in subsection (l), by striking "food stamp participation" and inserting "supplemental nutrition assistance program participation";

(D) in subsections (q) and (r), in the subsection headings, by striking "FOOD STAMPS" each place it appears and inserting "BENEFITS";

(E) in subsection (s), by striking "food stamp benefits" each place it appears and inserting "supplemental nutrition assistance program benefits"; and

(F) in subsection (t)(1)—

(i) in subparagraph (A), by striking "food stamp application" and inserting "supplemental nutrition assistance program application"; and

(ii) in subparagraph (B), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits".

(7) Section 14(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2023(b)) is amended by striking "food stamp".

(8) Section 16 of the Food and Nutrition Act of 2008 (7 U.S.C. 2025) is amended—

(A) in subsection (a)(4), by striking "food stamp informational activities" and inserting "informational activities relating to the supplemental nutrition assistance program";

(B) in subsection (c)(9)(C), by striking "food stamp caseload" and inserting "the caseload under the supplemental nutrition assistance program"; and

(C) in subsection (h)(1)(E)(i), by striking "food stamp recipients" and inserting "members of households receiving supplemental nutrition assistance program benefits".

(9) Section 17 of the Food and Nutrition Act of 2008 (7 U.S.C. 2026) is amended—

(A) in subsection (a)(2), by striking "food stamp benefits" each place it appears and inserting "supplemental nutrition assistance program benefits";

(B) in subsection (b)—

(i) in paragraph (1)—

(I) in subparagraph (A), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits"; and

(II) in subparagraph (B)—

(aa) in clause (ii)(II), by striking "food stamp recipients" and inserting "supplemental nutrition assistance program recipients";

(bb) in clause (iii)(I), by striking "the State's food stamp households" and inserting "the number of households in the State receiving supplemental nutrition assistance program benefits"; and

(cc) in clause (iv)(IV)(bb), by striking "food stamp deductions" and inserting "supplemental nutrition assistance program deductions";

(ii) in paragraph (2), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits"; and

(iii) in paragraph (3)—

(I) in subparagraph (A), by striking "food stamp employment" and inserting "supplemental nutrition assistance program employment";

(II) in subparagraph (B), by striking "food stamp recipients" and inserting "supplemental nutrition assistance program recipients";

(III) in subparagraph (C), by striking "food stamps" and inserting "supplemental nutrition assistance program benefits"; and

(IV) in subparagraph (D), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits";

(C) in subsection (c), by striking "food stamps" and inserting "supplemental nutrition assistance";

(D) in subsection (d)—

(i) in paragraph (1)(B), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits";

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking "food stamp allotments" each place it appears and inserting "allotments"; and

(II) in subparagraph (C)(ii), by striking "food stamp benefit" and inserting "supplemental nutrition assistance program benefits"; and

(iii) in paragraph (3)(E), by striking "food stamp benefits" and inserting "supplemental nutrition assistance program benefits";

(E) in subsections (e) and (f), by striking "food stamp benefits" each place it appears and inserting "supplemental nutrition assistance program benefits";

(F) in subsection (g), in the first sentence, by striking "receipt of food stamp" and inserting "receipt of supplemental nutrition assistance program"; and

(G) in subsection (j), by striking "food stamp agencies" and inserting "supplemental nutrition assistance program agencies".

(10) Section 18(a)(3)(A)(ii) of the Food and Nutrition Act of 2008 (7 U.S.C. 2027(a)(3)(A)(ii)) is amended by striking "food stamps" and inserting "supplemental nutrition assistance program benefits".

(11) Section 22 of the Food and Nutrition Act of 2008 (7 U.S.C. 2031) is amended—

*(A) in the section heading, by striking "**FOOD STAMP PORTION OF MINNESOTA FAMILY INVESTMENT PLAN**" and inserting "**MINNESOTA FAMILY INVESTMENT PROJECT**";*

(B) in subsections (b)(12) and (d)(3), by striking "the Food Stamp Act, as amended," each place it appears and inserting "this Act"; and

(C) in subsection (g)(1), by striking "the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.)" and inserting "this Act".

(12) Section 26 of the Food and Nutrition Act of 2008 (7 U.S.C. 2035) is amended—

*(A) in the section heading, by striking "**SIMPLIFIED FOOD STAMP PROGRAM**" and inserting "**SIMPLIFIED SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**"; and*

(B) in subsection (b), by striking "simplified food stamp program" and inserting "simplified supplemental nutrition assistance program".

(b) CONFORMING CROSS-REFERENCES.—

(1) IN GENERAL.—Each provision of law described in paragraph (2) is amended (as applicable)—

(A) by striking "food stamp program" each place it appears and inserting "supplemental nutrition assistance program";

(B) by striking "Food Stamp Act of 1977" each place it appears and inserting "Food and Nutrition Act of 2008";

(C) by striking "Food Stamp Act" each place it appears and inserting "Food and Nutrition Act of 2008";

(D) by striking "food stamp" each place it appears and inserting "supplemental nutrition assistance program benefits";

(E) by striking "food stamps" each place it appears and inserting "supplemental nutrition assistance program benefits";

*(F) in each applicable title, subtitle, chapter, subchapter, and section heading, by striking "**FOOD STAMP ACT**" each place it appears and inserting "**FOOD AND NUTRITION ACT OF 2008**";*

(G) in each applicable subsection and appropriations heading, by striking "FOOD STAMP ACT" each place it appears and inserting "FOOD AND NUTRITION ACT OF 2008";

*(H) in each applicable heading other than a title, subtitle, chapter, subchapter, section, subsection, or appropriations heading, by striking "**FOOD STAMP ACT**" each place it appears and inserting "**FOOD AND NUTRITION ACT OF 2008**";*

*(I) in each applicable title, subtitle, chapter, subchapter, and section heading, by striking "**FOOD STAMP PROGRAM**" each place it appears and inserting "**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**";*

(J) in each applicable subsection and appropriations heading, by striking "FOOD STAMP PROGRAM" each place it appears and inserting "SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM";

*(K) in each applicable heading other than a title, subtitle, chapter, subchapter, section, subsection, or appropriations heading, by striking "**FOOD STAMP PROGRAM**" each place it appears and inserting "**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM**";*

*(L) in each applicable title, subtitle, chapter, subchapter, and section heading, by striking "**FOOD STAMPS**" each place it appears and inserting "**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS**";*

(M) in each applicable subsection and appropriations heading, by striking "FOOD STAMPS" each place it appears and inserting "SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS"; and

*(N) in each applicable heading other than a title, subtitle, chapter, subchapter, section, subsection, or appropriations heading, by striking "**FOOD STAMPS**" each place it appears and inserting "**SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS**".*

(2) PROVISIONS OF LAW.—The provisions of law referred to in paragraph (1) are the following:

(A) The Hunger Prevention Act of 1988 (Public Law 100–435; 102 Stat. 1645).

(B) The Food Stamp Program Improvements Act of 1994 (Public Law 103–225; 108 Stat. 106).

(C) Title IV of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 305).

(D) Section 2 of Public Law 103–205 (7 U.S.C. 2012 note).

(E) Section 807(b) of the Stewart B. McKinney Homeless Assistance Act (7 U.S.C. 2014 note; Public Law 100–77).

(F) The Electronic Benefit Transfer Interoperability and Portability Act of 2000 (Public Law 106–171; 114 Stat. 3).

(G) Section 502(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 2025 note; Public Law 105–185).

(H) The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.).

(I) The Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.).

(J) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(K) Section 8119 of the Department of Defense Appropriations Act, 1999 (10 U.S.C. 113 note; Public Law 105–262).

(L) The Armored Car Industry Reciprocity Act of 1993 (15 U.S.C. 5901 et seq.).

(M) Title 18, United States Code.

(N) The Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(O) The Internal Revenue Code of 1986.

(P) Section 650 of the Treasury and General Government Appropriations Act, 2000 (26 U.S.C. 7801 note; Public Law 106–58).

(Q) The Wagner-Peysner Act (29 U.S.C. 49 et seq.).

(R) The Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

(S) Title 31, United States Code.

(T) Title 37, United States Code.

(U) The Public Health Service Act (42 U.S.C. 201 et seq.).

(V) Titles II through XIX of the Social Security Act (42 U.S.C. 401 et seq.).

(W) Section 406 of the Family Support Act of 1988 (Public Law 100–485; 102 Stat. 2400).

(X) Section 232 of the Social Security Act Amendments of 1994 (42 U.S.C. 1314a).

(Y) The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.).

(Z) The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(AA) The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(BB) The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

(CC) Section 208 of the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728).

(DD) The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(EE) The Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

(FF) Section 658K of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858i).

(GG) The Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(HH) Public Law 95–348 (92 Stat. 487).

(II) The Agriculture and Food Act of 1981 (Public Law 97–98; 95 Stat. 1213).

(JJ) The Disaster Assistance Act of 1988 (Public Law 100–387; 102 Stat. 924).

(KK) The Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3359).

(LL) The Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625; 104 Stat. 4079).

(MM) Section 388 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102–25; 105 Stat. 98).

(NN) The Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1818).

(OO) The Act of March 26, 1992 (Public Law 102–265; 106 Stat. 90).

(PP) Public Law 105–379 (112 Stat. 3399).

(QQ) Section 101(c) of the Emergency Supplemental Act, 2000 (Public Law 106–246; 114 Stat. 528).

(c) REFERENCES.—Any reference in any Federal, State, tribal, or local law (including regulations) to the "food stamp program" established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) shall be considered to be a reference to the "supplemental nutrition assistance program" established under that Act.

PART II—BENEFIT IMPROVEMENTS

SEC. 4101. EXCLUSION OF CERTAIN MILITARY PAYMENTS FROM INCOME.

Section 5(d) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(d)) is amended—

(1) by striking "(d) Household" and inserting "(d) EXCLUSIONS FROM INCOME.—Household";

(2) by striking "only (1) any" and inserting "only—
"(1) any";

(3) by indenting each of paragraphs (2) through (18) so as to align with the margin of paragraph (1) (as amended by paragraph (2));

(4) by striking the comma at the end of each of paragraphs (1) through (16) and inserting a semicolon;

(5) in paragraph (3)—

(A) by striking "like (A) awarded" and inserting "like—
"(A) awarded";

(B) by striking "thereof, (B) to" and inserting "thereof;
"(B) to"; and

(C) by striking "program, and (C) to" and inserting "program; and

"(C) to";

(6) in paragraph (11), by striking "), or (B) a" and inserting "); or

"(B) a";

(7) in paragraph (17), by striking ", and" at the end and inserting a semicolon;

(8) in paragraph (18), by striking the period at the end and inserting "; and"; and

(9) by adding at the end the following:

"(19) any additional payment under chapter 5 of title 37, United States Code, or otherwise designated by the Secretary to be appropriate for exclusion under this paragraph, that is received by or from a member of the United States Armed Forces deployed to a designated combat zone, if the additional pay—

"(A) is the result of deployment to or service in a combat zone; and

"(B) was not received immediately prior to serving in a combat zone.".

SEC. 4102. STRENGTHENING THE FOOD PURCHASING POWER OF LOW-INCOME AMERICANS.

Section 5(e)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(e)(1)) is amended—

(1) in subparagraph (A)(ii), by striking "not less than $134" and all that follows through the end of the clause and inserting the following: "not less than—

"(I) for fiscal year 2009, $144, $246, $203, and $127, respectively; and

"(II) for fiscal year 2010 and each fiscal year thereafter, an amount that is equal to the amount from the previous fiscal year adjusted to the nearest lower dollar increment to reflect changes for the 12-month period ending on the preceding June 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, for items other than food.";

(2) in subparagraph (B)(ii), by striking "not less than $269" and all that follows through the end of the clause and inserting the following: "not less than—

"(I) for fiscal year 2009, $289; and

"(II) for fiscal year 2010 and each fiscal year thereafter, an amount that is equal to the amount from the previous fiscal year adjusted to the nearest lower dollar increment to reflect changes for the 12-month period ending on the preceding June 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, for items other than food."; and

(3) by adding at the end the following:

"(C) REQUIREMENT.—Each adjustment under subparagraphs (A)(ii)(II) and (B)(ii)(II) shall be based on the unrounded amount for the prior 12-month period.".

SEC. 4103. SUPPORTING WORKING FAMILIES WITH CHILD CARE EXPENSES.

Section 5(e)(3)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(e)(3)(A)) is amended by striking ", the maximum allowable level of which shall be $200 per month for each dependent child under 2 years of age and $175 per month for each other dependent,".

SEC. 4104. ASSET INDEXATION, EDUCATION, AND RETIREMENT ACCOUNTS.

(a) ADJUSTING COUNTABLE RESOURCES FOR INFLATION.—Section (5)(g) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(g)) is amended—

(1) by striking "(g)(1) The Secretary" and inserting the following:

"(g) ALLOWABLE FINANCIAL RESOURCES.—

"(1) TOTAL AMOUNT.—

"(A) IN GENERAL.—The Secretary".

(2) in subparagraph (A) (as so designated by paragraph (1))—

(A) by inserting "(as adjusted in accordance with subparagraph (B))" after "$2,000"; and

(B) by inserting "(as adjusted in accordance with subparagraph (B))" after "$3,000"; and

(3) by adding at the end the following:

"(B) ADJUSTMENT FOR INFLATION.—

"(i) IN GENERAL.—Beginning on October 1, 2008, and each October 1 thereafter, the amounts specified in subparagraph (A) shall be adjusted and rounded down to the nearest $250 increment to reflect changes for the 12-month period ending the preceding June in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

"(ii) REQUIREMENT.—Each adjustment under clause (i) shall be based on the unrounded amount for the prior 12-month period.".

(b) EXCLUSION OF RETIREMENT ACCOUNTS FROM ALLOWABLE FINANCIAL RESOURCES.—

(1) IN GENERAL.—Section 5(g)(2)(B)(v) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(g)(2)(B)(v)) is amended by striking "or retirement account (including an individual account)" and inserting "account".

(2) MANDATORY AND DISCRETIONARY EXCLUSIONS.—Section 5(g) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(g)) is amended by adding at the end the following:

"(7) EXCLUSION OF RETIREMENT ACCOUNTS FROM ALLOWABLE FINANCIAL RESOURCES.—

"(A) MANDATORY EXCLUSIONS.—The Secretary shall exclude from financial resources under this subsection the value of—

"(i) any funds in a plan, contract, or account, described in sections 401(a), 403(a), 403(b), 408, 408A, 457(b), and 501(c)(18) of the Internal Revenue Code of 1986 and the value of funds in a Federal Thrift Sav-

ings Plan account as provided in section 8439 of title 5, United States Code; and

"(ii) any retirement program or account included in any successor or similar provision that may be enacted and determined to be exempt from tax under the Internal Revenue Code of 1986.

"(B) DISCRETIONARY EXCLUSIONS.—The Secretary may exclude from financial resources under this subsection the value of any other retirement plans, contracts, or accounts (as determined by the Secretary).".

(c) EXCLUSION OF EDUCATION ACCOUNTS FROM ALLOWABLE FINANCIAL RESOURCES.—Section 5(g) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(g)) (as amended by subsection (b)) is amended by adding at the end the following:

"(8) EXCLUSION OF EDUCATION ACCOUNTS FROM ALLOWABLE FINANCIAL RESOURCES.—

"(A) MANDATORY EXCLUSIONS.—The Secretary shall exclude from financial resources under this subsection the value of any funds in a qualified tuition program described in section 529 of the Internal Revenue Code of 1986 or in a Coverdell education savings account under section 530 of that Code.

"(B) DISCRETIONARY EXCLUSIONS.—The Secretary may exclude from financial resources under this subsection the value of any other education programs, contracts, or accounts (as determined by the Secretary).".

SEC. 4105. FACILITATING SIMPLIFIED REPORTING.

Section 6(c)(1)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(c)(1)(A)) is amended—

(1) by striking "reporting by" and inserting "reporting";

(2) in clause (i), by inserting "for periods shorter than 4 months by" before "migrant";

(3) in clause (ii), by inserting "for periods shorter than 4 months by" before "households"; and

(4) in clause (iii), by inserting "for periods shorter than 1 year by" before "households".

SEC. 4106. TRANSITIONAL BENEFITS OPTION.

Section 11(s)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(s)(1)) is amended—

(1) by striking "benefits to a household"; and inserting "benefits—

"(A) to a household";

(2) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(B) at the option of the State, to a household with children that ceases to receive cash assistance under a State-funded public assistance program.".

SEC. 4107. INCREASING THE MINIMUM BENEFIT.

Section 8(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2017(a)) is amended by striking "$10 per month" and inserting "8 percent of the cost of the thrifty food plan for a household containing 1 member, as determined by the Secretary under section 3, rounded to the nearest whole dollar increment".

SEC. 4108. EMPLOYMENT, TRAINING, AND JOB RETENTION.

Section 6(d)(4) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(d)(4)) is amended—

(1) in subparagraph (B)—

(A) by redesignating clause (vii) as clause (viii); and

(B) by inserting after clause (vi) the following:

"(vii) Programs intended to ensure job retention by providing job retention services, if the job retention services are provided for a period of not more than 90 days after an individual who received employment and training services under this paragraph gains employment."; and

(2) in subparagraph (F), by adding at the end the following:

"(iii) Any individual voluntarily electing to participate in a program under this paragraph shall not be subject to the limitations described in clauses (i) and (ii).".

PART III—PROGRAM OPERATIONS

SEC. 4111. NUTRITION EDUCATION.

(a) AUTHORITY TO PROVIDE NUTRITION EDUCATION.—Section 4(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(a)) is amended in the first sentence by inserting "and, through an approved State plan, nutrition education" after "an allotment".

(b) IMPLEMENTATION.—Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended by striking subsection (f) and inserting the following:

"(f) NUTRITION EDUCATION.—

"(1) IN GENERAL.—State agencies may implement a nutrition education program for individuals eligible for program benefits that promotes healthy food choices consistent with the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341).

"(2) DELIVERY OF NUTRITION EDUCATION.—State agencies may deliver nutrition education directly to eligible persons or through agreements with the National Institute of Food and Agriculture, including through the expanded food and nutrition education program under section 3(d) of the Act of May 8, 1914 (7 U.S.C. 343(d)), and other State and community health and nutrition providers and organizations.

"(3) NUTRITION EDUCATION STATE PLANS.—

"(A) IN GENERAL.—A State agency that elects to provide nutrition education under this subsection shall submit a nutrition education State plan to the Secretary for approval.

"(B) REQUIREMENTS.—The plan shall—

"(i) identify the uses of the funding for local projects; and

"(ii) conform to standards established by the Secretary through regulations or guidance.

"(C) REIMBURSEMENT.—State costs for providing nutrition education under this subsection shall be reimbursed pursuant to section 16(a).

"(4) NOTIFICATION.—To the maximum extent practicable, State agencies shall notify applicants, participants, and eligible program participants of the availability of nutrition education under this subsection.".

SEC. 4112. TECHNICAL CLARIFICATION REGARDING ELIGIBILITY.

Section 6(k) of the Food and Nutrition Act of 2008 (7 U.S.C. 2015(k)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(2) by striking "No member" and inserting the following:

"(1) IN GENERAL.—No member"; and

(3) by adding at the end the following:

"(2) PROCEDURES.—The Secretary shall—

"(A) define the terms 'fleeing' and 'actively seeking' for purposes of this subsection; and

"(B) ensure that State agencies use consistent procedures established by the Secretary that disqualify individuals whom law enforcement authorities are actively seeking for the purpose of holding criminal proceedings against the individual.".

SEC. 4113. CLARIFICATION OF SPLIT ISSUANCE.

Section 7(h) of the Food and Nutrition Act of 2008 (7 U.S.C. 2016(h)) is amended by striking paragraph (2) and inserting the following:

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—Any procedure established under paragraph (1) shall—

"(i) not reduce the allotment of any household for any period; and

"(ii) ensure that no household experiences an interval between issuances of more than 40 days.

"(B) MULTIPLE ISSUANCES.—The procedure may include issuing benefits to a household in more than 1 issuance during a month only when a benefit correction is necessary.".

SEC. 4114. ACCRUAL OF BENEFITS.

Section 7(i) of the Food and Nutrition Act of 2008 (7 U.S.C. 2016(i)) is amended by adding at the end the following:

"(12) RECOVERING ELECTRONIC BENEFITS.—

"(A) IN GENERAL.—A State agency shall establish a procedure for recovering electronic benefits from the account of a household due to inactivity.

"(B) BENEFIT STORAGE.—A State agency may store recovered electronic benefits off-line in accordance with subparagraph (D), if the household has not accessed the account after 6 months.

"(C) BENEFIT EXPUNGING.—A State agency shall expunge benefits that have not been accessed by a household after a period of 12 months.

"(D) NOTICE.—A State agency shall—

"(i) send notice to a household the benefits of which are stored under subparagraph (B); and

"(ii) not later than 48 hours after request by the household, make the stored benefits available to the household.".

SEC. 4115. ISSUANCE AND USE OF PROGRAM BENEFITS.

(a) IN GENERAL.—Section 7 of the Food and Nutrition Act of 2008 (7 U.S.C. 2016) is amended—

(1) by striking the section designation and heading and all that follows through "subsection (j)) shall be" and inserting the following:

"SEC. 7. ISSUANCE AND USE OF PROGRAM BENEFITS.

"(a) IN GENERAL.—Except as provided in subsection (i), EBT cards shall be";

(2) in subsection (b)—

(A) by striking "(b) Coupons" and inserting the following:

"(b) USE.—Benefits"; and

(B) by striking the second proviso;

(3) in subsection (c)—

(A) by striking "(c) Coupons" and inserting the following:

"(c) DESIGN.—

"(1) IN GENERAL.—EBT cards";

(B) in the first sentence, by striking "and define their denomination"; and

(C) by striking the second sentence and inserting the following:

"(2) PROHIBITION.—The name of any public official shall not appear on any EBT card.";

(4) by striking subsection (d);

(5) in subsection (e)—

(A) by striking "coupons" each place it appears and inserting "benefits"; and

(B) by striking "coupon issuers" each place it appears and inserting "benefit issuers";

(6) in subsection (f)—

(A) by striking "coupons" each place it appears and inserting "benefits";

(B) by striking "coupon issuer" and inserting "benefit issuers";

(C) by striking "including any losses" and all that follows through "section 11(e)(20),"; and

(D) by striking "and allotments";

(7) by striking subsection (g) and inserting the following:

"(g) ALTERNATIVE BENEFIT DELIVERY.—

"(1) IN GENERAL.—If the Secretary determines, in consultation with the Inspector General of the Department of Agriculture, that it would improve the integrity of the supplemental nutrition assistance program, the Secretary shall require a State agency to issue or deliver benefits using alternative methods.

"(2) NO IMPOSITION OF COSTS.—The cost of documents or systems that may be required by this subsection may not be im-

posed upon a retail food store participating in the supplemental nutrition assistance program.

"(3) DEVALUATION AND TERMINATION OF ISSUANCE OF PAPER COUPONS.—

"(A) COUPON ISSUANCE.—Effective on the date of enactment of the Food, Conservation, and Energy Act of 2008, no State shall issue any coupon, stamp, certificate, or authorization card to a household that receives supplemental nutrition assistance under this Act.

"(B) EBT CARDS.—Effective beginning on the date that is 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, only an EBT card issued under subsection (i) shall be eligible for exchange at any retail food store.

"(C) DE-OBLIGATION OF COUPONS.—Coupons not redeemed during the 1-year period beginning on the date of enactment of the Food, Conservation, and Energy Act of 2008 shall—

"(i) no longer be an obligation of the Federal Government; and

"(ii) not be redeemable.";

(8) in subsection (h)(1), by striking "coupons" and inserting "benefits";

(9) in subsection (i), by adding at the end the following:

"(12) INTERCHANGE FEES.—No interchange fees shall apply to electronic benefit transfer transactions under this subsection.";

(10) in subsection (j)—

(A) in paragraph (2)(A)(ii), by striking "printing, shipping, and redeeming coupons" and inserting "issuing and redeeming benefits"; and

(B) in paragraph (5), by striking "coupon" and inserting "benefit";

(11) in subsection (k)—

(A) by striking "coupons in the form of" each place it appears and inserting "program benefits in the form of";

(B) by striking "a coupon issued in the form of" each place it appears and inserting "program benefits in the form of"; and

(C) in subparagraph (A), by striking "subsection (i)(11)(A)" and inserting "subsection (h)(11)(A)"; and

(12) by redesignating subsections (e) through (k) as subsections (d) through (j), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012) is amended—

(A) in subsection (a), by striking "coupons" and inserting "benefits";

(B) by striking subsection (b) and inserting the following:

"(b) BENEFIT.—The term 'benefit' means the value of supplemental nutrition assistance provided to a household by means of—

"(1) an electronic benefit transfer under section 7(i); or

"(2) other means of providing assistance, as determined by the Secretary.";

(C) in subsection (c), in the first sentence, by striking "authorization cards" and inserting "benefits";

(D) in subsection (d), by striking "or access device" and all that follows through the end of the subsection and inserting a period;

(E) in subsection (e)—

(i) by striking "(e) 'Coupon issuer' means" and inserting the following:

"(e) BENEFIT ISSUER.—The term 'benefit issuer' means"; and

(ii) by striking "coupons" and inserting "benefits";

(F) in subsection (g)(7), by striking "subsection (r)" and inserting "subsection (j)";

(G) in subsection (i)(5)—

(i) in subparagraph (B), by striking "subsection (r)" and inserting "subsection (j)"; and

(ii) in subparagraph (D), by striking "coupons" and inserting "benefits";

(H) in subsection (j), by striking "(as that term is defined in subsection (p))";

(I) in subsection (k)—

(i) in paragraph (1)(A), by striking "subsection (u)(1)" and inserting "subsection (r)(1)";

(ii) in paragraph (2), by striking "subsections (g)(3), (4), (5), (7), (8), and (9) of this section" and inserting "paragraphs (3), (4), (5), (7), (8), and (9) of subsection (k)"; and

(iii) in paragraph (3), by striking "subsection (g)(6) of this section" and inserting "subsection (k)(6)";

(J) in subsection (t), by inserting ", including point of sale devices," after "other means of access";

(K) in subsection (u), by striking "(as defined in subsection (g))";

(L) by adding at the end the following:

"(v) EBT CARD.—The term 'EBT card' means an electronic benefit transfer card issued under section 7(i)."; and

(M) by redesignating subsections (a) through (v) as subsections (b), (d), (f), (g), (e), (h), (k), (l), (n), (o), (p), (q), (s), (t), (u), (v), (c), (j), (m), (a), (r), and (i), respectively, and moving the subsections so as to appear in alphabetical order.

(2) Section 4(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(a)) is amended—

(A) by striking "coupons" each place it appears and inserting "benefits"; and

(B) by striking "Coupons issued" and inserting "benefits issued".

(3) Section 5 of the Food and Nutrition Act of 2008 (7 U.S.C. 2014) is amended—

(A) in subsection (a), by striking "section 3(i)(4)" and inserting "section 3(n)(4)";

(B) in subsection (h)(3)(B), in the second sentence, by striking "section 7(i)" and inserting "section 7(h)"; and

(C) in subsection (i)(2)(E), by striking ", as defined in section 3(i) of this Act,".

(4) Section 6 of the Food and Nutrition Act of 2008 (7 U.S.C. 2015) is amended—

(A) in subsection (b)(1)—

(i) in subparagraph (B), by striking "coupons or authorization cards" and inserting "program benefits"; and

(ii) by striking "coupons" each place it appears and inserting "benefits"; and

(B) in subsection (d)(4)(L), by striking "section 11(e)(22)" and inserting "section 11(e)(19)".

(5) Section 8 of the Food and Nutrition Act of 2008 (7 U.S.C. 2017) is amended—

(A) in subsection (b), by striking ", whether through coupons, access devices, or otherwise"; and

(B) in subsections (e)(1) and (f), by striking "section 3(i)(5)" each place it appears and inserting "section 3(n)(5)".

(6) Section 9 of the Food and Nutrition Act of 2008 (7 U.S.C. 2018) is amended—

(A) by striking "coupons" each place it appears and inserting "benefits";

(B) in subsection (a)—

(i) in paragraph (1), by striking "coupon business" and inserting "benefit transactions"; and

(ii) by striking paragraph (3) and inserting the following:

"(3) AUTHORIZATION PERIODS.—The Secretary shall establish specific time periods during which authorization to accept and redeem benefits shall be valid under the supplemental nutrition assistance program."; and

(C) in subsection (g), by striking "section 3(g)(9)" and inserting "section 3(k)(9)".

(7) Section 10 of the Food and Nutrition Act of 2008 (7 U.S.C. 2019) is amended—

(A) by striking the section designation and heading and all that follows through "Regulations" and inserting the following:

"SEC. 10. REDEMPTION OF PROGRAM BENEFITS.

"Regulations";

(B) by striking "section 3(k)(4) of this Act" and inserting "section 3(p)(4)";

(C) by striking "section 7(i)" and inserting "section 7(h)"; and

(D) by striking "coupons" each place it appears and inserting "benefits".

(8) Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended—

(A) in subsection (d)—

(i) by striking "section 3(n)(1) of this Act" each place it appears and inserting "section 3(t)(1)"; and

(ii) by striking "section 3(n)(2) of this Act" each place it appears and inserting "section 3(t)(2)";

(B) in subsection (e)—

(i) in paragraph (8)(E), by striking "paragraph (16) or (20)(B)" and inserting "paragraph (15) or (18)(B)";

(ii) by striking paragraphs (15) and (19);

(iii) by redesignating paragraphs (16) through (18) and (20) through (25) as paragraphs (15) through (17) and (18) through (23), respectively; and

(iv) in paragraph (17) (as so redesignated), by striking "(described in section 3(n)(1) of this Act)" and inserting "described in section 3(t)(1)";

(C) in subsection (h), by striking "coupon or coupons" and inserting "benefits";

(D) by striking "coupon" each place it appears and inserting "benefit";

(E) by striking "coupons" each place it appears and inserting "benefits"; and

(F) in subsection (q), by striking "section 11(e)(20)(B)" and inserting "subsection (e)(18)(B)".

(9) Section 13 of the Food and Nutrition Act of 2008 (7 U.S.C. 2022) is amended by striking "coupons" each place it appears and inserting "benefits".

(10) Section 15 of the Food and Nutrition Act of 2008 (7 U.S.C. 2024) is amended—

(A) in subsection (a), by striking "coupons" and inserting "benefits";

(B) in subsection (b)(1)—

(i) by striking "coupons, authorization cards, or access devices" each place it appears and inserting "benefits";

(ii) by striking "coupons or authorization cards" and inserting "benefits"; and

(iii) by striking "access device" each place it appears and inserting "benefit";

(C) in subsection (c), by striking "coupons" each place it appears and inserting "benefits";

(D) in subsection (d), by striking "Coupons" and inserting "Benefits";

(E) by striking subsections (e) and (f);

(F) by redesignating subsections (g) and (h) as subsections (e) and (f), respectively; and

(G) in subsection (e) (as so redesignated), by striking "coupon, authorization cards or access devices" and inserting "benefits".

(11) Section 16(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(a)) is amended by striking "coupons" each place it appears and inserting "benefits".

(12) Section 17 of the Food and Nutrition Act of 2008 (7 U.S.C. 2026) is amended—

(A) in subsection (a)(2), by striking "coupon" and inserting "benefit";

(B) in subsection (b)(1)—

(i) in subparagraph (B)—

(I) in clause (iv)—

(aa) in subclause (I), inserting "or otherwise providing benefits in a form not restricted to the purchase of food" after "of cash";

(bb) in subclause (III)(aa), by striking "section 3(i)" and inserting "section 3(n)"; and

(cc) in subclause (VII), by striking "section 7(j)" and inserting "section 7(i)"; and

(II) in clause (v)—

(aa) by striking "countersigned food coupons or similar"; and

(bb) by striking "food coupons" and inserting "EBT cards"; and

(ii) in subparagraph (C)(i)(I), by striking "coupons" and inserting "EBT cards";

(C) in subsection (f), by striking "section 7(g)(2)" and inserting "section 7(f)(2)"; and

(D) in subsection (j), by striking "coupon" and inserting "benefit".

(13) Section 19(a)(2)(A)(ii) of the Food and Nutrition Act of 2008 (7 U.S.C. 2028(a)(2)(A)(ii)) is amended by striking "section 3(o)(4)" and inserting "section 3(u)(4)".

(14) Section 21 of the Food and Nutrition Act of 2008 (7 U.S.C. 2030) is repealed.

(15) Section 22 of the Food and Nutrition Act of 2008 (7 U.S.C. 2031) is amended—

(A) by striking "food coupons" each place it appears and inserting "benefits";

(B) by striking "coupons" each place it appears and inserting "benefits"; and

(C) in subsection (g)(1)(A), by striking "coupon" and inserting "benefits".

(16) Section 26(f)(3) of the Food and Nutrition Act of 2008 (7 U.S.C. 2035(f)(3)) is amended—

(A) in subparagraph (A), by striking "subsections (a) through (g)" and inserting "subsections (a) through (f)"; and

(B) in subparagraph (E), by striking "(16), (18), (20), (24), and (25)" and inserting "(15), (17), (18), (22), and (23)".

(c) CONFORMING CROSS-REFERENCES.—

(1) IN GENERAL.—

(A) USE OF TERMS.—Each provision of law described in subparagraph (B) is amended (as applicable)—

(i) by striking "coupons" each place it appears and inserting "benefits";

(ii) by striking "coupon" each place it appears and inserting "benefit";

(iii) by striking "food coupons" each place it appears and inserting "benefits";

*(iv) in each section heading, by striking "**FOOD COUPONS**" each place it appears and inserting "**BENEFITS**";*

(v) by striking "food stamp coupon" each place it appears and inserting "benefit"; and

(vi) by striking "food stamps" each place it appears and inserting "benefits".

(B) PROVISIONS OF LAW.—The provisions of law referred to in subparagraph (A) are the following:

(i) Section 2 of Public Law 103–205 (7 U.S.C. 2012 note; 107 Stat. 2418).

(ii) Section 1956(c)(7)(D) of title 18, United States Code.

(iii) Titles II through XIX of the Social Security Act (42 U.S.C. 401 et seq.).

(iv) Section 401(b)(3) of the Social Security Amendments of 1972 (42 U.S.C. 1382e note; Public Law 92–603).

(v) The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(vi) Section 802(d)(2)(A)(i)(II) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(d)(2)(A)(i)(II)).

(2) DEFINITION REFERENCES.—

(A) Section 2 of Public Law 103–205 (7 U.S.C. 2012 note; 107 Stat. 2418) is amended by striking "section 3(k)(1)" and inserting "section 3(p)(1)".

(B) Section 205 of the Food Stamp Program Improvements Act of 1994 (7 U.S.C. 2012 note; Public Law 103–225) is amended by striking "section 3(k) of such Act (as amended by section 201)" and inserting "section 3(p) of that Act".

(C) Section 115 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (21 U.S.C. 862a) is amended—

(i) by striking "section 3(h)" each place it appears and inserting "section 3(l)"; and

(ii) in subsection (e)(2), by striking "section 3(m)" and inserting "section 3(s)".

(D) Section 402(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)) is amended—

(i) in paragraph (2)(F)(ii), by striking "section 3(r)" and inserting "section 3(j)"; and

(ii) in paragraph (3)(B), by striking "section 3(h)" and inserting "section 3(l)".

(E) Section 3803(c)(2)(C)(vii) of title 31, United States Code, is amended by striking "section 3(h)" and inserting "section 3(l)".

(F) Section 303(d)(4) of the Social Security Act (42 U.S.C. 503(d)(4)) is amended by striking "section 3(n)(1)" and inserting "section 3(t)(1)".

(G) Section 404 of the Social Security Act (42 U.S.C. 604) is amended by striking "section 3(h)" each place it appears and inserting "section 3(l)".

(H) Section 531 of the Social Security Act (42 U.S.C. 654) is amended by striking "section 3(h)" each place it appears and inserting "section 3(l)".

(I) Section 802(d)(2)(A)(i)(II) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(d)(2)(A)(i)(II)) is amended by striking "(as defined in section 3(e) of such Act)".

(d) REFERENCES.—Any reference in any Federal, State, tribal, or local law (including regulations) to a "coupon", "authorization card", or other access device provided under the Food and Nutrition

Act of 2008 (7 U.S.C. 2011 et seq.) shall be considered to be a reference to a "benefit" provided under that Act.

SEC. 4116. REVIEW OF MAJOR CHANGES IN PROGRAM DESIGN.

Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended by striking the section enumerator and heading and subsection (a) and inserting the following:

"SEC. 11. ADMINISTRATION.

"(a) STATE RESPONSIBILITY.—

"(1) IN GENERAL.—The State agency of each participating State shall have responsibility for certifying applicant households and issuing EBT cards.

"(2) LOCAL ADMINISTRATION.—The responsibility of the agency of the State government shall not be affected by whether the program is operated on a State-administered or county-administered basis, as provided under section 3(t)(1).

"(3) RECORDS.—

"(A) IN GENERAL.—Each State agency shall keep such records as may be necessary to determine whether the program is being conducted in compliance with this Act (including regulations issued under this Act).

"(B) INSPECTION AND AUDIT.—Records described in subparagraph (A) shall—

"(i) be available for inspection and audit at any reasonable time;

"(ii) subject to subsection (e)(8), be available for review in any action filed by a household to enforce any provision of this Act (including regulations issued under this Act); and

"(iii) be preserved for such period of not less than 3 years as may be specified in regulations.

"(4) REVIEW OF MAJOR CHANGES IN PROGRAM DESIGN.—

"(A) IN GENERAL.—The Secretary shall develop standards for identifying major changes in the operations of a State agency, including—

"(i) large or substantially-increased numbers of low-income households that do not live in reasonable proximity to an office performing the major functions described in subsection (e);

"(ii) substantial increases in reliance on automated systems for the performance of responsibilities previously performed by personnel described in subsection (e)(6)(B);

"(iii) changes that potentially increase the difficulty of reporting information under subsection (e) or section 6(c); and

"(iv) changes that may disproportionately increase the burdens on any of the types of households described in subsection (e)(2)(A).

"(B) NOTIFICATION.—If a State agency implements a major change in operations, the State agency shall—

"(i) notify the Secretary; and

"(ii) collect such information as the Secretary shall require to identify and correct any adverse effects on program integrity or access, including access by any of

the types of households described in subsection (e)(2)(A).".

SEC. 4117. CIVIL RIGHTS COMPLIANCE.

Section 11 of the Food and Nutrition Act of 2008 (7 U.S.C. 2020) is amended by striking subsection (c) and inserting the following:

"(c) CIVIL RIGHTS COMPLIANCE.—

"(1) IN GENERAL.—In the certification of applicant households for the supplemental nutrition assistance program, there shall be no discrimination by reason of race, sex, religious creed, national origin, or political affiliation.

"(2) RELATION TO OTHER LAWS.—The administration of the program by a State agency shall be consistent with the rights of households under the following laws (including implementing regulations):

"(A) The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

"(B) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(C) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

"(D) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).".

SEC. 4118. CODIFICATION OF ACCESS RULES.

Section 11(e)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(e)(1)) is amended—

(1) by striking "shall (A) at" and inserting "shall—

"(A) at"; and

(2) by striking "and (B) use" and inserting "and

"(B) comply with regulations of the Secretary requiring the use of".

SEC. 4119. STATE OPTION FOR TELEPHONIC SIGNATURE.

Section 11(e)(2)(C) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(e)(2)(C)) is amended—

(1) by striking "(C) Nothing in this Act" and inserting the following:

"(C) ELECTRONIC AND AUTOMATED SYSTEMS.—

"(i) IN GENERAL.—Nothing in this Act"; and

(2) by adding at the end the following:

"(ii) STATE OPTION FOR TELEPHONIC SIGNATURE.—A State agency may establish a system by which an applicant household may sign an application through a recorded verbal assent over the telephone.

"(iii) REQUIREMENTS.—A system established under clause (ii) shall—

"(I) record for future reference the verbal assent of the household member and the information to which assent was given;

"(II) include effective safeguards against impersonation, identity theft, and invasions of privacy;

"(III) not deny or interfere with the right of the household to apply in writing;

"(IV) promptly provide to the household member a written copy of the completed application, with instructions for a simple procedure for correcting any errors or omissions;

"(V) comply with paragraph (1)(B);

"(VI) satisfy all requirements for a signature on an application under this Act and other laws applicable to the supplemental nutrition assistance program, with the date on which the household member provides verbal assent considered as the date of application for all purposes; and

"(VII) comply with such other standards as the Secretary may establish.".

SEC. 4120. PRIVACY PROTECTIONS.

Section 11(e)(8) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(e)(8)) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by striking "limit" and inserting "prohibit"; and

(B) by striking "to persons" and all that follows through "State programs";

(2) by redesignating subparagraphs (A) through (E) as subparagraphs (B) through (F), respectively;

(3) by inserting before subparagraph (B) (as so redesignated) the following:

"(A) the safeguards shall permit—

"(i) the disclosure of such information to persons directly connected with the administration or enforcement of the provisions of this Act, regulations issued pursuant to this Act, Federal assistance programs, or federally-assisted State programs; and

"(ii) the subsequent use of the information by persons described in clause (i) only for such administration or enforcement;"; and

(4) in subparagraph (F) (as so redesignated) by inserting "or subsection (u)" before the semicolon at the end.

SEC. 4121. PRESERVATION OF ACCESS AND PAYMENT ACCURACY.

Section 16 of the Food and Nutrition Act of 2008 (7 U.S.C. 2025) is amended by striking subsection (g) and inserting the following:

"(g) COST SHARING FOR COMPUTERIZATION.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary is authorized to pay to each State agency the amount provided under subsection (a)(6) for the costs incurred by the State agency in the planning, design, development, or installation of 1 or more automatic data processing and information retrieval systems that the Secretary determines—

"(A) would assist in meeting the requirements of this Act;

"(B) meet such conditions as the Secretary prescribes;

"(C) are likely to provide more efficient and effective administration of the supplemental nutrition assistance program;

"(D) would be compatible with other systems used in the administration of State programs, including the program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

"(E) would be tested adequately before and after implementation, including through pilot projects in limited areas for major systems changes as determined under rules promulgated by the Secretary, data from which shall be thoroughly evaluated before the Secretary approves the system to be implemented more broadly; and

"(F) would be operated in accordance with an adequate plan for—

"(i) continuous updating to reflect changed policy and circumstances; and

"(ii) testing the effect of the system on access for eligible households and on payment accuracy.

"(2) LIMITATION.—The Secretary shall not make payments to a State agency under paragraph (1) to the extent that the State agency—

"(A) is reimbursed for the costs under any other Federal program; or

"(B) uses the systems for purposes not connected with the supplemental nutrition assistance program.".

SEC. 4122. FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.

Section 16(h)(1)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(h)(1)(A)) is amended in subparagraph (A), by striking "to remain available until expended" and inserting "to remain available for 15 months".

PART IV—PROGRAM INTEGRITY

SEC. 4131. ELIGIBILITY DISQUALIFICATION.

Section 6 of the Food and Nutrition Act of 2008 (7 U.S.C. 2015) is amended by adding at the end the following:

"(p) DISQUALIFICATION FOR OBTAINING CASH BY DESTROYING FOOD AND COLLECTING DEPOSITS.—Subject to any requirements established by the Secretary, any person who has been found by a State or Federal court or administrative agency in a hearing under subsection (b) to have intentionally obtained cash by purchasing products with supplemental nutrition assistance program benefits that have containers that require return deposits, discarding the product, and returning the container for the deposit amount shall be ineligible for benefits under this Act for such period of time as the Secretary shall prescribe by regulation.

"(q) DISQUALIFICATION FOR SALE OF FOOD PURCHASED WITH SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS.—Subject to any requirements established by the Secretary, any person who has been found by a State or Federal court or administrative agency in a hearing under subsection (b) to have intentionally sold any food that was purchased using supplemental nutrition assistance program benefits shall be ineligible for benefits under this Act for such period of time as the Secretary shall prescribe by regulation.".

SEC. 4132. CIVIL PENALTIES AND DISQUALIFICATION OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.

Section 12 of the Food and Nutrition Act of 2008 (7 U.S.C. 2021) is amended—

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

"SEC. 12. CIVIL PENALTIES AND DISQUALIFICATION OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.

"(a) DISQUALIFICATION.—

"(1) IN GENERAL.—An approved retail food store or wholesale food concern that violates a provision of this Act or a regulation under this Act may be—

"(A) disqualified for a specified period of time from further participation in the supplemental nutrition assistance program;

"(B) assessed a civil penalty of up to $100,000 for each violation; or

"(C) both.

"(2) REGULATIONS.—Regulations promulgated under this Act shall provide criteria for the finding of a violation of, the suspension or disqualification of and the assessment of a civil penalty against a retail food store or wholesale food concern on the basis of evidence that may include facts established through on-site investigations, inconsistent redemption data, or evidence obtained through a transaction report under an electronic benefit transfer system.";

(2) in subsection (b)—

(A) by striking "(b) Disqualification" and inserting the following:

"(b) PERIOD OF DISQUALIFICATION.—Subject to subsection (c), a disqualification";

(B) in paragraph (1), by striking "of no less than six months nor more than five years" and inserting "not to exceed 5 years";

(C) in paragraph (2), by striking "of no less than twelve months nor more than ten years" and inserting "not to exceed 10 years";

(D) in paragraph (3)(B)—

(i) by inserting "or a finding of the unauthorized redemption, use, transfer, acquisition, alteration, or possession of EBT cards" after "concern" the first place it appears; and

(ii) by striking "civil money penalties" and inserting "civil penalties"; and

(E) by striking "civil money penalty" each place it appears and inserting "civil penalty";

(3) in subsection (c)—

(A) by striking "(c) The action" and inserting the following:

"(c) CIVIL PENALTY AND REVIEW OF DISQUALIFICATION AND PENALTY DETERMINATIONS.—

"(1) CIVIL PENALTY.—In addition to a disqualification under this section, the Secretary may assess a civil penalty in an amount not to exceed $100,000 for each violation.

"(2) REVIEW.—The action"; and

(B) in paragraph (2) (as designated by subparagraph (A)), by striking "civil money penalty" and inserting "civil penalty";

(4) in subsection (d)—

(A) by striking "(d)" and all that follows through ". The Secretary shall" and inserting the following:

"(d) CONDITIONS OF AUTHORIZATION.—

"(1) IN GENERAL.—As a condition of authorization to accept and redeem benefits, the Secretary may require a retail food store or wholesale food concern that, pursuant to subsection (a), has been disqualified for more than 180 days, or has been subjected to a civil penalty in lieu of a disqualification period of more than 180 days, to furnish a collateral bond or irrevocable letter of credit for a period of not more than 5 years to cover the value of benefits that the store or concern may in the future accept and redeem in violation of this Act.

"(2) COLLATERAL.—The Secretary also may require a retail food store or wholesale food concern that has been sanctioned for a violation and incurs a subsequent sanction regardless of the length of the disqualification period to submit a collateral bond or irrevocable letter of credit.

"(3) BOND REQUIREMENTS.—The Secretary shall";

(B) by striking "If the Secretary finds" and inserting the following:

"(4) FORFEITURE.—If the Secretary finds"; and

(C) by striking "Such store or concern" and inserting the following:

"(5) HEARING.—A store or concern described in paragraph (4)";

(5) in subsection (e), by striking "civil money penalty" each place it appears and inserting "civil penalty"; and

(6) by adding at the end the following:

"(h) FLAGRANT VIOLATIONS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Inspector General of the Department of Agriculture, shall establish procedures under which the processing of program benefit redemptions for a retail food store or wholesale food concern may be immediately suspended pending administrative action to disqualify the retail food store or wholesale food concern.

"(2) REQUIREMENTS.—Under the procedures described in paragraph (1), if the Secretary, in consultation with the Inspector General, determines that a retail food store or wholesale food concern is engaged in flagrant violations of this Act (including regulations promulgated under this Act), unsettled program benefits that have been redeemed by the retail food store or wholesale food concern—

"(A) may be suspended; and

"(B)(i) if the program disqualification is upheld, may be subject to forfeiture pursuant to section 15(g); or

"(ii) if the program disqualification is not upheld, shall be released to the retail food store or wholesale food concern.

"(3) NO LIABILITY FOR INTEREST.—The Secretary shall not be liable for the value of any interest on funds suspended under this subsection.".

SEC. 4133. MAJOR SYSTEMS FAILURES.

Section 13(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2022(b)) is amended by adding at the end the following:

"(5) OVERISSUANCES CAUSED BY SYSTEMIC STATE ERRORS.—

"(A) IN GENERAL.—If the Secretary determines that a State agency overissued benefits to a substantial number of households in a fiscal year as a result of a major systemic error by the State agency, as defined by the Secretary, the Secretary may prohibit the State agency from collecting these overissuances from some or all households.

"(B) PROCEDURES.—

"(i) INFORMATION REPORTING BY STATES.—Every State agency shall provide to the Secretary all information requested by the Secretary concerning the issuance of benefits to households by the State agency in the applicable fiscal year.

"(ii) FINAL DETERMINATION.—After reviewing relevant information provided by a State agency, the Secretary shall make a final determination—

"(I) whether the State agency overissued benefits to a substantial number of households as a result of a systemic error in the applicable fiscal year; and

"(II) as to the amount of the overissuance in the applicable fiscal year for which the State agency is liable.

"(iii) ESTABLISHING A CLAIM.—Upon determining under clause (ii) that a State agency has overissued benefits to households due to a major systemic error determined under subparagraph (A), the Secretary shall establish a claim against the State agency equal to the value of the overissuance caused by the systemic error.

"(iv) ADMINISTRATIVE AND JUDICIAL REVIEW.—Administrative and judicial review, as provided in section 14, shall apply to the final determinations by the Secretary under clause (ii).

"(v) REMISSION TO THE SECRETARY.—

"(I) DETERMINATION NOT APPEALED.—If the determination of the Secretary under clause (ii) is not appealed, the State agency shall, as soon as practicable, remit to the Secretary the dollar amount specified in the claim under clause (iii).

"(II) DETERMINATION APPEALED.—If the determination of the Secretary under clause (ii) is appealed, upon completion of administrative and judicial review under clause (iv), and a finding of liability on the part of the State, the appealing State agency shall, as soon as practicable, remit to the Secretary a dollar amount subject to the finding made in the administrative and judicial review.

"(vi) ALTERNATIVE METHOD OF COLLECTION.—

"(I) IN GENERAL.—If a State agency fails to make a payment under clause (v) within a reasonable period of time, as determined by the Secretary, the Secretary may reduce any amount due to the State agency under any other provision of this Act by the amount due.

"(II) ACCRUAL OF INTEREST.—During the period of time determined by the Secretary to be reasonable under subclause (I), interest in the amount owed shall not accrue.

"(vii) LIMITATION.—Any liability amount established under section 16(c)(1)(C) shall be reduced by the amount of the claim established under this subparagraph.".

PART V—MISCELLANEOUS

SEC. 4141. PILOT PROJECTS TO EVALUATE HEALTH AND NUTRITION PROMOTION IN THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.

Section 17 of the Food and Nutrition Act of 2008 (7 U.S.C. 2026) is amended by adding at the end the following:

"(k) PILOT PROJECTS TO EVALUATE HEALTH AND NUTRITION PROMOTION IN THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.—

"(1) IN GENERAL.—The Secretary shall carry out, under such terms and conditions as the Secretary considers to be appropriate, pilot projects to develop and test methods—

"(A) of using the supplemental nutrition assistance program to improve the dietary and health status of households eligible for or participating in the supplemental nutrition assistance program; and

"(B) to reduce overweight, obesity (including childhood obesity), and associated co-morbidities in the United States.

"(2) GRANTS.—

"(A) IN GENERAL.—In carrying out this subsection, the Secretary may enter into competitively awarded contracts or cooperative agreements with, or provide grants to, public or private organizations or agencies (as defined by the Secretary), for use in accordance with projects that meet the strategy goals of this subsection.

"(B) APPLICATION.—To be eligible to receive a contract, cooperative agreement, or grant under this paragraph, an organization shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

"(C) SELECTION CRITERIA.—Pilot projects shall be evaluated against publicly disseminated criteria that may include—

"(i) identification of a low-income target audience that corresponds to individuals living in households with incomes at or below 185 percent of the poverty level;

"(ii) incorporation of a scientifically based strategy that is designed to improve diet quality through more healthful food purchases, preparation, or consumption;

"(iii) a commitment to a pilot project that allows for a rigorous outcome evaluation, including data collection;

"(iv) strategies to improve the nutritional value of food served during school hours and during after-school hours;

"(v) innovative ways to provide significant improvement to the health and wellness of children;

"(vi) other criteria, as determined by the Secretary.

"(D) USE OF FUNDS.—Funds provided under this paragraph shall not be used for any project that limits the use of benefits under this Act.

"(3) PROJECTS.—Pilot projects carried out under paragraph (1) may include projects to determine whether healthier food purchases by and healthier diets among households participating in the supplemental nutrition assistance program result from projects that—

"(A) increase the supplemental nutrition assistance purchasing power of the participating households by providing increased supplemental nutrition assistance program benefit allotments to the participating households;

"(B) increase access to farmers markets by participating households through the electronic redemption of supplemental nutrition assistance program benefits at farmers' markets;

"(C) provide incentives to authorized supplemental nutrition assistance program retailers to increase the availability of healthy foods to participating households;

"(D) subject authorized supplemental nutrition assistance program retailers to stricter retailer requirements with respect to carrying and stocking healthful foods;

"(E) provide incentives at the point of purchase to encourage households participating in the supplemental nutrition assistance program to purchase fruits, vegetables, or other healthful foods; or

"(F) provide to participating households integrated communication and education programs, including the provision of funding for a portion of a school-based nutrition coordinator to implement a broad nutrition action plan and parent nutrition education programs in elementary schools, separately or in combination with pilot projects carried out under subparagraphs (A) through (E).

"(4) EVALUATION AND REPORTING.—

"(A) EVALUATION.—

"(i) INDEPENDENT EVALUATION.—

"(I) IN GENERAL.—The Secretary shall provide for an independent evaluation of projects selected under this subsection that measures the impact of the pilot program on health and nutrition as described in paragraph (1).

"(II) REQUIREMENT.—The independent evaluation under subclause (I) shall use rigorous meth-

odologies, particularly random assignment or other methods that are capable of producing scientifically valid information regarding which activities are effective.

"(ii) COSTS.—The Secretary may use funds provided to carry out this section to pay costs associated with monitoring and evaluating each pilot project.

"(B) REPORTING.—Not later than 90 days after the last day of fiscal year 2009 and each fiscal year thereafter until the completion of the last evaluation under subparagraph (A), the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes a description of—

"(i) the status of each pilot project;

"(ii) the results of the evaluation completed during the previous fiscal year; and

"(iii) to the maximum extent practicable—

"(I) the impact of the pilot project on appropriate health, nutrition, and associated behavioral outcomes among households participating in the pilot project;

"(II) baseline information relevant to the stated goals and desired outcomes of the pilot project; and

"(III) equivalent information about similar or identical measures among control or comparison groups that did not participate in the pilot project.

"(C) PUBLIC DISSEMINATION.—In addition to the reporting requirements under subparagraph (B), evaluation results shall be shared broadly to inform policy makers, service providers, other partners, and the public in order to promote wide use of successful strategies.

"(5) FUNDING.—

"(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

"(B) MANDATORY FUNDING.—Out of any funds made available under section 18, on October 1, 2008, the Secretary shall make available $20,000,000 to carry out a project described in paragraph (3)(E), to remain available until expended.".

SEC. 4142. STUDY ON COMPARABLE ACCESS TO SUPPLEMENTAL NUTRITION ASSISTANCE FOR PUERTO RICO.

(a) IN GENERAL.—The Secretary shall carry out a study of the feasibility and effects of including the Commonwealth of Puerto Rico in the definition of the term "State" under section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), in lieu of providing block grants under section 19 of that Act (7 U.S.C. 2028).

(b) INCLUSIONS.—The study shall include—

(1) an assessment of the administrative, financial management, and other changes that would be necessary for the Commonwealth to establish a comparable supplemental nutrition assistance program, including compliance with appropriate pro-

gram rules under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), such as—

(A) benefit levels under section 3(u) of that Act (7 U.S.C. 2012(u));

(B) income eligibility standards under sections 5(c) and 6 of that Act (7 U.S.C. 2014(c), 2015); and

(C) deduction levels under section 5(e) of that Act (7 U.S.C. 2014(e));

(2) an estimate of the impact on Federal and Commonwealth benefit and administrative costs;

(3) an assessment of the impact of the program on low-income Puerto Ricans, as compared to the program under section 19 of that Act (7 U.S.C. 2028); and

(4) such other matters as the Secretary considers to be appropriate.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study conducted under this section.

(d) FUNDING.—

(1) IN GENERAL.—On October 1, 2008, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section $1,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

Subtitle B—Food Distribution Programs

PART I—EMERGENCY FOOD ASSISTANCE PROGRAM

SEC. 4201. EMERGENCY FOOD ASSISTANCE.

(a) PURCHASE OF COMMODITIES.—Section 27(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2036(a)) is amended by—

(1) by striking "(A) PURCHASE OF COMMODITIES" and all that follows through "$140,000,000 of" and inserting the following:

"(a) PURCHASE OF COMMODITIES.—

"(1) IN GENERAL.—From amounts made available to carry out this Act, for each of the fiscal years 2008 through 2012, the Secretary shall purchase a dollar amount described in paragraph (2) of"; and

(2) by adding at the end the following:

"(2) AMOUNTS.—The Secretary shall use to carry out paragraph (1)—

"(A) for fiscal year 2008, $190,000,000;

"(B) for fiscal year 2009, $250,000,000; and

"(C) for each of fiscal years 2010 through 2012, the dollar amount of commodities specified in subparagraph (B) adjusted by the percentage by which the thrifty food plan has been adjusted under section 3(u)(4) between June 30,

2008, and June 30 of the immediately preceding fiscal year.".

(b) STATE PLANS.—Section 202A of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7503) is amended by striking subsection (a) and inserting the following:

"(a) PLANS.—

"(1) IN GENERAL.—To receive commodities under this Act, a State shall submit to the Secretary an operation and administration plan for the provision of benefits under this Act.

"(2) UPDATES.—A State shall submit to the Secretary for approval any amendment to a plan submitted under paragraph (1) in any case in which the State proposes to make a change to the operation or administration of a program described in the plan.".

(c) AUTHORIZATION AND APPROPRIATIONS.—Section 204(a)(1) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)(1)) is amended in the first sentence—

(1) by striking "$60,000,000" and inserting "$100,000,000"; and

(2) by inserting "and donated wild game" before the period at the end.

SEC. 4202. EMERGENCY FOOD PROGRAM INFRASTRUCTURE GRANTS.

The Emergency Food Assistance Act of 1983 is amended by inserting after section 208 (7 U.S.C. 7511) the following:

"SEC. 209. EMERGENCY FOOD PROGRAM INFRASTRUCTURE GRANTS.

"(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means an emergency feeding organization.

"(b) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary shall use funds made available under subsection (d) to make grants to eligible entities to pay the costs of an activity described in subsection (c).

"(2) RURAL PREFERENCE.—The Secretary shall use not less than 50 percent of the funds described in paragraph (1) for a fiscal year to make grants to eligible entities that serve predominantly rural communities for the purposes of—

"(A) expanding the capacity and infrastructure of food banks, State-wide food bank associations, and food bank collaboratives that operate in rural areas; and

"(B) improving the capacity of the food banks to procure, receive, store, distribute, track, and deliver time-sensitive or perishable food products.

"(c) USE OF FUNDS.—An eligible entity shall use a grant received under this section for any fiscal year to carry out activities of the eligible entity, including—

"(1) the development and maintenance of a computerized system for the tracking of time-sensitive food products;

"(2) capital, infrastructure, and operating costs associated with the collection, storage, distribution, and transportation of time-sensitive and perishable food products;

"(3) improving the security and diversity of the emergency food distribution and recovery systems of the United States through the support of small or mid-size farms and ranches, fisheries, and aquaculture, and donations from local food producers and manufacturers to persons in need;

"(4) providing recovered foods to food banks and similar nonprofit emergency food providers to reduce hunger in the United States;

"(5) improving the identification of—

"(A) potential providers of donated foods;

"(B) potential nonprofit emergency food providers; and

"(C) persons in need of emergency food assistance in rural areas; and

"(6) constructing, expanding, or repairing a facility or equipment to support hunger relief agencies in the community.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2008 through 2012.".

PART II—FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS

SEC. 4211. ASSESSING THE NUTRITIONAL VALUE OF THE FDPIR FOOD PACKAGE.

(a) IN GENERAL.—Section 4 of the Food and Nutrition Act of 2008 (7 U.S.C. 2013) is amended by striking subsection (b) and inserting the following:

"(b) FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS.—

"(1) IN GENERAL.—Distribution of commodities, with or without the supplemental nutrition assistance program, shall be made whenever a request for concurrent or separate food program operations, respectively, is made by a tribal organization.

"(2) ADMINISTRATION.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in the event of distribution on all or part of an Indian reservation, the appropriate agency of the State government in the area involved shall be responsible for the distribution.

"(B) ADMINISTRATION BY TRIBAL ORGANIZATION.—If the Secretary determines that a tribal organization is capable of effectively and efficiently administering a distribution described in paragraph (1), then the tribal organization shall administer the distribution.

"(C) PROHIBITION.—The Secretary shall not approve any plan for a distribution described in paragraph (1) that permits any household on any Indian reservation to participate simultaneously in the supplemental nutrition assistance program and the program established under this subsection.

"(3) DISQUALIFIED PARTICIPANTS.—An individual who is disqualified from participation in the food distribution program on Indian reservations under this subsection is not eligible to participate in the supplemental nutrition assistance program under this Act for a period of time to be determined by the Secretary.

"(4) ADMINISTRATIVE COSTS.—The Secretary is authorized to pay such amounts for administrative costs and distribution costs on Indian reservations as the Secretary finds necessary for effective administration of such distribution by a State agency or tribal organization.

"(5) BISON MEAT.—Subject to the availability of appropriations to carry out this paragraph, the Secretary may purchase bison meat for recipients of food distributed under this subsection, including bison meat from—

"(A) Native American bison producers; and

"(B) producer-owned cooperatives of bison ranchers.

"(6) TRADITIONAL AND LOCALLY-GROWN FOOD FUND.—

"(A) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall establish a fund for use in purchasing traditional and locally-grown foods for recipients of food distributed under this subsection.

"(B) NATIVE AMERICAN PRODUCERS.—Where practicable, of the food provided under subparagraph (A), at least 50 percent shall be produced by Native American farmers, ranchers, and producers.

"(C) DEFINITION OF TRADITIONAL AND LOCALLY GROWN.—The Secretary shall determine the definition of the term 'traditional and locally-grown' with respect to food distributed under this paragraph.

"(D) SURVEY.—In carrying out this paragraph, the Secretary shall—

"(i) survey participants of the food distribution program on Indian reservations established under this subsection to determine which traditional foods are most desired by those participants; and

"(ii) purchase or offer to purchase those traditional foods that may be procured cost-effectively.

"(E) REPORT.—Not later than 1 year after the date of enactment of this paragraph, and annually thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the activities carried out under this paragraph during the preceding calendar year.

"(F) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this paragraph $5,000,000 for each of fiscal years 2008 through 2012.".

(b) FDPIR FOOD PACKAGE.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes—

(1) how the Secretary derives the process for determining the food package under the food distribution program on Indian reservations established under section 4(b) of the Food and Nutrition Act of 2008 (7 U.S.C. 2013(b)) (referred to in this subsection as the "food package");

(2) the extent to which the food package—

(A) addresses the nutritional needs of low-income Native Americans compared to the supplemental nutrition assistance program, particularly for very low-income households;

(B) conforms (or fails to conform) to the 2005 Dietary Guidelines for Americans published under section 301 of

the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341);

(C) addresses (or fails to address) the nutritional and health challenges that are specific to Native Americans; and

(D) is limited by distribution costs or challenges in infrastructure; and

(3)(A) any plans of the Secretary to revise and update the food package to conform with the most recent Dietary Guidelines for Americans, including any costs associated with the planned changes; or

(B) if the Secretary does not plan changes to the food package, the rationale of the Secretary for retaining the food package.

PART III—COMMODITY SUPPLEMENTAL FOOD PROGRAM

SEC. 4221. COMMODITY SUPPLEMENTAL FOOD PROGRAM.

Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) is amended by striking subsection (g) and inserting the following:

"(g) PROHIBITION.—Notwithstanding any other provision of law (including regulations), the Secretary may not require a State or local agency to prioritize assistance to a particular group of individuals that are—

"(1) low-income persons aged 60 and older; or

"(2) women, infants, and children.".

PART IV—SENIOR FARMERS' MARKET NUTRITION PROGRAM

SEC. 4231. SENIORS FARMERS' MARKET NUTRITION PROGRAM.

Section 4402 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3007) is amended—

(1) in subsection (b)(1), by inserting "honey," after "vegetables,";

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

"(c) EXCLUSION OF BENEFITS IN DETERMINING ELIGIBILITY FOR OTHER PROGRAMS.—The value of any benefit provided to any eligible seniors farmers' market nutrition program recipient under this section shall not be considered to be income or resources for any purposes under any Federal, State, or local law."; and

(3) by adding at the end the following:

"(d) PROHIBITION ON COLLECTION OF SALES TAX.—Each State shall ensure that no State or local tax is collected within the State on a purchase of food with a benefit distributed under the seniors farmers' market nutrition program.

"(e) REGULATIONS.—The Secretary may promulgate such regulations as the Secretary considers to be necessary to carry out the seniors farmers' market nutrition program.".

Subtitle C—Child Nutrition and Related Programs

SEC. 4301. STATE PERFORMANCE ON ENROLLING CHILDREN RECEIVING PROGRAM BENEFITS FOR FREE SCHOOL MEALS.

(a) IN GENERAL.—Not later than December 31, 2008 and June 30 of each year thereafter, the Secretary shall submit to the Committees on Agriculture and Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that assesses the effectiveness of each State in enrolling school-aged children in households receiving program benefits under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) (referred to in this section as "program benefits") for free school meals using direct certification.

(b) SPECIFIC MEASURES.—The assessment of the Secretary of the performance of each State shall include—

(1) an estimate of the number of school-aged children, by State, who were members of a household receiving program benefits at any time in July, August, or September of the prior year;

(2) an estimate of the number of school-aged children, by State, who were directly certified as eligible for free lunches under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), based on receipt of program benefits, as of October 1 of the prior year; and

(3) an estimate of the number of school-aged children, by State, who were members of a household receiving program benefits at any time in July, August, or September of the prior year who were not candidates for direct certification because on October 1 of the prior year the children attended a school operating under the special assistance provisions of section 11(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)) that is not operating in a base year.

(c) PERFORMANCE INNOVATIONS.—The report of the Secretary shall describe best practices from States with the best performance or the most improved performance from the previous year.

SEC. 4302. PURCHASES OF LOCALLY PRODUCED FOODS.

Section 9(j) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(j)) is amended to read as follows:

"(j) PURCHASES OF LOCALLY PRODUCED FOODS.—The Secretary shall—

"(1) encourage institutions receiving funds under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) to purchase unprocessed agricultural products, both locally grown and locally raised, to the maximum extent practicable and appropriate;

"(2) advise institutions participating in a program described in paragraph (1) of the policy described in that paragraph and paragraph (3) and post information concerning the policy on the website maintained by the Secretary; and

"(3) allow institutions receiving funds under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), including the Department of Defense Fresh Fruit and Vegetable Program, to use a geographic preference for the procurement of unprocessed agricultural products, both locally grown and locally raised.".

SEC. 4303. HEALTHY FOOD EDUCATION AND PROGRAM REPLICABILITY.

Section 18(h) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(h)) is amended—

(1) in paragraph (1)(C), by inserting "promotes healthy food education in the school curriculum and" before "incorporates";

(2) by redesignating paragraph (2) as paragraph (4); and

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

"(2) ADMINISTRATION.—In providing grants under paragraph (1), the Secretary shall give priority to projects that can be replicated in schools.

"(3) PILOT PROGRAM FOR HIGH-POVERTY SCHOOLS.—

"(A) DEFINITIONS.—In this paragraph:

"(i) ELIGIBLE PROGRAM.—The term 'eligible program' means—

"(I) a school-based program with hands-on vegetable gardening and nutrition education that is incorporated into the curriculum for 1 or more grades at 2 or more eligible schools; or

"(II) a community-based summer program with hands-on vegetable gardening and nutrition education that is part of, or coordinated with, a summer enrichment program at 2 or more eligible schools.

"(ii) ELIGIBLE SCHOOL.—The term 'eligible school' means a public school, at least 50 percent of the students of which are eligible for free or reduced price meals under this Act.

"(B) ESTABLISHMENT.—The Secretary shall carry out a pilot program under which the Secretary shall provide to nonprofit organizations or public entities in not more than 5 States grants to develop and run, through eligible programs, community gardens at eligible schools in the States that would—

"(i) be planted, cared for, and harvested by students at the eligible schools; and

"(ii) teach the students participating in the community gardens about agriculture production practices and diet.

"(C) PRIORITY STATES.—Of the States in which grantees under this paragraph are located—

"(i) at least 1 State shall be among the 15 largest States, as determined by the Secretary;

"(ii) at least 1 State shall be among the 16th to 30th largest States, as determined by the Secretary; and

"(iii) at least 1 State shall be a State that is not described in clause (i) or (ii).

"(D) USE OF PRODUCE.—Produce from a community garden provided a grant under this paragraph may be—

"(i) used to supplement food provided at the eligible school;

"(ii) distributed to students to bring home to the families of the students; or

"(iii) donated to a local food bank or senior center nutrition program.

"(E) NO COST-SHARING REQUIREMENT.—A nonprofit organization or public entity that receives a grant under this paragraph shall not be required to share the cost of carrying out the activities assisted under this paragraph.

"(F) EVALUATION.—A nonprofit organization or public entity that receives a grant under this paragraph shall be required to cooperate in an evaluation in accordance with paragraph (1)(H).".

SEC. 4304. FRESH FRUIT AND VEGETABLE PROGRAM.

(a) PROGRAM.—

(1) IN GENERAL.—The Richard B. Russell National School Lunch Act is amended by inserting after section 18 (42 U.S.C. 1769) the following:

"SEC. 19. FRESH FRUIT AND VEGETABLE PROGRAM.

"(a) IN GENERAL.—For the school year beginning July 2008 and each subsequent school year, the Secretary shall provide grants to States to carry out a program to make free fresh fruits and vegetables available in elementary schools (referred to in this section as the 'program').

"(b) PROGRAM.—A school participating in the program shall make free fresh fruits and vegetables available to students throughout the school day (or at such other times as are considered appropriate by the Secretary) in 1 or more areas designated by the school.

"(c) FUNDING TO STATES.—

"(1) MINIMUM GRANT.—Except as provided in subsection (i)(2), the Secretary shall provide to each of the 50 States and the District of Columbia an annual grant in an amount equal to 1 percent of the funds made available for a year to carry out the program.

"(2) ADDITIONAL FUNDING.—Of the funds remaining after grants are made under paragraph (1), the Secretary shall allocate additional funds to each State that is operating a school lunch program under section 4 based on the proportion that—

"(A) the population of the State; bears to

"(B) the population of the United States.

"(d) SELECTION OF SCHOOLS.—

"(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection and section 4304(a)(2) of the Food, Conservation, and Energy Act of 2008, each year, in selecting schools to participate in the program, each State shall—

"(A) ensure that each school chosen to participate in the program is a school—

"(i) in which not less than 50 percent of the students are eligible for free or reduced price meals under this Act; and

"(ii) that submits an application in accordance with subparagraph (D);

"(B) to the maximum extent practicable, give the highest priority to schools with the highest proportion of children who are eligible for free or reduced price meals under this Act;

"(C) ensure that each school selected is an elementary school (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801));

"(D) solicit applications from interested schools that include—

"(i) information pertaining to the percentage of students enrolled in the school submitting the application who are eligible for free or reduced price school lunches under this Act;

"(ii) a certification of support for participation in the program signed by the school food manager, the school principal, and the district superintendent (or equivalent positions, as determined by the school);

"(iii) a plan for implementation of the program, including efforts to integrate activities carried out under this section with other efforts to promote sound health and nutrition, reduce overweight and obesity, or promote physical activity; and

"(iv) such other information as may be requested by the Secretary; and

"(E) encourage applicants to submit a plan for implementation of the program that includes a partnership with 1 or more entities that will provide non-Federal resources (including entities representing the fruit and vegetable industry).

"(2) EXCEPTION.—Clause (i) of paragraph (1)(A) shall not apply to a State if all schools that meet the requirements of that clause have been selected and the State does not have a sufficient number of additional schools that meet the requirement of that clause.

"(3) OUTREACH TO LOW-INCOME SCHOOLS.—

"(A) IN GENERAL.—Prior to making decisions regarding school participation in the program, a State agency shall inform the schools within the State with the highest proportion of free and reduced price meal eligibility, including Native American schools, of the eligibility of the schools for the program with respect to priority granted to schools with the highest proportion of free and reduced price eligibility under paragraph (1)(B).

"(B) REQUIREMENT.—In providing information to schools in accordance with subparagraph (A), a State agency shall inform the schools that would likely be chosen to participate in the program under paragraph (1)(B).

"(e) NOTICE OF AVAILABILITY.—If selected to participate in the program, a school shall widely publicize within the school the availability of free fresh fruits and vegetables under the program.

"(f) PER-STUDENT GRANT.—The per-student grant provided to a school under this section shall be—

"(1) determined by a State agency; and

"(2) not less than $50, nor more than $75.

"(g) LIMITATION.—To the maximum extent practicable, each State agency shall ensure that in making the fruits and vegetables provided under this section available to students, schools offer the fruits and vegetables separately from meals otherwise provided at

the school under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

"(h) EVALUATION AND REPORTS.—

"(1) IN GENERAL.—The Secretary shall conduct an evaluation of the program, including a determination as to whether children experienced, as a result of participating in the program—

"(A) increased consumption of fruits and vegetables;

"(B) other dietary changes, such as decreased consumption of less nutritious foods; and

"(C) such other outcomes as are considered appropriate by the Secretary.

"(2) REPORT.—Not later than September 30, 2011, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the evaluation under paragraph (1).

"(i) FUNDING.—

"(1) IN GENERAL.—Out of the funds made available under subsection (b)(2)(A) of section 14222 of the Food, Conservation, and Energy Act of 2008, the Secretary shall use the following amounts to carry out this section:

"(A) On October 1, 2008, $40,000,000.

"(B) On July 1, 2009, $65,000,000.

"(C) On July 1, 2010, $101,000,000.

"(D) On July 1, 2011, $150,000,000.

"(E) On July 1, 2012, and each July 1 thereafter, the amount made available for the preceding fiscal year, as adjusted to reflect changes for the 12-month period ending the preceding April 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, for items other than food.

"(2) MAINTENANCE OF EXISTING FUNDING.—In allocating funding made available under paragraph (1) among the States in accordance with subsection (c), the Secretary shall ensure that each State that received funding under section 18(f) on the day before the date of enactment of the Food, Conservation, and Energy Act of 2008 shall continue to receive sufficient funding under this section to maintain the caseload level of the State under that section as in effect on that date.

"(3) EVALUATION FUNDING.—On October 1, 2008, out of any funds made available under subsection (b)(2)(A) of section 14222 of the Food, Conservation, and Energy Act of 2008, the Secretary shall use to carry out the evaluation required under subsection (h), $3,000,000, to remain available for obligation until September 30, 2010.

"(4) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section any funds transferred for that purpose, without further appropriation.

"(5) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts made available to carry out this section, there are authorized to be appropriated such sums as are necessary to expand the program established under this section.

"(6) ADMINISTRATIVE COSTS.—

"(A) IN GENERAL.—Of funds made available to carry out this section for a fiscal year, the Secretary may use not more than $500,000 for the administrative costs of carrying out the program.

"(B) RESERVATION OF FUNDS.—The Secretary shall allow each State to reserve such funding as the Secretary determines to be necessary to administer the program in the State (with adjustments for the size of the State and the grant amount), but not to exceed the amount required to pay the costs of 1 full-time coordinator for the program in the State.

"(7) REALLOCATION.—

"(A) AMONG STATES.—The Secretary may reallocate any amounts made available to carry out this section that are not obligated or expended by a date determined by the Secretary.

"(B) WITHIN STATES.—A State that receives a grant under this section may reallocate any amounts made available under the grant that are not obligated or expended by a date determined by the Secretary.".

(2) TRANSITION OF EXISTING SCHOOLS.—

(A) EXISTING SECONDARY SCHOOLS.—Section 19(d)(1)(C) of the Richard B. Russell National School Lunch Act (as amended by paragraph (1)) may be waived by a State until July 1, 2010, for each secondary school in the State that has been awarded funding under section 18(f) of that Act (42 U.S.C. 1769(f)) for the school year beginning July 1, 2008.

(B) SCHOOL YEAR BEGINNING JULY 1, 2008.—To facilitate transition from the program authorized under section 18(f) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(f)) (as in effect on the day before the date of enactment of this Act) to the program established under section 19 of that Act (as amended by paragraph (1))—

(i) for the school year beginning July 1, 2008, the Secretary may permit any school selected for participation under section 18(f) of that Act (42 U.S.C. 1769(f)) for that school year to continue to participate under section 19 of that Act until the end of that school year; and

(ii) funds made available under that Act for fiscal year 2009 may be used to support the participation of any schools selected to participate in the program authorized under section 18(f) of that Act (42 U.S.C. 1769(f)) (as in effect on the day before the date of enactment of this Act).

(b) CONFORMING AMENDMENTS.—Section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) through (j) as subsections (f) through (i), respectively.

SEC. 4305. WHOLE GRAIN PRODUCTS.

(a) PURPOSE.—The purpose of this section is to encourage greater awareness and interest in the number and variety of whole grain

products available to schoolchildren, as recommended by the 2005 Dietary Guidelines for Americans.

(b) DEFINITION OF ELIGIBLE WHOLE GRAINS AND WHOLE GRAIN PRODUCTS.—In this section, the terms "whole grains" and "whole grain products" have the meaning given the terms by the Food and Nutrition Service in the HealthierUS School Challenge.

(c) PURCHASE OF WHOLE GRAINS AND WHOLE GRAIN PRODUCTS.—In addition to the commodities delivered under section 6 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755), the Secretary shall purchase whole grains and whole grain products for use in—

(1) the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); and

(2) the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(d) EVALUATION.—Not later than September 30, 2011, the Secretary shall conduct an evaluation of the activities conducted under subsection (c) that includes—

(1) an evaluation of whether children participating in the school lunch and breakfast programs increased their consumption of whole grains;

(2) an evaluation of which whole grains and whole grain products are most acceptable for use in the school lunch and breakfast programs;

(3) any recommendations of the Secretary regarding the integration of whole grain products in the school lunch and breakfast programs; and

(4) an evaluation of any other outcomes determined to be appropriate by the Secretary.

(e) REPORT.—As soon as practicable after the completion of the evaluation under subsection (d), the Secretary shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Education and Labor of the House of Representative a report describing the results of the evaluation.

SEC. 4306. BUY AMERICAN REQUIREMENTS.

(a) FINDINGS.—The Congress finds the following:

(1) Federal law requires that commodities and products purchased with Federal funds be, to the extent practicable, of domestic origin.

(2) Federal Buy American statutory requirements seek to ensure that purchases made with Federal funds benefit domestic producers.

(3) The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) requires the use of domestic food products for all meals served under the program, including food products purchased with local funds.

(b) BUY AMERICAN STATUTORY REQUIREMENTS.—The Department of Agriculture should undertake training, guidance, and enforcement of the various current Buy American statutory requirements and regulations, including those of the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

SEC. 4307. SURVEY OF FOODS PURCHASED BY SCHOOL FOOD AUTHORITIES.

(a) IN GENERAL.—For fiscal year 2009, the Secretary shall carry out a nationally representative survey of the foods purchased during the most recent school year for which data is available by school authorities participating in the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(b) REPORT.—

(1) IN GENERAL.—On completion of the survey, the Secretary shall submit to the Committees on Agriculture and Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the survey.

(2) INTERIM REQUIREMENT.—If the initial report required under paragraph (1) is not submitted to the Committees referred to in that paragraph by June 30, 2009, the Secretary shall submit to the Committees an interim report that describes the relevant survey data, or a sample of such data, available to the Secretary as of that date.

(c) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section not more than $3,000,000.

Subtitle D—Miscellaneous

SEC. 4401. BILL EMERSON NATIONAL HUNGER FELLOWS AND MICKEY LELAND INTERNATIONAL HUNGER FELLOWS.

Section 4404 of the Farm Security and Rural Investment Act of 2002 (2 U.S.C. 1161) is amended to read as follows:

"SEC. 4404. BILL EMERSON NATIONAL HUNGER FELLOWS AND MICKEY LELAND INTERNATIONAL HUNGER FELLOWS.

"(a) SHORT TITLE.—This section may be cited as the 'Bill Emerson National Hunger Fellows and Mickey Leland International Hunger Fellows Program Act of 2008'.

"(b) DEFINITIONS.—In this subsection:

"(1) DIRECTOR.—The term 'Director' means the head of the Congressional Hunger Center.

"(2) FELLOW.—The term 'fellow' means—

"(A) a Bill Emerson Hunger Fellow; or

"(B) Mickey Leland Hunger Fellow.

"(3) FELLOWSHIP PROGRAMS.—The term 'Fellowship Programs' means the Bill Emerson National Hunger Fellowship Program and the Mickey Leland International Hunger Fellowship Program established under subsection (c)(1).

"(c) FELLOWSHIP PROGRAMS.—

"(1) IN GENERAL.—There is established the Bill Emerson National Hunger Fellowship Program and the Mickey Leland International Hunger Fellowship Program.

"(2) PURPOSES.—

"(A) IN GENERAL.—The purposes of the Fellowship Programs are—

"(i) to encourage future leaders of the United States—

"(I) to pursue careers in humanitarian and public service;

"(II) to recognize the needs of low-income people and hungry people;

"(III) to provide assistance to people in need; and

"(IV) to seek public policy solutions to the challenges of hunger and poverty;

"(ii) to provide training and development opportunities for such leaders through placement in programs operated by appropriate organizations or entities; and

"(iii) to increase awareness of the importance of public service.

"(B) BILL EMERSON HUNGER FELLOWSHIP PROGRAM.—The purpose of the Bill Emerson Hunger Fellowship Program is to address hunger and poverty in the United States.

"(C) MICKEY LELAND HUNGER FELLOWSHIP PROGRAM.—The purpose of the Mickey Leland Hunger Fellowship Program is to address international hunger and other humanitarian needs.

"(3) ADMINISTRATION.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall offer to provide a grant to the Congressional Hunger Center to administer the Fellowship Programs.

"(B) TERMS OF GRANT.—The terms of the grant provided under subparagraph (A), including the length of the grant and provisions for the alteration or termination of the grant, shall be determined by the Secretary in accordance with this section.

"(d) FELLOWSHIPS.—

"(1) IN GENERAL.—The Director shall make available Bill Emerson Hunger Fellowships and Mickey Leland Hunger Fellowships in accordance with this subsection.

"(2) CURRICULUM.—

"(A) IN GENERAL.—The Fellowship Programs shall provide experience and training to develop the skills necessary to train fellows to carry out the purposes described in subsection (c)(2), including—

"(i) training in direct service programs for the hungry and other anti-hunger programs in conjunction with community-based organizations through a program of field placement; and

"(ii) providing experience in policy development through placement in a governmental entity or nongovernmental, nonprofit, or private sector organization.

"(B) WORK PLAN.—To carry out subparagraph (A) and assist in the evaluation of the fellowships under paragraph (6), the Director shall, for each fellow, approve a work plan that identifies the target objectives for the fellow in the fellowship, including specific duties and responsibilities relating to those objectives.

"(3) PERIOD OF FELLOWSHIP.—

"(A) BILL EMERSON HUNGER FELLOW.—A Bill Emerson Hunger Fellowship awarded under this section shall be for not more than 15 months.

"(B) MICKEY LELAND HUNGER FELLOW.—A Mickey Leland Hunger Fellowship awarded under this section shall be for not more than 2 years.

"(4) SELECTION OF FELLOWS.—

"(A) IN GENERAL.—Fellowships shall be awarded pursuant to a nationwide competition established by the Director.

"(B) QUALIFICATIONS.—A successful program applicant shall be an individual who has demonstrated—

"(i) an intent to pursue a career in humanitarian services and outstanding potential for such a career;

"(ii) leadership potential or actual leadership experience;

"(iii) diverse life experience;

"(iv) proficient writing and speaking skills;

"(v) an ability to live in poor or diverse communities; and

"(vi) such other attributes as are considered to be appropriate by the Director.

"(5) AMOUNT OF AWARD.—

"(A) IN GENERAL.—A fellow shall receive—

"(i) a living allowance during the term of the Fellowship; and

"(ii) subject to subparagraph (B), an end-of-service award.

"(B) REQUIREMENT FOR SUCCESSFUL COMPLETION OF FELLOWSHIP.—Each fellow shall be entitled to receive an end-of-service award at an appropriate rate for each month of satisfactory service completed, as determined by the Director.

"(C) TERMS OF FELLOWSHIP.—A fellow shall not be considered an employee of—

"(i) the Department of Agriculture;

"(ii) the Congressional Hunger Center; or

"(iii) a host agency in the field or policy placement of the fellow.

"(D) RECOGNITION OF FELLOWSHIP AWARD.—

"(i) EMERSON FELLOW.—An individual awarded a fellowship from the Bill Emerson Hunger Fellowship shall be known as an 'Emerson Fellow'.

"(ii) LELAND FELLOW.—An individual awarded a fellowship from the Mickey Leland Hunger Fellowship shall be known as a 'Leland Fellow'.

"(6) EVALUATIONS AND AUDITS.—Under terms stipulated in the contract entered into under subsection (c)(3), the Director shall—

"(A) conduct periodic evaluations of the Fellowship Programs; and

"(B) arrange for annual independent financial audits of expenditures under the Fellowship Programs.

"(e) AUTHORITY.—

"(1) IN GENERAL.—Subject to paragraph (2), in carrying out this section, the Director may solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and

personal, for the purpose of facilitating the work of the Fellowship Programs.

"(2) LIMITATION.—Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be used exclusively for the purposes of the Fellowship Programs.

"(f) REPORT.—The Director shall annually submit to the Secretary of Agriculture, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

"(1) describes the activities and expenditures of the Fellowship Programs during the preceding fiscal year, including expenditures made from funds made available under subsection (g); and

"(2) includes the results of evaluations and audits required by subsection (d).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section, to remain available until expended.".

SEC. 4402. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.

Section 25 of the Food and Nutrition Act of 2008 (7 U.S.C. 2034) is amended—

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

"(a) DEFINITIONS.—In this section:

"(1) COMMUNITY FOOD PROJECT.—In this section, the term 'community food project' means a community-based project that—

"(A) requires a 1-time contribution of Federal assistance to become self-sustaining; and

"(B) is designed—

"(i)(I) to meet the food needs of low-income individuals;

"(II) to increase the self-reliance of communities in providing for the food needs of the communities; and

"(III) to promote comprehensive responses to local food, farm, and nutrition issues; or

"(ii) to meet specific State, local, or neighborhood food and agricultural needs, including needs relating to—

"(I) infrastructure improvement and development;

"(II) planning for long-term solutions; or

"(III) the creation of innovative marketing activities that mutually benefit agricultural producers and low-income consumers.

"(2) CENTER.—The term 'Center' means the healthy urban food enterprise development center established under subsection (h).

"(3) UNDERSERVED COMMUNITY.—The term 'underserved community' means a community (including an urban or rural community or an Indian tribe) that, as determined by the Secretary, has—

"(A) limited access to affordable, healthy foods, including fresh fruits and vegetables;

"(B) a high incidence of a diet-related disease (including obesity) as compared to the national average;

"(C) a high rate of hunger or food insecurity; or

"(D) severe or persistent poverty.";

(2) by redesignating subsection (h) as subsection (i); and

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

"(h) HEALTHY URBAN FOOD ENTERPRISE DEVELOPMENT CENTER.—

"(1) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means—

"(A) a nonprofit organization;

"(B) a cooperative;

"(C) a commercial entity;

"(D) an agricultural producer;

"(E) an academic institution;

"(F) an individual; and

"(G) such other entities as the Secretary may designate.

"(2) ESTABLISHMENT.—The Secretary shall offer to provide a grant to a nonprofit organization to establish and support a healthy urban food enterprise development center to carry out the purpose described in paragraph (3).

"(3) PURPOSE.—The purpose of the Center is to increase access to healthy affordable foods, including locally produced agricultural products, to underserved communities.

"(4) ACTIVITIES.—

"(A) TECHNICAL ASSISTANCE AND INFORMATION.—The Center shall collect, develop, and provide technical assistance and information to small and medium-sized agricultural producers, food wholesalers and retailers, schools, and other individuals and entities regarding best practices and the availability of assistance for aggregating, storing, processing, and marketing locally produced agricultural products and increasing the availability of such products in underserved communities.

"(B) AUTHORITY TO SUBGRANT.—The Center may provide subgrants to eligible entities—

"(i) to carry out feasibility studies to establish businesses for the purpose described in paragraph (3); and

"(ii) to establish and otherwise assist enterprises that process, distribute, aggregate, store, and market healthy affordable foods.

"(5) PRIORITY.—In providing technical assistance and grants under paragraph (4), the Center shall give priority to applications that include projects—

"(A) to benefit underserved communities; and

"(B) to develop market opportunities for small- and mid-sized farm and ranch operations.

"(6) REPORT.—For each fiscal year for which the nonprofit organization described in paragraph (2) receives funds, the organization shall submit to the Secretary a report describing the activities carried out in the preceding fiscal year, including—

"(A) a description of technical assistance provided by the Center;

"(B) the total number and a description of the subgrants provided under paragraph (4)(B);

"(C) a complete listing of cases in which the activities of the Center have resulted in increased access to healthy, affordable foods, such as fresh fruit and vegetables, particularly for school-aged children and individuals in low-income communities; and

"(D) a determination of whether the activities identified in subparagraph (C) are sustained during the years following the initial provision of technical assistance and subgrants under this section.

"(7) COMPETITIVE AWARD PROCESS.—The Secretary shall use a competitive process to award funds to establish the Center.

"(8) LIMITATION ON ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the total amount allocated for this subsection in a given fiscal year may be used for administrative expenses.

"(9) FUNDING.—

"(A) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection $1,000,000 for each of fiscal years 2009 through 2011.

"(B) ADDITIONAL FUNDING.—There is authorized to be appropriated $2,000,000 to carry out this subsection for fiscal year 2012.".

SEC. 4403. JOINT NUTRITION MONITORING AND RELATED RESEARCH ACTIVITIES.

The Secretary and the Secretary of Health and Human Services shall continue to provide jointly for national nutrition monitoring and related research activities carried out as of the date of enactment of this Act—

(1) to collect continuous dietary, health, physical activity, and diet and health knowledge data on a nationally representative sample;

(2) to periodically collect data on special at-risk populations, as identified by the Secretaries;

(3) to distribute information on health, nutrition, the environment, and physical activity to the public in a timely fashion;

(4) to analyze new data that becomes available;

(5) to continuously update food composition tables; and

(6) to research and develop data collection methods and standards.

SEC. 4404. SECTION 32 FUNDS FOR PURCHASE OF FRUITS, VEGETABLES, AND NUTS TO SUPPORT DOMESTIC NUTRITION ASSISTANCE PROGRAMS.

(a) FUNDING FOR ADDITIONAL PURCHASES OF FRUITS, VEGETABLES, AND NUTS.—In addition to the purchases of fruits, vegetables, and nuts required by section 10603 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 612c–4), the Secretary of Agriculture shall purchase fruits, vegetables, and nuts for the purpose of providing nutritious foods for use in domestic nutrition assistance programs, using, of the funds made available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), the following amounts:

(1) $190,000,000 for fiscal year 2008.

(2) $193,000,000 for fiscal year 2009.

(3) $199,000,000 for fiscal year 2010.

(4) $203,000,000 for fiscal year 2011.

(5) $206,000,000 for fiscal year 2012 and each fiscal year thereafter.

(b) FORM OF PURCHASES.—Fruits, vegetables, and nuts may be purchased under this section in the form of frozen, canned, dried, or fresh fruits, vegetables, and nuts.

(c) PURCHASE OF FRESH FRUITS AND VEGETABLES FOR DISTRIBUTION TO SCHOOLS AND SERVICE INSTITUTIONS.—Section 10603 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 612c–4) is amended by striking subsection (b) and inserting the following:

"(b) PURCHASE OF FRESH FRUITS AND VEGETABLES FOR DISTRIBUTION TO SCHOOLS AND SERVICE INSTITUTIONS.—The Secretary of Agriculture shall purchase fresh fruits and vegetables for distribution to schools and service institutions in accordance with section 6(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(a)) using, of the amount specified in subsection (a), not less than $50,000,000 for each of fiscal years 2008 through 2012.".

SEC. 4405. HUNGER-FREE COMMUNITIES.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term "eligible entity" means a public food program service provider or nonprofit organization, including an emergency feeding organization, that has collaborated, or will collaborate, with 1 or more local partner organizations to achieve at least 1 hunger-free communities goal.

(2) EMERGENCY FEEDING ORGANIZATION.—The term "emergency feeding organization" has the meaning given the term in section 201A of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501).

(3) HUNGER-FREE COMMUNITIES GOAL.—The term "hunger-free communities goal" means any of the 14 goals described in the H. Con. Res. 302 (102nd Congress).

(b) HUNGER-FREE COMMUNITIES COLLABORATIVE GRANTS.—

(1) PROGRAM.—

(A) IN GENERAL.—The Secretary shall use not more than 50 percent of any funds made available under subsection (e) to make grants to eligible entities to pay the Federal share of the costs of an activity described in paragraph (2).

(B) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity under this subsection shall not exceed 80 percent.

(C) NON-FEDERAL SHARE.—

(i) CALCULATION.—The non-Federal share of the cost of an activity under this subsection may be provided in cash or fairly evaluated in-kind contributions, including facilities, equipment, or services.

(ii) SOURCES.—Any entity may provide the non-Federal share of the cost of an activity under this subsection through a State government, a local government, or a private source.

(2) USE OF FUNDS.—An eligible entity in a community shall use a grant received under this subsection for any fiscal year for hunger relief activities, including—

(A) meeting the immediate needs of people who experience hunger in the community served by the eligible entity by—

(i) distributing food;

(ii) providing community outreach to assist in participation in federally assisted nutrition programs, including—

(I) the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(II) the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(III) the summer food service program for children established under section 13 of that Act; and

(IV) other Federal programs that provide food for children in child care facilities and homeless and older individuals; or

(iii) improving access to food as part of a comprehensive service; and

(B) developing new resources and strategies to help reduce hunger in the community and prevent hunger in the future by—

(i) developing creative food resources, such as community gardens, buying clubs, food cooperatives, community-owned and operated grocery stores, and farmers' markets;

(ii) coordinating food services with park and recreation programs and other community-based outlets to reduce barriers to access; or

(iii) creating nutrition education programs for at-risk populations to enhance food-purchasing and food-preparation skills and to heighten awareness of the connection between diet and health.

(c) HUNGER-FREE COMMUNITIES INFRASTRUCTURE GRANTS.—

(1) PROGRAM AUTHORIZED.—

(A) IN GENERAL.—The Secretary shall use not more than 50 percent of any funds made available for a fiscal year under subsection (e) to make grants to eligible entities to pay the Federal share of the costs of an activity described in paragraph (2).

(B) FEDERAL SHARE.—The Federal share of the cost of carrying out an activity under this subsection shall not exceed 80 percent.

(2) APPLICATION.—

(A) IN GENERAL.—To receive a grant under this subsection, an eligible entity shall submit an application at such time, in such form, and containing such information as the Secretary may prescribe.

(B) CONTENTS.—Each application submitted under subparagraph (A) shall—

(i) identify any activity described in paragraph (3) that the grant will be used to fund; and

(ii) describe the means by which an activity identified under clause (i) will reduce hunger in the community of the eligible entity.

(C) PRIORITY.—In making grants under this subsection, the Secretary shall give priority to eligible entities that demonstrate 2 or more of the following:

(i) The eligible entity serves a community in which the rates of food insecurity, hunger, poverty, or unemployment are demonstrably higher than national average rates.

(ii) The eligible entity serves a community that has successfully carried out long-term efforts to reduce hunger in the community.

(iii) The eligible entity serves a community that provides public support for the efforts of the eligible entity.

(iv) The eligible entity is committed to achieving more than 1 hunger-free communities goal.

(3) USE OF FUNDS.—An eligible entity shall use a grant received under this subsection to construct, expand, or repair a facility or equipment to support hunger relief efforts in the community.

(d) REPORT.—If funds are made available under subsection (e) to carry out this section, not later than September 30, 2012, the Secretary shall submit to Congress a report that describes—

(1) each grant made under this section, including—

(A) a description of any activity funded; and

(B) the degree of success of each activity funded in achieving hunger free-communities goals; and

(2) the degree of success of all activities funded under this section in achieving domestic hunger goals.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

SEC. 4406. REAUTHORIZATION OF FEDERAL FOOD ASSISTANCE PROGRAMS.

(a) SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 18(a)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2027(a)(1)) is amended in the first sentence by striking "for each of the fiscal years 2003 through 2007" and inserting "for each of fiscal years 2008 through 2012".

(2) GRANTS FOR SIMPLE APPLICATION AND ELIGIBILITY DETERMINATION SYSTEMS AND IMPROVED ACCESS TO BENEFITS.—Section 11(t)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(t)(1)) is amended by striking "For each of fiscal years 2003 through 2007" and inserting "Subject to the availability of appropriations under section 18(a), for each fiscal year".

(3) FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.—Section 16(h)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(h)(1)) is amended—

(A) in subparagraph (A), by striking "the amount of—" and all that follows through the end of the subparagraph and inserting ", $90,000,000 for each fiscal year."; and

(B) in subparagraph (E)(i), by striking "for each of fiscal years 2002 through 2007" and inserting "for each fiscal year".

(4) REDUCTIONS IN PAYMENTS FOR ADMINISTRATIVE COSTS.—Section 16(k)(3) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(k)(3)) is amended—

(A) in the first sentence of subparagraph (A), by striking "effective for each of fiscal years 1999 through 2007,"; and

(B) in subparagraph (B)(ii), by striking "through fiscal year 2007".

(5) CASH PAYMENT PILOT PROJECTS.—Section 17(b)(1)(B)(vi) of the Food and Nutrition Act of 2008 (7 U.S.C. 2026(b)(1)(B)(vi)) is amended—

(A) by striking "Any pilot" and inserting "Subject to the availability of appropriations under section 18(a), any pilot"; and

(B) by striking "through October 1, 2007,".

(6) CONSOLIDATED BLOCK GRANTS FOR PUERTO RICO AND AMERICAN SAMOA.—Section 19(a)(2)(A)(ii) of the Food and Nutrition Act of 2008 (7 U.S.C. 2028(a)(2)(A)(ii)) is amended by striking "for each of fiscal years 2004 through 2007" and inserting "subject to the availability of appropriations under section 18(a), for each fiscal year thereafter".

(7) ASSISTANCE FOR COMMUNITY FOOD PROJECTS.—Section 25 of the Food and Nutrition Act of 2008 (7 U.S.C. 2034) is amended—

(A) in subsection (b)(2)(B), by striking "for each of fiscal years 1997 through 2007" and inserting "for fiscal year 2008 and each fiscal year thereafter"; and

(B) in subsection (i)(4) (as redesignated by section 4402), by striking "of fiscal years 2003 through 2007" and inserting "fiscal year thereafter".

(b) COMMODITY DISTRIBUTION.—

(1) EMERGENCY FOOD ASSISTANCE.—Section 204(a)(1) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)(1)) is amended in the first sentence by striking "for each of the fiscal years 2003 through 2007" and inserting "for fiscal year 2008 and each fiscal year thereafter".

(2) COMMODITY DISTRIBUTION PROGRAM.—Section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) is amended in the first sentence by striking "years 1991 through 2007" and inserting "years 2008 through 2012".

(3) COMMODITY SUPPLEMENTAL FOOD PROGRAM.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking "each of fiscal years 2003 through 2007" and inserting "each of fiscal years 2008 through 2012"; and

(ii) in paragraph (2)(B), by striking the subparagraph designation and heading and all that follows through "2007" and inserting the following:

"(B) SUBSEQUENT FISCAL YEARS.—For each of fiscal years 2004 through 2012"; and

(B) in subsection (d)(2), by striking "each of the fiscal years 1991 through 2007" and inserting "each of fiscal years 2008 through 2012".

(4) DISTRIBUTION OF SURPLUS COMMODITIES TO SPECIAL NUTRITION PROJECTS.—Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended in the first sentence by striking "Effective through September 30, 2007" and inserting "For each of fiscal years 2008 through 2012".

(c) FARM SECURITY AND RURAL INVESTMENT.—

(1) SENIORS FARMERS' MARKET NUTRITION PROGRAM.—Section 4402 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3007) is amended by striking subsection (a) and inserting the following:

"(a) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall use to carry out and expand the seniors farmers' market nutrition program $20,600,000 for each of fiscal years 2008 through 2012.".

(2) NUTRITION INFORMATION AND AWARENESS PILOT PROGRAM.—Section 4403(f) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3171 note; Public Law 107–171) is amended by striking "2007" and inserting "2012".

SEC. 4407. EFFECTIVE AND IMPLEMENTATION DATES.

Except as otherwise provided in this title, this title and the amendments made by this title take effect on October 1, 2008.

TITLE V—CREDIT

Subtitle A—Farm Ownership Loans

SEC. 5001. DIRECT LOANS.

Section 302 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922) is amended—

(1) by striking the section designation and heading and all that follows through "(a) The Secretary is authorized to" and inserting the following:

"SEC. 302. PERSONS ELIGIBLE FOR REAL ESTATE LOANS.

"(a) IN GENERAL.—The Secretary may"; and

(2) in subsection (a)(2), by inserting ", taking into consideration all farming experience of the applicant, without regard to any lapse between farming experiences" after "farming operations".

SEC. 5002. CONSERVATION LOAN AND LOAN GUARANTEE PROGRAM.

Section 304 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924) is amended to read as follows:

"SEC. 304. CONSERVATION LOAN AND LOAN GUARANTEE PROGRAM.

"(a) IN GENERAL.—The Secretary may make or guarantee qualified conservation loans to eligible borrowers under this section.

"(b) DEFINITIONS.—In this section:

"(1) QUALIFIED CONSERVATION LOAN.—The term 'qualified conservation loan' means a loan, the proceeds of which are used

to cover the costs to the borrower of carrying out a qualified conservation project.

"(2) QUALIFIED CONSERVATION PROJECT.—The term 'qualified conservation project' means conservation measures that address provisions of a conservation plan of the eligible borrower.

"(3) CONSERVATION PLAN.—The term 'conservation plan' means a plan, approved by the Secretary, that, for a farming or ranching operation, identifies the conservation activities that will be addressed with loan funds provided under this section, including—

"(A) the installation of conservation structures to address soil, water, and related resources;

"(B) the establishment of forest cover for sustained yield timber management, erosion control, or shelter belt purposes;

"(C) the installation of water conservation measures;

"(D) the installation of waste management systems;

"(E) the establishment or improvement of permanent pasture;

"(F) compliance with section 1212 of the Food Security Act of 1985; and

"(G) other purposes consistent with the plan, including the adoption of any other emerging or existing conservation practices, techniques, or technologies approved by the Secretary.

"(c) ELIGIBILITY.—

"(1) IN GENERAL.—The Secretary may make or guarantee loans to farmers or ranchers in the United States, farm cooperatives, private domestic corporations, partnerships, joint operations, trusts, or limited liability companies that are controlled by farmers or ranchers and engaged primarily and directly in agricultural production in the United States.

"(2) REQUIREMENTS.—To be eligible for a loan under this section, applicants shall meet the requirements in paragraphs (1) and (2) of section 302(a).

"(d) PRIORITY.—In making or guaranteeing loans under this section, the Secretary shall give priority to—

"(1) qualified beginning farmers or ranchers and socially disadvantaged farmers or ranchers;

"(2) owners or tenants who use the loans to convert to sustainable or organic agricultural production systems; and

"(3) producers who use the loans to build conservation structures or establish conservation practices to comply with section 1212 of the Food Security Act of 1985.

"(e) LIMITATIONS APPLICABLE TO LOAN GUARANTEES.—The portion of a loan that the Secretary may guarantee under this section shall be 75 percent of the principal amount of the loan.

"(f) ADMINISTRATIVE PROVISIONS.—The Secretary shall ensure, to the maximum extent practicable, that loans made or guaranteed under this section are distributed across diverse geographic regions.

"(g) CREDIT ELIGIBILITY.—The provisions of paragraphs (1) and (3) of section 333 shall not apply to loans made or guaranteed under this section.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For each of fiscal years 2008 through 2012, there are authorized to be appropriated to the Secretary such funds as are necessary to carry out this section.".

SEC. 5003. LIMITATIONS ON AMOUNT OF FARM OWNERSHIP LOANS.

Section 305(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1925(a)(2)) is amended by striking "$200,000" and inserting "$300,000".

SEC. 5004. DOWN PAYMENT LOAN PROGRAM.

Section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935) is amended—

(1) in subsection (a)(1), by striking "and ranchers" and inserting "or ranchers and socially disadvantaged farmers or ranchers";

(2) in subsection (b)—

(A) by striking paragraph (1) and inserting the following;

"(1) PRINCIPAL.—Each loan made under this section shall be in an amount that does not exceed 45 percent of the least of—

"(A) the purchase price of the farm or ranch to be acquired;

"(B) the appraised value of the farm or ranch to be acquired; or

"(C) $500,000.

"(2) INTEREST RATE.—The interest rate on any loan made by the Secretary under this section shall be a rate equal to the greater of—

"(A) the difference obtained by subtracting 4 percent from the interest rate for farm ownership loans under this subtitle; or

"(B) 1.5 percent."; and

(B) in paragraph (3), by striking "15" and inserting "20";

(3) in subsection (c)—

(A) in paragraph (1), by striking "10" and inserting "5";

(B) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2)(B) (as so redesignated), by striking "15-year" and inserting "20-year";

(4) in subsection (d)—

(A) in paragraph (3)—

(i) by inserting "and socially disadvantaged farmers or ranchers" after "ranchers"; and

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

(B) in paragraph (4), by striking "and ranchers." and inserting "or ranchers or socially disadvantaged farmers or ranchers; and"; and

(C) by adding at the end the following:

"(5) establish annual performance goals to promote the use of the down payment loan program and other joint financing arrangements as the preferred choice for direct real estate loans made by any lender to a qualified beginning farmer or rancher or socially disadvantaged farmer or rancher."; and

(5) by adding at the end the following:

"(e) SOCIALLY DISADVANTAGED FARMER OR RANCHER DEFINED.—In this section, the term 'socially disadvantaged farmer or rancher' has the meaning given that term in section 355(e)(2).".

SEC. 5005. BEGINNING FARMER OR RANCHER AND SOCIALLY DISADVANTAGED FARMER OR RANCHER CONTRACT LAND SALES PROGRAM.

Section 310F of the Consolidated Farm and Rural Development Act (7 U.S.C. 1936) is amended to read as follows:

"SEC. 310F. BEGINNING FARMER OR RANCHER AND SOCIALLY DISADVANTAGED FARMER OR RANCHER CONTRACT LAND SALES PROGRAM.

"(a) IN GENERAL.—The Secretary shall, in accordance with this section, guarantee a loan made by a private seller of a farm or ranch to a qualified beginning farmer or rancher or socially disadvantaged farmer or rancher (as defined in section 355(e)(2)) on a contract land sales basis.

"(b) ELIGIBILITY.—In order to be eligible for a loan guarantee under subsection (a)—

"(1) the qualified beginning farmer or rancher or socially disadvantaged farmer or rancher shall—

"(A) on the date the contract land sale that is subject of the loan is complete, own and operate the farm or ranch that is the subject of the contract land sale;

"(B) have a credit history that—

"(i) includes a record of satisfactory debt repayment, as determined by the Secretary; and

"(ii) is acceptable to the Secretary; and

"(C) demonstrate to the Secretary that the farmer or rancher, as the case may be, is unable to obtain sufficient credit without a guarantee to finance any actual need of the farmer or rancher, as the case may be, at a reasonable rate or term; and

"(2) the loan shall meet applicable underwriting criteria, as determined by the Secretary.

"(c) LIMITATIONS.—

"(1) DOWN PAYMENT.—The Secretary shall not provide a loan guarantee under subsection (a) if the contribution of the qualified beginning farmer or rancher or socially disadvantaged farmer or rancher to the down payment for the farm or ranch that is the subject of the contract land sale would be less than 5 percent of the purchase price of the farm or ranch.

"(2) MAXIMUM PURCHASE PRICE.—The Secretary shall not provide a loan guarantee under subsection (a) if the purchase price or the appraisal value of the farm or ranch that is the subject of the contract land sale is greater than $500,000.

"(d) PERIOD OF GUARANTEE.—The period during which a loan guarantee under this section is in effect shall be the 10-year period beginning with the date the guarantee is provided.

"(e) GUARANTEE PLAN.—

"(1) SELECTION OF PLAN.—A private seller of a farm or ranch who makes a loan that is guaranteed by the Secretary under subsection (a) may select—

"(A) a prompt payment guarantee plan, which shall cover—

"(i) 3 amortized annual installments; or

"(ii) an amount equal to 3 annual installments (including an amount equal to the total cost of any tax and insurance incurred during the period covered by the annual installments); or

"(B) a standard guarantee plan, which shall cover an amount equal to 90 percent of the outstanding principal of the loan.

"(2) ELIGIBLITY FOR STANDARD GUARANTEE PLAN.—In order for a private seller to be eligible for a standard guarantee plan referred to in paragraph (1)(B), the private seller shall—

"(A) secure a commercial lending institution or similar entity, as determined by the Secretary, to serve as an escrow agent; or

"(B) in cooperation with the farmer or rancher, use an appropriate alternate arrangement, as determined by the Secretary.

"(f) TRANSITION FROM PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary may phase-in the implementation of the changes to the Beginning Farmer and Rancher and Socially Disadvantaged Farmer or Rancher Contract Land Sales Program provided for in this section.

"(2) LIMITATION.—All changes to the Beginning Farmer and Rancher and Socially Disadvantaged Farmer or Rancher Contract Land Sales Program must be implemented for the 2011 Fiscal Year.".

Subtitle B—Operating Loans

SEC. 5101. FARMING EXPERIENCE AS ELIGIBILITY REQUIREMENT.

Section 311 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941) is amended—

(1) by striking the section designation and all that follows through "(a) The Secretary is authorized to" and inserting the following:

"SEC. 311. PERSONS ELIGIBLE FOR LOANS.

"(a) IN GENERAL.—The Secretary may";

(2) in subsection (a)(2), by inserting ", taking into consideration all farming experience of the applicant, without regard to any lapse between farming experiences" after "farming operations".

SEC. 5102. LIMITATIONS ON AMOUNT OF OPERATING LOANS.

Section 313(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1943(a)(1)) is amended by striking "$200,000" and inserting "$300,000".

SEC. 5103. SUSPENSION OF LIMITATION ON PERIOD FOR WHICH BORROWERS ARE ELIGIBLE FOR GUARANTEED ASSISTANCE.

Section 5102 of the Farm Security And Rural Investment Act of 2002 (7 U.S.C. 1949 note; Public Law 107–171) is amended by striking "September 30, 2007" and inserting "December 31, 2010".

Subtitle C—Emergency Loans

SEC. 5201. ELIGIBILITY OF EQUINE FARMERS AND RANCHERS FOR EMERGENCY LOANS.

Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended—

(1) in paragraph (1), by striking "farmers, ranchers" and inserting "farmers or ranchers (including equine farmers or ranchers)"; and

(2) in paragraph (2)(A), by striking "farming, ranching," and inserting "farming or ranching (including equine farming or ranching)".

Subtitle D—Administrative Provisions

SEC. 5301. BEGINNING FARMER AND RANCHER INDIVIDUAL DEVELOPMENT ACCOUNTS PILOT PROGRAM.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2008r) is amended by inserting after section 333A the following:

"SEC. 333B. BEGINNING FARMER AND RANCHER INDIVIDUAL DEVELOPMENT ACCOUNTS PILOT PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) DEMONSTRATION PROGRAM.—The term 'demonstration program' means a demonstration program carried out by a qualified entity under the pilot program established in subsection (b)(1).

"(2) ELIGIBLE PARTICIPANT.—The term 'eligible participant' means a qualified beginning farmer or rancher that—

"(A) lacks significant financial resources or assets; and

"(B) has an income that is less than—

"(i) 80 percent of the median income of the State in which the farmer or rancher resides; or

"(ii) 200 percent of the most recent annual Federal Poverty Income Guidelines published by the Department of Health and Human Services for the State.

"(3) INDIVIDUAL DEVELOPMENT ACCOUNT.—The term 'individual development account' means a savings account described in subsection (b)(4)(A).

"(4) QUALIFIED ENTITY.—

"(A) IN GENERAL.—The term 'qualified entity' means—

"(i) 1 or more organizations—

"(I) described in section 501(c)(3) of the Internal Revenue Code of 1986; and

"(II) exempt from taxation under section 501(a) of such Code; or

"(ii) a State, local, or tribal government submitting an application jointly with an organization described in clause (i).

"(B) NO PROHIBITION ON COLLABORATION.—An organization described in subparagraph (A)(i) may collaborate with a financial institution or for-profit community development corporation to carry out the purposes of this section.

"(b) PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a pilot program to be known as the 'New Farmer Individual Development

Accounts Pilot Program' under which the Secretary shall work through qualified entities to establish demonstration programs—

"(A) of at least 5 years in duration; and

"(B) in at least 15 States.

"(2) COORDINATION.—The Secretary shall operate the pilot program through, and in coordination with the farm loan programs of, the Farm Service Agency.

"(3) RESERVE FUNDS.—

"(A) IN GENERAL.—A qualified entity carrying out a demonstration program under this section shall establish a reserve fund consisting of a non-Federal match of 50 percent of the total amount of the grant awarded to the demonstration program under this section.

"(B) FEDERAL FUNDS.—After the qualified entity has deposited the non-Federal matching funds described in subparagraph (A) in the reserve fund, the Secretary shall provide the total amount of the grant awarded under this section to the demonstration program for deposit in the reserve fund.

"(C) USE OF FUNDS.—Of the funds deposited under subparagraph (B) in the reserve fund established for a demonstration program, the qualified entity carrying out the demonstration program—

"(i) may use up to 10 percent for administrative expenses; and

"(ii) shall use the remainder in making matching awards described in paragraph (4)(B)(ii)(I).

"(D) INTEREST.—Any interest earned on amounts in a reserve fund established under subparagraph (A) may be used by the qualified entity as additional matching funds for, or to administer, the demonstration program.

"(E) GUIDANCE.—The Secretary shall issue guidance regarding the investment requirements of reserve funds established under this paragraph.

"(F) REVERSION.—On the date on which all funds remaining in any individual development account established by a qualified entity have reverted under paragraph (5)(B)(ii) to the reserve fund established by the qualified entity, there shall revert to the Treasury of the United States a percentage of the amount (if any) in the reserve fund equal to—

"(i) the amount of Federal funds deposited in the reserve fund under subparagraph (B) that were not used for administrative expenses; divided by

"(ii) the total amount of funds deposited in the reserve fund.

"(4) INDIVIDUAL DEVELOPMENT ACCOUNTS.—

"(A) IN GENERAL.—A qualified entity receiving a grant under this section shall establish and administer individual development accounts for eligible participants.

"(B) CONTRACT REQUIREMENTS.—To be eligible to receive funds under this section from a qualified entity, an eligible participant shall enter into a contract with only 1 qualified entity under which—

"(i) the eligible participant agrees—

"(I) to deposit a certain amount of funds of the eligible participant in a personal savings account, as prescribed by the contractual agreement between the eligible participant and the qualified entity;

"(II) to use the funds described in subclause (I) only for 1 or more eligible expenditures described in paragraph (5)(A); and

"(III) to complete financial training; and

"(ii) the qualified entity agrees—

"(I) to deposit, not later than 1 month after an amount is deposited pursuant to clause (i)(I), at least a 100-percent, and up to a 200-percent, match of that amount into the individual development account established for the eligible participant; and

"(II) with uses of funds proposed by the eligible participant.

"(C) LIMITATION.—

"(i) IN GENERAL.—A qualified entity administering a demonstration program under this section may provide not more than $6,000 for each fiscal year in matching funds to the individual development account established by the qualified entity for an eligible participant.

"(ii) TREATMENT OF AMOUNT.—An amount provided under clause (i) shall not be considered to be a gift or loan for mortgage purposes.

"(5) ELIGIBLE EXPENDITURES.—

"(A) IN GENERAL.—An eligible expenditure described in this subparagraph is an expenditure—

"(i) to purchase farmland or make a down payment on an accepted purchase offer for farmland;

"(ii) to make mortgage payments on farmland purchased pursuant to clause (i), for up to 180 days after the date of the purchase;

"(iii) to purchase breeding stock, fruit or nut trees, or trees to harvest for timber; and

"(iv) for other similar expenditures, as determined by the Secretary.

"(B) TIMING.—

"(i) IN GENERAL.—An eligible participant may make an eligible expenditure at any time during the 2-year period beginning on the date on which the last matching funds are provided under paragraph (4)(B)(ii)(I) to the individual development account established for the eligible participant.

"(ii) UNEXPENDED FUNDS.—At the end of the period described in clause (i), any funds remaining in an individual development account established for an eligible participant shall revert to the reserve fund of the demonstration program under which the account was established.

"(c) APPLICATIONS.—

"(1) IN GENERAL.—A qualified entity that seeks to carry out a demonstration program under this section may submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may prescribe.

"(2) CRITERIA.—In considering whether to approve an application to carry out a demonstration program under this section, the Secretary shall assess—

"(A) the degree to which the demonstration program described in the application is likely to aid eligible participants in successfully pursuing new farming opportunities;

"(B) the experience and ability of the qualified entity to responsibly administer the demonstration program;

"(C) the experience and ability of the qualified entity in recruiting, educating, and assisting eligible participants to increase economic independence and pursue or advance farming opportunities;

"(D) the aggregate amount of direct funds from non-Federal public sector and private sources that are formally committed to the demonstration program as matching contributions;

"(E) the adequacy of the plan of the qualified entity to provide information relevant to an evaluation of the demonstration program; and

"(F) such other factors as the Secretary considers to be appropriate.

"(3) PREFERENCES.—In considering an application to conduct a demonstration program under this section, the Secretary shall give preference to an application from a qualified entity that demonstrates—

"(A) a track record of serving clients targeted by the program, including, as appropriate, socially disadvantaged farmers or ranchers (as defined in section 355(e)(2)); and

"(B) expertise in dealing with financial management aspects of farming.

"(4) APPROVAL.—Not later than 1 year after the date of enactment of this section, in accordance with this section, the Secretary shall, on a competitive basis, approve such applications to conduct demonstration programs as the Secretary considers appropriate.

"(5) TERM OF AUTHORITY.—If the Secretary approves an application to carry out a demonstration program, the Secretary shall authorize the applicant to carry out the project for a period of 5 years, plus an additional 2 years to make eligible expenditures in accordance with subsection (b)(5)(B).

"(d) GRANT AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall make a grant to a qualified entity authorized to carry out a demonstration program under this section.

"(2) MAXIMUM AMOUNT OF GRANTS.—The aggregate amount of grant funds provided to a demonstration program carried out under this section shall not exceed $250,000.

"(3) TIMING OF GRANT PAYMENTS.—The Secretary shall pay the amounts awarded under a grant made under this section—

"(A) on the awarding of the grant; or

"(B) pursuant to such payment plan as the qualified entity may specify.

"(e) REPORTS.—

"(1) ANNUAL PROGRESS REPORTS.—

"(A) IN GENERAL.—Not later than 60 days after the end of the calendar year in which the Secretary authorizes a qualified entity to carry out a demonstration program under this section, and annually thereafter until the conclusion of the demonstration program, the qualified entity shall prepare an annual report that includes, for the period covered by the report—

"(i) an evaluation of the progress of the demonstration program;

"(ii) information about the demonstration program, including the eligible participants and the individual development accounts that have been established; and

"(iii) such other information as the Secretary may require.

"(B) SUBMISSION OF REPORTS.—A qualified entity shall submit each report required under subparagraph (A) to the Secretary.

"(2) REPORTS BY THE SECRETARY.—Not later than 1 year after the date on which all demonstration programs under this section are concluded, the Secretary shall submit to Congress a final report that describes the results and findings of all reports and evaluations carried out under this section.

"(f) ANNUAL REVIEW.—The Secretary may conduct an annual review of the financial records of a qualified entity—

"(1) to assess the financial soundness of the qualified entity; and

"(2) to determine the use of grant funds made available to the qualified entity under this section.

"(g) REGULATIONS.—In carrying out this section, the Secretary may promulgate regulations to ensure that the program includes provisions for—

"(1) the termination of demonstration programs;

"(2) control of the reserve funds in the case of such a termination;

"(3) transfer of demonstration programs to other qualified entities; and

"(4) remissions from a reserve fund to the Secretary in a case in which a demonstration program is terminated without transfer to a new qualified entity.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2008 through 2012.".

SEC. 5302. INVENTORY SALES PREFERENCES; LOAN FUND SET-ASIDES.

(a) INVENTORY SALES PREFERENCES.—Section 335(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) in the subparagraph heading, by inserting "; SOCIALLY DISADVANTAGED FARMER OR RANCHER" after "OR RANCHER";

(ii) in clause (i), by inserting "or a socially disadvantaged farmer or rancher" after "or rancher";

(iii) in clause (ii), by inserting "or socially disadvantaged farmer or rancher" after "or rancher";

(iv) in clause (iii), by inserting "or a socially disadvantaged farmer or rancher" after "or rancher"; and

(v) in clause (iv), by striking "and ranchers" and inserting "or ranchers and socially disadvantaged farmers or ranchers"; and

(B) in subparagraph (C), by inserting "or a socially disadvantaged farmer or rancher" after "or rancher";

(2) in paragraph (5)(B)—

(A) in clause (i)—

(i) in the clause heading, by inserting "; SOCIALLY DISADVANTAGED FARMER OR RANCHER" after "OR RANCHER";

(ii) by inserting "or a socially disadvantaged farmer or rancher" after "a beginning farmer or rancher"; and

(iii) by inserting "or the socially disadvantaged farmer or rancher" after "the beginning farmer or rancher"; and

(B) in clause (ii)—

(i) in the matter preceding subclause (I), by inserting "or a socially disadvantaged farmer or rancher" after "or rancher"; and

(ii) in subclause (II), by inserting "or the socially disadvantaged farmer or rancher" after "or rancher"; and

(3) in paragraph (6)—

(A) in subparagraph (A), by inserting "or a socially disadvantaged farmer or rancher" after "or rancher"; and

(B) in subparagraph (C)—

(i) in clause (i)(I), by striking "and ranchers" and inserting "or ranchers and socially disadvantaged farmers or ranchers"; and

(ii) in clause (ii), by inserting "or socially disadvantaged farmers or ranchers" after "or ranchers".

(b) LOAN FUND SET-ASIDES.—Section 346(b)(2) of such Act (7 U.S.C. 1994(b)(2)) is amended—

(1) in subparagraph (A)—

(A) in clause (i)—

(i) in subclause (I), by striking "70 percent" and inserting "an amount that is not less than 75 percent of the total amount"; and

(ii) in subclause (II)—

(I) in the subclause heading, by inserting "; JOINT FINANCING ARRANGEMENTS" after "PAYMENT LOANS";

(II) by striking "60 percent" and inserting "an amount not less than ⅔ of the amount"; and

(III) by inserting "and joint financing arrangements under section 307(a)(3)(D)" after "section 310E"; and

(B) in clause (ii)(III), by striking "2003 through 2007, 35 percent" and inserting "2008 through 2012, an amount that is not less than 50 percent of the total amount"; and

(2) in subparagraph (B)(i), by striking "25 percent" and inserting "an amount that is not less than 40 percent of the total amount".

SEC. 5303. LOAN AUTHORIZATION LEVELS.

Section 346(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994(b)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking "$3,796,000,000 for each of fiscal years 2003 through 2007" and inserting "$4,226,000,000 for each of fiscal years 2008 through 2012"; and

(2) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "$770,000,000" and inserting "$1,200,000,000";

(B) in clause (i), by striking "$205,000,000" and inserting "$350,000,000"; and

(C) in clause (ii), by striking "$565,000,000" and inserting "$850,000,000".

SEC. 5304. TRANSITION TO PRIVATE COMMERCIAL OR OTHER SOURCES OF CREDIT.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2008r) is amended by inserting after section 344 the following:

"SEC. 345. TRANSITION TO PRIVATE COMMERCIAL OR OTHER SOURCES OF CREDIT.

"(a) IN GENERAL.—In making or insuring a farm loan under subtitle A or B, the Secretary shall establish a plan and promulgate regulations (including performance criteria) that promote the goal of transitioning borrowers to private commercial credit and other sources of credit in the shortest period of time practicable.

"(b) COORDINATION.—In carrying out this section, the Secretary shall integrate and coordinate the transition policy described in subsection (a) with—

"(1) the borrower training program established by section 359;

"(2) the loan assessment process established by section 360;

"(3) the supervised credit requirement established by section 361;

"(4) the market placement program established by section 362; and

"(5) other appropriate programs and authorities, as determined by the Secretary.".

SEC. 5305. EXTENSION OF THE RIGHT OF FIRST REFUSAL TO REACQUIRE HOMESTEAD PROPERTY TO IMMEDIATE FAMILY MEMBERS OF BORROWER-OWNER.

Section 352(c)(4)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2000(c)(4)(B)) is amended—

(1) in the 1st sentence, by striking ", the borrower-owner" inserting "of a borrower-owner who is a socially disadvantaged farmer or rancher (as defined in section 355(e)(2)), the borrower-owner or a member of the immediate family of the borrower-owner"; and

(2) in the 2nd sentence, by inserting "or immediate family member, as the case may be," before "from".

SEC. 5306. RURAL DEVELOPMENT AND FARM LOAN PROGRAM ACTIVITIES.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2008r) is amended by inserting after section 364 the following:

"SEC. 365. RURAL DEVELOPMENT AND FARM LOAN PROGRAM ACTIVITIES.

"The Secretary may not complete a study of, or enter into a contract with a private party to carry out, without specific authorization in a subsequent Act of Congress, a competitive sourcing activity of the Secretary, including support personnel of the Department of Agriculture, relating to rural development or farm loan programs.".

Subtitle E—Farm Credit

SEC. 5401. FARM CREDIT SYSTEM INSURANCE CORPORATION.

(a) IN GENERAL.—Section 1.12(b) of the Farm Credit Act of 1971 (12 U.S.C. 2020(b)) is amended—

(1) in the first sentence, by striking "Each Farm" and inserting the following;

"(1) IN GENERAL.—Each Farm"; and

(2) by striking the second sentence and inserting the following:

"(2) COMPUTATION.—The assessment on any association or other financing institution described in paragraph (1) for any period shall be computed in an equitable manner, as determined by the Corporation.".

(b) RULES AND REGULATIONS.—Section 5.58(10) of such Act (12 U.S.C. 2277a–7(10)) is amended by inserting "and section 1.12(b)" after "part".

SEC. 5402. TECHNICAL CORRECTION.

Section 3.3(b) of the Farm Credit Act of 1971 (12 U.S.C. 2124(b)) is amended in the first sentence by striking "per" and inserting "par".

SEC. 5403. BANK FOR COOPERATIVES VOTING STOCK.

(a) IN GENERAL.—Section 3.3(c) of the Farm Credit Act of 1971 (12 U.S.C. 2124(c)) is amended by striking "and (ii)" and inserting "(ii) other categories of persons and entities described in sections 3.7 and 3.8 eligible to borrow from the bank, as determined by the bank's board of directors; and (iii)".

(b) CONFORMING AMENDMENTS.—Section 4.3A(c)(1)(D) of such Act (12 U.S.C. 2154a(c)(1)(D)) is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and inserting after clause (i) the following:

"(ii) persons and entities eligible to borrow from the banks for cooperatives, as described in section 3.3(c)(ii);".

SEC. 5404. PREMIUMS.

(a) AMOUNT IN FUND NOT EXCEEDING SECURE BASE AMOUNT.—Section 5.55(a) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–4(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "paragraph (2)" and inserting "paragraph (3)"; and

(ii) by striking "annual" ; and

(B) by striking subparagraphs (A) through (D) and inserting the following:

"(A) the average outstanding insured obligations issued by the bank for the calendar year, after deducting from the obligations the percentages of the guaranteed portions of loans and investments described in paragraph (2), multiplied by 0.0020; and

"(B) the product obtained by multiplying—

"(i) the sum of—

"(I) the average principal outstanding for the calendar year on loans made by the bank that are in nonaccrual status; and

"(II) the average amount outstanding for the calendar year of other-than-temporarily impaired investments made by the bank; by

"(ii) 0.0010.";

(2) by striking paragraph (4);

(3) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

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

"(2) DEDUCTIONS FROM AVERAGE OUTSTANDING INSURED OBLIGATIONS.—The average outstanding insured obligations issued by the bank for the calendar year referred to in paragraph (1)(A) shall be reduced by deducting from the obligations the sum of (as determined by the Corporation)—

"(A) 90 percent of each of—

"(i) the average principal outstanding for the calendar year on the guaranteed portions of Federal government-guaranteed loans made by the bank that are in accrual status; and

"(ii) the average amount outstanding for the calendar year of the guaranteed portions of Federal government-guaranteed investments made by the bank that are not permanently impaired; and

"(B) 80 percent of each of—

"(i) the average principal outstanding for the calendar year on the guaranteed portions of State government-guaranteed loans made by the bank that are in accrual status; and

"(ii) the average amount outstanding for the calendar year of the guaranteed portions of State government-guaranteed investments made by the bank that are not permanently impaired.";

(5) in paragraph (3) (as so redesignated by paragraph (3) of this subsection), by striking "annual"; and

(6) in paragraph (4) (as so redesignated by paragraph (3) of this subsection)—

(A) in the paragraph heading, by inserting "OR INVESTMENTS" after "LOANS"; and

(B) in the matter preceding subparagraph (A), by striking "As used" and all that follows through "guaranteed—"

and inserting "In this section, the term 'government-guaranteed', when applied to a loan or an investment, means a loan, credit, or investment, or portion of a loan, credit, or investment, that is guaranteed—".

(b) AMOUNT IN FUND EXCEEDING SECURE BASE AMOUNT.—Section 5.55(b) of such Act (12 U.S.C. 2277a–4(b)) is amended by striking "annual".

(c) SECURE BASE AMOUNT.—Section 5.55(c) of such Act (12 U.S.C. 2277a–4(c)) is amended—

(1) by striking "For purposes" and inserting the following: "(1) IN GENERAL.—For purposes";

(2) by striking "(adjusted downward" and all that follows through "by the Corporation)" and inserting "(as adjusted under paragraph (2))"; and

(3) by adding at the end the following:

"(2) ADJUSTMENT.—The aggregate outstanding insured obligations of all insured System banks under paragraph (1) shall be adjusted downward to exclude an amount equal to the sum of (as determined by the corporation)—

"(A) 90 percent of each of—

"(i) the guaranteed portions of principal outstanding on Federal government-guaranteed loans in accrual status made by the banks; and

"(ii) the guaranteed portions of the amount of Federal government-guaranteed investments made by the banks that are not permanently impaired; and

"(B) 80 percent of each of—

"(i) the guaranteed portions of principal outstanding on State government-guaranteed loans in accrual status made by the banks; and

"(ii) the guaranteed portions of the amount of State government-guaranteed investments made by the banks that are not permanently impaired.".

(d) DETERMINATION OF LOAN AND INVESTMENT AMOUNTS.—Section 5.55(d) of such Act (12 U.S.C. 2277a–4(d)) is amended—

(1) in the subsection heading, by striking "PRINCIPAL OUTSTANDING" and inserting "LOAN AND INVESTMENT AMOUNTS";

(2) in the matter preceding paragraph (1), by striking "For the purpose" and all that follows through "made—" and inserting "For the purpose of subsections (a) and (c), the principal outstanding on all loans made by an insured System bank, and the amount outstanding on all investments made by an insured System bank, shall be determined based on—";

(3) in each of paragraphs (1), (2), and (3), by inserting "all loans or investments made" before "by" the first place it appears; and

(4) in each of paragraphs (1) and (2), by inserting "or investments" after "that is able to make such loans" each place it appears.

(e) ALLOCATION TO SYSTEM INSTITUTIONS OF EXCESS RESERVES.—Section 5.55(e) of such Act (12 U.S.C. 2277a–4(e)) is amended—

(1) in paragraph (3), by striking "the average secure base amount for the calendar year (as calculated on an average daily balance basis)" and inserting "the secure base amount";

(2) in paragraph (4), by striking subparagraph (B) and inserting the following:

"(B) there shall be credited to the allocated insurance reserves account of each insured system bank an amount that bears the same ratio to the total amount (less any amount credited under subparagraph (A)) as—

"(i) the average principal outstanding for the calendar year on insured obligations issued by the bank (after deducting from the principal the percentages of the guaranteed portions of loans and investments described in subsection (a)(2)); bears to

"(ii) the average principal outstanding for the calendar year on insured obligations issued by all insured System banks (after deducting from the principal the percentages of the guaranteed portions of loans and investments described in subsection (a)(2)).."; and

(3) in paragraph (6)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking "beginning more" and all that follows through "January 1, 2005";

(ii) by striking clause (i) and inserting the following:

"(i) subject to subparagraph (D), pay to each insured System bank, in a manner determined by the Corporation, an amount equal to the balance in the Allocated Insurance Reserves Account of the System bank; and"; and

(iii) in clause (ii)—

(I) by striking "subparagraphs (C), (E), and (F)" and inserting "subparagraphs (C) and (E)"; and

(II) by striking ", of the lesser of—" and all that follows through the end of subclause (II) and inserting "at the time of the termination of the Financial Assistance Corporation, of the balance in the Allocated Insurance Reserves Account established under paragraph (1)(B).";

(B) in subparagraph (C)—

(i) in clause (i), by striking "(in addition to the amounts described in subparagraph (F)(ii))"; and

(ii) by striking clause (ii) and inserting the following:

"(ii) TERMINATION OF ACCOUNT.—On disbursement of an amount equal to $56,000,000, the Corporation shall—

"(I) close the account established under paragraph (1)(B); and

"(II) transfer any remaining funds in the Account to the remaining Allocated Insurance Reserves Accounts in accordance with paragraph (4)(B) for the calendar year in which the transfer occurs."; and

(C) by striking subparagraph (F).

SEC. 5405. CERTIFICATION OF PREMIUMS.

(a) FILING CERTIFIED STATEMENT.—Section 5.56 of the Farm Credit Act of 1971 (12 U.S.C. 2277a–5) is amended by striking subsection (a) and inserting the following:

"(a) FILING CERTIFIED STATEMENT.—On a date to be determined in the sole discretion of the Board of Directors of the Corporation, each insured System bank that became insured before the beginning of the period for which premiums are being assessed (referred to in this section as the 'period') shall file with the Corporation a certified statement showing—

"(1) the average outstanding insured obligations for the period issued by the bank;

"(2)(A) the average principal outstanding for the period on the guaranteed portion of Federal government-guaranteed loans that are in accrual status; and

"(B) the average amount outstanding for the period of Federal government-guaranteed investments that are not permanently impaired (as defined in section 5.55(a)(4));

"(3)(A) the average principal outstanding for the period on State government-guaranteed loans that are in accrual status; and

"(B) the average amount outstanding for the period of State government-guaranteed investments that are not permanently impaired (as defined in section 5.55(a)(4));

"(4)(A) the average principal outstanding for the period on loans that are in nonaccrual status; and

"(B) the average amount outstanding for the period of other-than-temporarily impaired investments; and

"(5) the amount of the premium due the Corporation from the bank for the period.".

(b) PREMIUM PAYMENTS.—Section 5.56 of such Act (12 U.S.C. 2277a–5) is amended by striking subsection (c) and inserting the following:

"(c) PREMIUM PAYMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each insured System bank shall pay to the Corporation the premium payments required under subsection (a), not more frequently than once in each calendar quarter, in such manner and at such 1 or more times as the Board of Directors shall prescribe.

"(2) PREMIUM AMOUNT.—The amount of the premium shall be established not later than 60 days after filing the certified statement specifying the amount of the premium.".

(c) SUBSEQUENT PREMIUM PAYMENTS.—Section 5.56 of such Act (12 U.S.C. 2277a–5) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

SEC. 5406. RURAL UTILITY LOANS.

(a) DEFINITION OF QUALIFIED LOAN.—Section 8.0(9) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa(9)) is amended—

(1) in subparagraph (A)(iii), by striking "or" at the end;

(2) in subparagraph (B)(ii), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(C) that is a loan, or an interest in a loan, for an electric or telephone facility by a cooperative lender to a borrower that has received, or is eligible to receive, a loan under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.).".

(b) GUARANTEE OF QUALIFIED LOANS.—Section 8.6(a)(1) of such Act (12 U.S.C. 2279aa–6(a)(1)) is amended by inserting "applicable" before "standards" each place it appears in subparagraphs (A) and (B)(i).

(c) STANDARDS FOR QUALIFIED LOANS.—Section 8.8 of such Act (12 U.S.C. 2279aa–8) is amended—

(1) in subsection (a)—

(A) by striking the first sentence and inserting the following:

"(1) IN GENERAL.—The Corporation shall establish underwriting, security appraisal, and repayment standards for qualified loans taking into account the nature, risk profile, and other differences between different categories of qualified loans.

"(2) SUPERVISION, EXAMINATION, AND REPORT OF CONDITION.—The standards shall be subject to the authorities of the Farm Credit Administration under section 8.11."; and

(B) in the last sentence, by striking "In establishing" and inserting the following:

"(3) MORTGAGE LOANS.—In establishing";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting "with respect to loans secured by agricultural real estate" after "subsection (a)"; and

(B) in paragraph (5)—

(i) by striking "borrower" the first place it appears and inserting "farmer or rancher"; and

(ii) by striking "site" and inserting "farm or ranch";

(3) in subsection (c)(1), by inserting "secured by agricultural real estate" after "A loan";

(4) by striking subsection (d); and

(5) by redesignating subsection (e) as subsection (d).

(d) RISK-BASED CAPITAL LEVELS.—Section 8.32(a)(1) of such Act (12 U.S.C. 2279bb–1(a)(1)) is amended—

(1) by striking "With respect" and inserting the following:

"(A) IN GENERAL.—With respect"; and

(2) by adding at the end the following:

"(B) RURAL UTILITY LOANS.—With respect to securities representing an interest in, or obligation backed by, a pool of qualified loans described in section 8.0(9)(C) owned or guaranteed by the Corporation, losses occur at a rate of default and severity reasonably related to risks in electric and telephone facility loans (as applicable), as determined by the Director.".

SEC. 5407. EQUALIZATION OF LOAN-MAKING POWERS OF CERTAIN DISTRICT ASSOCIATIONS.

(a) IN GENERAL.—The Farm Credit Act of 1971 is amended by inserting after section 7.6 (12 U.S.C. 2279b) the following:

"SEC. 7.7. EQUALIZATION OF LOAN-MAKING POWERS OF CERTAIN DISTRICT ASSOCIATIONS.

"(a) EQUALIZATION OF LOAN-MAKING POWERS.—

"(1) IN GENERAL.—

"(A) FEDERAL LAND BANK ASSOCIATIONS.—Subject to paragraph (2), any association that owns a Federal land bank association authorized as of January 1, 2007, to make long-term loans under title I in its chartered territory within the geographic area described in subsection (b) may make short- and intermediate-term loans and otherwise operate as a production credit association under title II within that same chartered territory.

"(B) PRODUCTION CREDIT ASSOCIATIONS.—Subject to paragraph (2), any association that under its charter has title I lending authority and that owns a production credit association authorized as of January 1, 2007, to make short- and intermediate-term loans under title II in the geographic area described in subsection (b) may make long-term loans and otherwise operate, directly or through a subsidiary association, as a Federal land bank association or Federal land credit association under title I in the geographic area.

"(C) FARM CREDIT BANK.—Notwithstanding section 5.17(a), the Farm Credit Bank with which any association had a written financing agreement as of January 1, 2007, may make loans and extend other comparable financial assistance with respect to, and may purchase, any loans made under the new authority provided under subparagraph (A) or (B) by an association exercising such authority.

"(2) REQUIRED APPROVALS.—An association may exercise the additional authority provided for in paragraph (1) only after the exercise of the authority is approved by—

"(A) the board of directors of the association; and

"(B) a majority of the voting stockholders of the association (or, if the association is a subsidiary of another association, the voting stockholders of the parent association) voting, in person or by proxy, at a duly authorized meeting of stockholders in accordance with the process described in section 7.11.

"(b) APPLICABILITY.—This section applies only to associations the chartered territory of which was within the geographic area served by the Federal intermediate credit bank immediately prior to its merger with a Farm Credit Bank under section 410(e)(1) of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note; Public Law 100–233).".

(b) CHARTER AMENDMENTS.—Section 5.17(a) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)) is amended by adding at the end the following:

"(15)(A) Approve amendments to the charters of institutions of the Farm Credit System to implement the equalization of loan-making powers of a Farm Credit System association under section 7.7.

"(B) Amendments described in subparagraph (A) to the charters of an association and the related Farm Credit Bank

shall be approved by the Farm Credit Administration, subject to any conditions of approval imposed, by not later than 30 days after the date on which the Farm Credit Administration receives all approvals required by section 7.7(a)(2).".

(c) CONFORMING AMENDMENTS.—

(1) Section 5.17(a)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)(2)) is amended—

(A) by striking "(2)(A)" and inserting "(2)"; and

(B) by striking subparagraphs (B) and (C).

(2) SECTION 410 OF THE 1987 ACT.—Section 410(e)(1)(A)(iii) of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note; Public Law 100–233) is amended by inserting "(except section 7.7 of that Act)" after "(12 U.S.C. 2001 et seq.)".

(3) SECTION 401 OF THE 1992 ACT.—Section 401(b) of the Farm Credit Banks and Associations Safety and Soundness Act of 1992 (12 U.S.C. 2011 note; Public Law 102–552) is amended—

(A) by inserting "(except section 7.7 of the Farm Credit Act of 1971)" after "provision of law"; and

(B) by striking ", subject to such limitations" and all that follows through the end of the paragraph and inserting a period.

(d) EFFECTIVE DATE.—The amendments made by this section take effect on January 1, 2010.

Subtitle F—Miscellaneous

SEC. 5501. LOANS TO PURCHASERS OF HIGHLY FRACTIONED LAND.

The first section of Public Law 91–229 (25 U.S.C. 488) is amended—

(1) by striking "That the Secretary" and inserting the following:

"SECTION 1. LOANS TO PURCHASERS OF HIGHLY FRACTIONED LAND.

"(a) IN GENERAL.—The Secretary"; and

(2) by adding at the end the following:

"(b) HIGHLY FRACTIONATED LAND.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Agriculture may make and insure loans in accordance with section 309 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929) to eligible purchasers of highly fractionated land pursuant to section 205(c) of the Indian Land Consolidation Act (25 U.S.C. 2204(c)).

"(2) EXCLUSION.—Section 4 shall not apply to trust land, restricted tribal land, or tribal corporation land that is mortgaged in accordance with paragraph (1).".

TITLE VI—RURAL DEVELOPMENT

Subtitle A—Consolidated Farm and Rural Development Act

SEC. 6001. WATER, WASTE DISPOSAL, AND WASTEWATER FACILITY GRANTS.

Section 306(a)(2)(B)(vii) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(2)(B)(vii)) is amended by striking "2002 through 2007" and inserting "2008 through 2012".

SEC. 6002. SEARCH GRANTS.

(a) IN GENERAL.—Section 306(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(2)) is amended by adding at the end the following:

"(C) SPECIAL EVALUATION ASSISTANCE FOR RURAL COMMUNITIES AND HOUSEHOLDS PROGRAM.—

"(i) IN GENERAL.—The Secretary may establish the Special Evaluation Assistance for Rural Communities and Households (SEARCH) program, to make predevelopment planning grants for feasibility studies, design assistance, and technical assistance, to financially distressed communities in rural areas with populations of 2,500 or fewer inhabitants for water and waste disposal projects described in paragraph (1), this paragraph, and paragraph (24).

"(ii) TERMS.—

"(I) DOCUMENTATION.—With respect to grants made under this subparagraph, the Secretary shall require the lowest amount of documentation practicable.

"(II) MATCHING.—Notwithstanding any other provisions in this subsection, the Secretary may fund up to 100 percent of the eligible costs of grants provided under this subparagraph, as determined by the Secretary.

"(iii) FUNDING.—The Secretary may use not more than 4 percent of the total amount of funds made available for a fiscal year for water, waste disposal, and essential community facility activities under this title to carry out this subparagraph.

"(iv) RELATIONSHIP TO OTHER AUTHORITY.—The funds and authorities provided under this subparagraph are in addition to any other funds or authorities the Secretary may have to carry out activities described in clause (i).".

(b) CONFORMING AMENDMENT.—Subtitle D of title VI of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 2009ee et seq.) is repealed.

SEC. 6003. RURAL BUSINESS OPPORTUNITY GRANTS.

Section 306(a)(11)(D) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)(D)) is amended by striking "1996 through 2007" and inserting "2008 through 2012".

SEC. 6004. CHILD DAY CARE FACILITY GRANTS, LOANS, AND LOAN GUARANTEES.

Section 306(a)(19)(C)(ii) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(19)(C)(ii)) is amended by striking "April" and inserting "June".

SEC. 6005. COMMUNITY FACILITY GRANTS TO ADVANCE BROADBAND.

Section 306(a)(20)(E) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(20)(E)) is amended—

(1) by striking "state" and inserting "State"; and

(2) by striking "dial-up Internet access or".

SEC. 6006. RURAL WATER AND WASTEWATER CIRCUIT RIDER PROGRAM.

Section 306(a)(22)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(22)(C)) is amended by striking "$15,000,000 for fiscal year 2003" and inserting "$25,000,000 for fiscal year 2008".

SEC. 6007. TRIBAL COLLEGE AND UNIVERSITY ESSENTIAL COMMUNITY FACILITIES.

Section 306(a)(25) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(25)) is amended—

(1) in subparagraph (A)—

(A) by striking "tribal colleges and universities" and inserting "an entity that is a Tribal College or University"; and

(B) by striking "tribal college or university" and inserting "Tribal College or University";

(2) by striking subparagraph (B) and inserting the following:

"(B) FEDERAL SHARE.—The Secretary shall establish the maximum percentage of the cost of the facility that may be covered by a grant under this paragraph, except that the Secretary may not require non-Federal financial support in an amount that is greater than 5 percent of the total cost of the facility."; and

(3) in subparagraph (C), by striking "2003 through 2007" and inserting "2008 through 2012".

SEC. 6008. EMERGENCY AND IMMINENT COMMUNITY WATER ASSISTANCE GRANT PROGRAM.

Section 306A(i)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926a(i)(2)) is amended by striking "2003 through 2007" and inserting "2008 through 2012".

SEC. 6009. WATER SYSTEMS FOR RURAL AND NATIVE VILLAGES IN ALASKA.

(a) IN GENERAL.—Section 306D(d)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926d(d)(1)) is amended by striking "2001 through 2007" and inserting "2008 through 2012".

(b) RURAL COMMUNITIES ASSISTANCE.—Section 4009 of the Solid Waste Disposal Act (42 U.S.C. 6949) is amended by adding at the end the following:

"(e) ADDITIONAL APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section for the Denali Commission to provide assistance to municipalities in the State of Alaska $1,500,000 for each of fiscal years 2008 through 2012.

"(2) ADMINISTRATION.—For the purpose of carrying out this subsection, the Denali Commission shall—

"(A) be considered a State; and

"(B) comply with all other requirements and limitations of this section.".

SEC. 6010. GRANTS TO NONPROFIT ORGANIZATIONS TO FINANCE THE CONSTRUCTION, REFURBISHING, AND SERVICING OF INDIVIDUALLY-OWNED HOUSEHOLD WATER WELL SYSTEMS IN RURAL AREAS FOR INDIVIDUALS WITH LOW OR MODERATE INCOMES.

Section 306E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926e) is amended—

(1) in subsection (b)(2)(C), by striking "$8,000" and inserting "$11,000"; and

(2) in subsection (d), by striking "2003 through 2007" and inserting "2008 through 2012".

SEC. 6011. INTEREST RATES FOR WATER AND WASTE DISPOSAL FACILITIES LOANS.

Section 307(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)) is amended by adding at the end the following:

"(E) INTEREST RATES FOR WATER AND WASTE DISPOSAL FACILITIES LOANS.—

"(i) IN GENERAL.—Except as provided in clause (ii) and notwithstanding subparagraph (A), in the case of a direct loan for a water or waste disposal facility—

"(I) in the case of a loan that would be subject to the 5 percent interest rate limitation under subparagraph (A), the Secretary shall establish the interest rate at a rate that is equal to 60 percent of the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity of the loan, adjusted to the nearest 1/8 of 1 percent; and

"(II) in the case of a loan that would be subject to the 7 percent limitation under subparagraph (A), the Secretary shall establish the interest rate at a rate that is equal to 80 percent of the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity of the loan, adjusted to the nearest 1/8 of 1 percent.

"(ii) EXCEPTION.—Clause (i) does not apply to a loan for a specific project that is the subject of a loan that has been approved, but not closed, as of the date of enactment of this subparagraph.".

SEC. 6012. COOPERATIVE EQUITY SECURITY GUARANTEE.

(a) IN GENERAL.—Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended—

(1) by striking "SEC. 310B. (a)" and inserting the following:

"SEC. 310B. ASSISTANCE FOR RURAL ENTITIES.

"(a) LOANS TO PRIVATE BUSINESS ENTERPRISES.—

"(1) DEFINITIONS.—In this subsection:";

(2) in subsection (a)—

(A) by moving the second and fourth sentences so as to appear as the second and first sentences, respectively;

(B) in the sentence beginning "As used in this subsection, the" (as moved by subparagraph (A)), by striking "As used in this subsection, the" and inserting the following:

"(A) AQUACULTURE.—The";

(C) in the sentence beginning "For the purposes of this subsection, the", by striking "For the purposes of this subsection, the" and inserting the following:

"(B) SOLAR ENERGY.—The";

(D) in the sentence beginning "The Secretary may also"—

(i) by striking "The Secretary may also" and inserting the following:

"(2) LOAN PURPOSES.—The Secretary may";

(ii) by inserting "and private investment funds that invest primarily in cooperative organizations" after "or nonprofit";

(iii) by striking "of (1) improving" and inserting "of—

"(A) improving";

(iv) by striking "control, (2) the" and inserting "control;

"(B) the";

(v) by striking "areas, (3) reducing" and inserting "areas;

"(C) reducing";

(vi) by striking "areas, and (4) to" and inserting "areas; and

"(D) to";

(E) in the sentence beginning "Such loans,", by striking "Such loans," and inserting the following:

"(3) LOAN GUARANTEES.—Loans described in paragraph (2),"; and

(F) in the last sentence, by striking "No loan" and inserting the following:

"(4) MAXIMUM AMOUNT OF PRINCIPAL.—No loan"; and

(3) in subsection (g)—

(A) in paragraph (1), by inserting ", including guarantees described in paragraph (3)(A)(ii)" before the period at the end;

(B) in paragraph (3)(A)—

(i) by striking "(A) IN GENERAL.—The Secretary" and inserting the following:

"(A) ELIGIBILITY.—

"(i) IN GENERAL.—The Secretary"; and

(ii) by adding at the end the following:

"(ii) EQUITY.—The Secretary may guarantee a loan made for the purchase of preferred stock or similar equity issued by a cooperative organization or a fund that invests primarily in cooperative organizations, if the guarantee significantly benefits 1 or more entities eligible for assistance for the purposes described in subsection (a)(1), as determined by the Secretary."; and

(C) in paragraph (8)(A)(ii), by striking "a project—" and all that follows through the end of subclause (II) and inserting "a project that—

"(I)(aa) is in a rural area; and

"(bb) provides for the value-added processing of agricultural commodities; or

"(II) significantly benefits 1 or more entities eligible for assistance for the purposes described in subsection (a)(1), as determined by the Secretary.".

(b) CONFORMING AMENDMENTS.—

(1) Section 307(a)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(6)(B)) is amended by striking clause (ii) and inserting the following:

"(ii) section 310B(a)(2)(A); and".

(2) Section 310B(g) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(g)) is amended by striking "subsection (a)(1)" each place it appears in paragraphs (1), (6)(A)(iii), and (8)(C) and inserting "subsection (a)(2)(A)".

(3) Section 333A(g)(1)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a(g)(1)(B)) is amended by striking "section 310B(a)(1)" and inserting "section 310B(a)(2)(A)".

(4) Section 381E(d)(3)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009d(d)(3)(B)) is amended by striking "section 310B(a)(1)" and inserting "section 310B(a)(2)(A)".

SEC. 6013. RURAL COOPERATIVE DEVELOPMENT GRANTS.

(a) ELIGIBILITY.—Section 310B(e)(5) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)(5)) is amended—

(1) in subparagraph (A), by striking "administering a nationally coordinated, regionally or State-wide operated project" and inserting "carrying out activities to promote and assist the development of cooperatively and mutually owned businesses";

(2) in subparagraph (B), by inserting "to promote and assist the development of cooperatively and mutually owned businesses" before the semicolon;

(3) by striking subparagraph (D);

(4) by redesignating subparagraph (E) as subparagraph (D);

(5) in subparagraph (D) (as so redesignated), by striking "and" at the end;

(6) by inserting after subparagraph (D) (as so redesignated) the following:

"(E) demonstrate a commitment to—

"(i) networking with and sharing the results of the efforts of the center with other cooperative development centers and other organizations involved in rural economic development efforts; and

"(ii) developing multiorganization and multistate approaches to addressing the economic development and cooperative needs of rural areas; and"; and

(7) in subparagraph (F), by striking "providing greater than" and inserting "providing".

(b) AUTHORITY TO AWARD MULTIYEAR GRANTS.—Section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) is amended by striking paragraph (6) and inserting the following:

"(6) GRANT PERIOD.—

"(A) IN GENERAL.—A grant awarded to a center that has received no prior funding under this subsection shall be made for a period of 1 year.

"(B) MULTIYEAR GRANTS.—If the Secretary determines it to be in the best interest of the program, the Secretary shall award grants for a period of more than 1 year, but not more than 3 years, to a center that has successfully met the parameters described in paragraph (5), as determined by the Secretary.".

(c) AUTHORITY TO EXTEND GRANT PERIOD.—Section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) is amended—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (12), respectively; and

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

"(7) AUTHORITY TO EXTEND GRANT PERIOD.—The Secretary may extend for 1 additional 12-month period the period in which a grantee may use a grant made under this subsection.".

(d) COOPERATIVE RESEARCH PROGRAM.—Section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) is amended by inserting after paragraph (9) (as redesignated by subsection (c)(1)) the following:

"(10) COOPERATIVE RESEARCH PROGRAM.—The Secretary shall enter into a cooperative research agreement with 1 or more qualified academic institutions in each fiscal year to conduct research on the effects of all types of cooperatives on the national economy.".

(e) ADDRESSING NEEDS OF MINORITY COMMUNITIES.—Section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) is amended by inserting after paragraph (10) (as added by subsection (d)) the following:

"(11) ADDRESSING NEEDS OF MINORITY COMMUNITIES.—

"(A) DEFINITION OF SOCIALLY DISADVANTAGED GROUP.—In this paragraph, the term 'socially disadvantaged group' has the meaning given the term in section 355(e).

"(B) RESERVATION OF FUNDS.—

"(i) IN GENERAL.—If the total amount appropriated under paragraph (12) for a fiscal year exceeds $7,500,000, the Secretary shall reserve an amount equal to 20 percent of the total amount appropriated for grants for cooperative development centers, individual cooperatives, or groups of cooperatives—

"(I) that serve socially disadvantaged groups; and

"(II) a majority of the boards of directors or governing boards of which are comprised of individuals who are members of socially disadvantaged groups.

"(ii) INSUFFICIENT APPLICATIONS.—To the extent there are insufficient applications to carry out clause (i), the Secretary shall use the funds as otherwise authorized by this subsection.".

(f) AUTHORIZATION OF APPROPRIATIONS.—Paragraph (12) of section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) (as redesignated by subsection (c)(1)) is amended by striking "1996 through 2007" and inserting "2008 through 2012".

SEC. 6014. GRANTS TO BROADCASTING SYSTEMS.

Section 310B(f)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(f)(3)) is amended by striking "2002 through 2007" and inserting "2008 through 2012".

SEC. 6015. LOCALLY OR REGIONALLY PRODUCED AGRICULTURAL FOOD PRODUCTS.

Section 310B(g) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(g)) is amended by adding at the end the following:

"(9) LOCALLY OR REGIONALLY PRODUCED AGRICULTURAL FOOD PRODUCTS.—

"(A) DEFINITIONS.—In this paragraph:

"(i) LOCALLY OR REGIONALLY PRODUCED AGRICULTURAL FOOD PRODUCT.—The term 'locally or regionally produced agricultural food product' means any agricultural food product that is raised, produced, and distributed in—

"(I) the locality or region in which the final product is marketed, so that the total distance that the product is transported is less than 400 miles from the origin of the product; or

"(II) the State in which the product is produced.

"(ii) UNDERSERVED COMMUNITY.—The term 'underserved community' means a community (including an urban or rural community and an Indian tribal community) that has, as determined by the Secretary—

"(I) limited access to affordable, healthy foods, including fresh fruits and vegetables, in grocery retail stores or farmer-to-consumer direct markets; and

"(II) a high rate of hunger or food insecurity or a high poverty rate.

"(B) LOAN AND LOAN GUARANTEE PROGRAM.—

"(i) IN GENERAL.—The Secretary shall make or guarantee loans to individuals, cooperatives, cooperative organizations, businesses, and other entities to establish and facilitate enterprises that process, distribute, aggregate, store, and market locally or regionally produced agricultural food products to support community development and farm and ranch income.

"(ii) REQUIREMENT.—The recipient of a loan or loan guarantee under clause (i) shall include in an appropriate agreement with retail and institutional facilities to which the recipient sells locally or regionally produced agricultural food products a requirement to inform consumers of the retail or institutional facilities that the consumers are purchasing or consuming locally or regionally produced agricultural food products.

"(iii) PRIORITY.—In making or guaranteeing a loan under clause (i), the Secretary shall give priority to projects that have components benefitting underserved communities.

"(iv) REPORTS.—Not later than 2 years after the date of enactment of this paragraph and annually

thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes projects carried out using loans or loan guarantees made under clause (i), including—

"(I) the characteristics of the communities served; and

"(II) resulting benefits.

"(v) RESERVATION OF FUNDS.—

"(I) IN GENERAL.—For each of fiscal years 2008 through 2012, the Secretary shall reserve not less than 5 percent of the funds made available to carry out this subsection to carry out this subparagraph.

"(II) AVAILABILITY OF FUNDS.—Funds reserved under subclause (I) for a fiscal year shall be reserved until April 1 of the fiscal year.".

SEC. 6016. APPROPRIATE TECHNOLOGY TRANSFER FOR RURAL AREAS.

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by adding at the end the following:

"(i) APPROPRIATE TECHNOLOGY TRANSFER FOR RURAL AREAS PROGRAM.—

"(1) DEFINITION OF NATIONAL NONPROFIT AGRICULTURAL ASSISTANCE INSTITUTION.—In this subsection, the term 'national nonprofit agricultural assistance institution' means an organization that—

"(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under 501(a) of that Code;

"(B) has staff and offices in multiple regions of the United States;

"(C) has experience and expertise in operating national agriculture technical assistance programs;

"(D) expands markets for the agricultural commodities produced by producers through the use of practices that enhance the environment, natural resource base, and quality of life; and

"(E) improves the economic viability of agricultural operations.

"(2) ESTABLISHMENT.—The Secretary shall establish a national appropriate technology transfer for rural areas program to assist agricultural producers that are seeking information to—

"(A) reduce input costs;

"(B) conserve energy resources;

"(C) diversify operations through new energy crops and energy generation facilities; and

"(D) expand markets for agricultural commodities produced by the producers by using practices that enhance the environment, natural resource base, and quality of life.

"(3) IMPLEMENTATION.—

"(A) IN GENERAL.—The Secretary shall carry out the program under this subsection by making a grant to, or of-

fering to enter into a cooperative agreement with, a national nonprofit agricultural assistance institution.

"(B) GRANT AMOUNT.—A grant made, or cooperative agreement entered into, under subparagraph (A) shall provide 100 percent of the cost of providing information described in paragraph (2).

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 2008 through 2012.".

SEC. 6017. RURAL ECONOMIC AREA PARTNERSHIP ZONES.

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) (as amended by section 6016) is amended by adding at the end the following:

"(j) RURAL ECONOMIC AREA PARTNERSHIP ZONES.—Effective beginning on the date of enactment of this subsection through September 30, 2012, the Secretary shall carry out those rural economic area partnership zones administratively in effect on the date of enactment of this subsection in accordance with the terms and conditions contained in the memorandums of agreement entered into by the Secretary for the rural economic area partnership zones, except as otherwise provided in this subsection.".

SEC. 6018. DEFINITIONS.

(a) RURAL AREA.—Section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)) is amended by striking paragraph (13) and inserting the following:

"(13) RURAL AND RURAL AREA.—

"(A) IN GENERAL.—Subject to subparagraphs (B) through (G), the terms 'rural' and 'rural area' mean any area other than—

"(i) a city or town that has a population of greater than 50,000 inhabitants; and

"(ii) any urbanized area contiguous and adjacent to a city or town described in clause (i).

"(B) WATER AND WASTE DISPOSAL GRANTS AND DIRECT AND GUARANTEED LOANS.—For the purpose of water and waste disposal grants and direct and guaranteed loans provided under paragraphs (1), (2), and (24) of section 306(a), the terms 'rural' and 'rural area' mean a city, town, or unincorporated area that has a population of no more than 10,000 inhabitants.

"(C) COMMUNITY FACILITY LOANS AND GRANTS.—For the purpose of community facility direct and guaranteed loans and grants under paragraphs (1), (19), (20), (21), and (24) of section 306(a), the terms 'rural' and 'rural area' mean any area other than a city, town, or unincorporated area that has a population of greater than 20,000 inhabitants.

"(D) AREAS RURAL IN CHARACTER.—

"(i) APPLICATION.—This subparagraph applies to—

"(I) an urbanized area described in subparagraphs (A)(ii) and (F) that—

"(aa) has 2 points on its boundary that are at least 40 miles apart; and

"(bb) is not contiguous or adjacent to a city or town that has a population of greater than 150,000 inhabitants or an urbanized area of such city or town; and

"(II) an area within an urbanized area described in subparagraphs (A)(ii) and (F) that is within 1/4-mile of a rural area described in subparagraph (A).

"(ii) DETERMINATION.—Notwithstanding any other provision of this paragraph, on the petition of a unit of local government in an area described in clause (i) or on the initiative of the Under Secretary for Rural Development, the Under Secretary may determine that a part of an area described in clause (i) is a rural area for the purposes of this paragraph, if the Under Secretary finds that the part is rural in character, as determined by the Under Secretary.

"(iii) ADMINISTRATION.—In carrying out this subparagraph, the Under Secretary for Rural Development shall—

"(I) not delegate the authority to carry out this subparagraph;

"(II) consult with the applicable rural development State or regional director of the Department of Agriculture and the governor of the respective State;

"(III) provide to the petitioner an opportunity to appeal to the Under Secretary a determination made under this subparagraph;

"(IV) release to the public notice of a petition filed or initiative of the Under Secretary under this subparagraph not later than 30 days after receipt of the petition or the commencement of the initiative, as appropriate;

"(V) make a determination under this subparagraph not less than 15 days, and not more than 60 days, after the release of the notice under subclause (IV);

"(VI) submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report on actions taken to carry out this subparagraph; and

"(VII) terminate a determination under this subparagraph that part of an area is a rural area on the date that data is available for the next decennial census conducted under section 141(a) of title 13, United States Code.

"(E) EXCLUSIONS.—Notwithstanding any other provision of this paragraph, in determining which census blocks in an urbanized area are not in a rural area (as defined in this paragraph), the Secretary shall exclude any cluster of census blocks that would otherwise be considered not in a rural area only because the cluster is adjacent to not

more than 2 census blocks that are otherwise considered not in a rural area under this paragraph.

"(F) URBAN AREA GROWTH.—

"(i) APPLICATION.—This subparagraph applies to—

"(I) any area that—

"(aa) is a collection of census blocks that are contiguous to each other;

"(bb) has a housing density that the Secretary estimates is greater than 200 housing units per square mile; and

"(cc) is contiguous or adjacent to an existing boundary of a rural area; and

"(II) any urbanized area contiguous and adjacent to a city or town described in subparagraph (A)(i).

"(ii) ADJUSTMENTS.—The Secretary may, by regulation only, consider—

"(I) an area described in clause (i)(I) not to be a rural area for purposes of subparagraphs (A) and (C); and

"(II) an area described in clause (i)(II) not to be a rural area for purposes of subparagraph (C).

"(iii) APPEALS.—A program applicant may appeal an estimate made under clause (i)(I) based on appropriate data for an area, as determined by the Secretary.

"(G) HAWAII AND PUERTO RICO.—Notwithstanding any other provision of this paragraph, within the areas of the County of Honolulu, Hawaii, and the Commonwealth of Puerto Rico, the Secretary may designate any part of the areas as a rural area if the Secretary determines that the part is not urban in character, other than any area included in the Honolulu Census Designated Place or the San Juan Census Designated Place.".

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

(1) assesses the various definitions of the term "rural" and "rural area" that are used with respect to programs administered by the Secretary;

(2) describes the effects that the variations in those definitions have on those programs;

(3) make recommendations for ways to better target funds provided through rural development programs; and

(4) determines the effect of the amendment made by subsection (a) on the level of rural development funding and participation in those programs in each State.

SEC. 6019. NATIONAL RURAL DEVELOPMENT PARTNERSHIP.

Section 378 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008m) is amended—

(1) in subsection (g)(1), by striking "2003 through 2007" and inserting "2008 through 2012"; and

(2) in subsection (h), by striking "the date that is 5 years after the date of enactment of this section" and inserting "September 30, 2012".

SEC. 6020. HISTORIC BARN PRESERVATION.

(a) GRANT PRIORITY.—Section 379A(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008o(c)) is amended—

(1) in paragraph (2)—

(A) in subparagraphs (A) and (B), by striking "a historic barn" each place it appears and inserting "historic barns"; and

(B) in subparagraph (C), by striking "on a historic barn" and inserting "on historic barns (including surveys)";

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

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

"(3) PRIORITY.—In making grants under this subsection, the Secretary shall give the highest priority to funding projects described in paragraph (2)(C).".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 379A(c)(5) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008o(c)(5)) (as redesignated by subsection (a)(2)) is amended by striking "2002 through 2007" and inserting "2008 through 2012".

SEC. 6021. GRANTS FOR NOAA WEATHER RADIO TRANSMITTERS.

Section 379B(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008p(d)) is amended by striking "2002 through 2007" and inserting "2008 through 2012".

SEC. 6022. RURAL MICROENTREPRENEUR ASSISTANCE PROGRAM.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) is amended by adding at the end the following:

"SEC. 379E. RURAL MICROENTREPRENEUR ASSISTANCE PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(2) MICROENTREPRENEUR.—The term 'microentrepreneur' means an owner and operator, or prospective owner and operator, of a rural microenterprise who is unable to obtain sufficient training, technical assistance, or credit other than under this section, as determined by the Secretary.

"(3) MICROENTERPRISE DEVELOPMENT ORGANIZATION.—The term 'microenterprise development organization' means an organization that—

"(A) is—

"(i) a nonprofit entity;

"(ii) an Indian tribe, the tribal government of which certifies to the Secretary that—

"(I) no microenterprise development organization serves the Indian tribe; and

"(II) no rural microentrepreneur assistance program exists under the jurisdiction of the Indian tribe; or

"(iii) a public institution of higher education;

"(B) provides training and technical assistance to rural microentrepreneurs;

"(C) facilitates access to capital or another service described in subsection (b) for rural microenterprises; and

"(D) has a demonstrated record of delivering services to rural microentrepreneurs, or an effective plan to develop a program to deliver services to rural microentrepreneurs, as determined by the Secretary.

"(4) MICROLOAN.—The term 'microloan' means a business loan of not more than $50,000 that is provided to a rural microenterprise.

"(5) PROGRAM.—The term 'program' means the rural microentrepreneur assistance program established under subsection (b).

"(6) RURAL MICROENTERPRISE.—The term 'rural microenterprise' means—

"(A) a sole proprietorship located in a rural area; or

"(B) a business entity with not more than 10 full-time-equivalent employees located in a rural area.

"(b) RURAL MICROENTREPRENEUR ASSISTANCE PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a rural microentrepreneur assistance program to provide loans and grants to support microentrepreneurs in the development and ongoing success of rural microenterprises.

"(2) PURPOSE.—The purpose of the program is to provide microentrepreneurs with—

"(A) the skills necessary to establish new rural microenterprises; and

"(B) continuing technical and financial assistance related to the successful operation of rural microenterprises.

"(3) LOANS.—

"(A) IN GENERAL.—The Secretary shall make loans to microenterprise development organizations for the purpose of providing fixed interest rate microloans to microentrepreneurs for startup and growing rural microenterprises.

"(B) LOAN TERMS.—A loan made by the Secretary to a microenterprise development organization under this paragraph shall—

"(i) be for a term not to exceed 20 years; and

"(ii) bear an annual interest rate of at least 1 percent.

"(C) LOAN LOSS RESERVE FUND.—The Secretary shall require each microenterprise development organization that receives a loan under this paragraph to—

"(i) establish a loan loss reserve fund; and

"(ii) maintain the reserve fund in an amount equal to at least 5 percent of the outstanding balance of such loans owed by the microenterprise development organization, until all obligations owed to the Secretary under this paragraph are repaid.

"(D) DEFERRAL OF INTEREST AND PRINCIPAL.—The Secretary may permit the deferral of payments on principal and interest due on a loan to a microenterprise development organization made under this paragraph for a 2-year period beginning on the date the loan is made.

"(4) GRANTS.—

"(A) GRANTS TO SUPPORT RURAL MICROENTERPRISE DEVELOPMENT.—

"(i) IN GENERAL.—The Secretary shall make grants to microenterprise development organizations to—

"(I) provide training, operational support, business planning, and market development assistance, and other related services to rural microentrepreneurs; and

"(II) carry out such other projects and activities as the Secretary determines appropriate to further the purposes of the program.

"(ii) SELECTION.—In making grants under clause (i), the Secretary shall—

"(I) place an emphasis on microenterprise development organizations that serve microentrepreneurs that are located in rural areas that have suffered significant outward migration, as determined by the Secretary; and

"(II) ensure, to the maximum extent practicable, that grant recipients include microenterprise development organizations—

"(aa) of varying sizes; and

"(bb) that serve racially and ethnically diverse populations.

"(B) GRANTS TO ASSIST MICROENTREPRENEURS.—

"(i) IN GENERAL.—The Secretary shall make grants to microenterprise development organizations to provide marketing, management, and other technical assistance to microentrepreneurs that—

"(I) received a loan from the microenterprise development organization under paragraph (3); or

"(II) are seeking a loan from the microenterprise development organization under paragraph (3).

"(ii) MAXIMUM AMOUNT OF GRANT.—A microenterprise development organization shall be eligible to receive an annual grant under this subparagraph in an amount equal to not more than 25 percent of the total outstanding balance of microloans made by the microenterprise development organization under paragraph (3), as of the date the grant is awarded.

"(C) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of a grant received by a microenterprise development organization for a fiscal year under this paragraph may be used to pay administrative expenses.

"(c) ADMINISTRATION.—

"(1) COST SHARE.—

"(A) FEDERAL SHARE.—Subject to subparagraph (B), the Federal share of the cost of a project funded under this section shall not exceed 75 percent.

"(B) MATCHING REQUIREMENT.—As a condition of any grant made under this subparagraph, the Secretary shall require the microenterprise development organization to match not less than 15 percent of the total amount of the

grant in the form of matching funds, indirect costs, or in-kind goods or services.

"(C) FORM OF NON-FEDERAL SHARE.—The non-Federal share of the cost of a project funded under this section may be provided—

"(i) in cash (including through fees, grants (including community development block grants), and gifts); or

"(ii) in the form of in-kind contributions.

"(2) OVERSIGHT.—At a minimum, not later than December 1 of each fiscal year, a microenterprise development organization that receives a loan or grant under this section shall provide to the Secretary such information as the Secretary may require to ensure that assistance provided under this section is used for the purposes for which the loan or grant was made.

"(d) FUNDING.—

"(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section, to remain available until expended—

"(A) $4,000,000 for each of fiscal years 2009 through 2011; and

"(B) $3,000,000 for fiscal year 2012.

"(2) DISCRETIONARY FUNDING.—In addition to amounts made available under paragraph (1), there are authorized to be appropriated to carry out this section $40,000,000 for each of fiscal years 2009 through 2012.".

SEC. 6023. GRANTS FOR EXPANSION OF EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES IN RURAL AREAS.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 6022) is amended by adding at the end the following:

"SEC. 379F. GRANTS FOR EXPANSION OF EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES IN RURAL AREAS.

"(a) DEFINITIONS.—In this section:

"(1) INDIVIDUAL WITH A DISABILITY.—The term 'individual with a disability' means an individual with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)).

"(2) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than 1 individual with a disability.

"(b) GRANTS.—The Secretary shall make grants to nonprofit organizations, or to a consortium of nonprofit organizations, to expand and enhance employment opportunities for individuals with disabilities in rural areas.

"(c) ELIGIBILITY.—To be eligible to receive a grant under this section, a nonprofit organization or consortium of nonprofit organizations shall have—

"(1) a significant focus on serving the needs of individuals with disabilities;

"(2) demonstrated knowledge and expertise in—

"(A) employment of individuals with disabilities; and

"(B) advising private entities on accessibility issues involving individuals with disabilities;

"(3) expertise in removing barriers to employment for individuals with disabilities, including access to transportation, assistive technology, and other accommodations; and

"(4) existing relationships with national organizations focused primarily on the needs of rural areas.

"(d) USES.—A grant received under this section may be used only to expand or enhance—

"(1) employment opportunities for individuals with disabilities in rural areas by developing national technical assistance and education resources to assist small businesses in a rural area to recruit, hire, accommodate, and employ individuals with disabilities; and

"(2) self-employment and entrepreneurship opportunities for individuals with disabilities in a rural area.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,000,000 for each of fiscal years 2008 through 2012.".

SEC. 6024. HEALTH CARE SERVICES.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 6023) is amended by adding at the end the following:

"SEC. 379G. HEALTH CARE SERVICES.

"(a) PURPOSE.—The purpose of this section is to address the continued unmet health needs in the Delta region through cooperation among health care professionals, institutions of higher education, research institutions, and other individuals and entities in the region.

"(b) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means a consortium of regional institutions of higher education, academic health and research institutes, and economic development entities located in the Delta region that have experience in addressing the health care issues in the region.

"(c) GRANTS.—To carry out the purpose described in subsection (a), the Secretary may award a grant to an eligible entity for—

"(1) the development of—

"(A) health care services;

"(B) health education programs; and

"(C) health care job training programs; and

"(2) the development and expansion of public health-related facilities in the Delta region to address longstanding and unmet health needs of the region.

"(d) USE.—As a condition of the receipt of the grant, the eligible entity shall use the grant to fund projects and activities described in subsection (c), based on input solicited from local governments, public health care providers, and other entities in the Delta region.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section, $3,000,000 for each of fiscal years 2008 through 2012.".

SEC. 6025. DELTA REGIONAL AUTHORITY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 382M(a) of the Consolidated Farm and Rural Development Act (7 U.S.C.

2009aa–12(a)) is amended by striking "2001 through 2007" and inserting "2008 through 2012".

(b) TERMINATION OF AUTHORITY.—Section 382N of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa–13) is amended by striking "2007" and inserting "2012".

(c) EXPANSION.—Section 4(2) of the Delta Development Act (42 U.S.C. 3121 note; Public Law 100–460) is amended—

(1) in subparagraph (D), by inserting "Beauregard, Bienville, Cameron, Claiborne, DeSoto, Jefferson Davis, Red River, St. Mary, Vermillion, Webster," after "St. James,"; and

(2) in subparagraph (E)—

(A) by inserting "Jasper," after "Copiah,"; and

(B) by inserting "Smith," after "Simpson,".

SEC. 6026. NORTHERN GREAT PLAINS REGIONAL AUTHORITY.

(a) DEFINITION OF REGION.—Section 383A(4) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009bb(4)) is amended by inserting "Missouri (other than counties included in the Delta Regional Authority)," after "Minnesota,".

(b) ESTABLISHMENT.—Section 383B of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009bb–1) is amended—

(1) in subsection (a), by adding at the end the following:

"(4) FAILURE TO CONFIRM.—

"(A) FEDERAL MEMBER.—Notwithstanding any other provision of this section, if a Federal member described in paragraph (2)(A) has not been confirmed by the Senate by not later than 180 days after the date of enactment of this paragraph, the Authority may organize and operate without the Federal member.

"(B) INDIAN CHAIRPERSON.—In the case of the Indian Chairperson, if no Indian Chairperson is confirmed by the Senate, the regional authority shall consult and coordinate with the leaders of Indian tribes in the region concerning the activities of the Authority, as appropriate.";

(2) in subsection (d)—

(A) in paragraph (1), by striking "to establish priorities and" and inserting "for multistate cooperation to advance the economic and social well-being of the region and to";

(B) in paragraph (3), by striking "local development districts," and inserting "regional and local development districts or organizations, regional boards established under subtitle I,";

(C) in paragraph (4), by striking "cooperation;" and inserting "cooperation for—

"(i) renewable energy development and transmission;

"(ii) transportation planning and economic development;

"(iii) information technology;

"(iv) movement of freight and individuals within the region;

"(v) federally-funded research at institutions of higher education; and

"(vi) conservation land management;";

(D) by striking paragraph (6) and inserting the following:

"(6) enhance the capacity of, and provide support for, multistate development and research organizations, local development organizations and districts, and resource conservation districts in the region;"; and

(E) in paragraph (7), by inserting "renewable energy," after "commercial,".

(3) in subsection (f)(2), by striking "the Federal cochairperson" and inserting "a cochairperson";

(4) in subsection (g)(1), by striking subparagraphs (A) through (C) and inserting the following:

"(A) for each of fiscal years 2008 and 2009, 100 percent;

"(B) for fiscal year 2010, 75 percent; and

"(C) for fiscal year 2011 and each fiscal year thereafter, 50 percent.".

(c) INTERSTATE COOPERATION FOR ECONOMIC OPPORTUNITY AND EFFICIENCY.—

(1) IN GENERAL.—Subtitle G of the Consolidated Farm and Rural Development Act is amended—

(A) by redesignating sections 383C through 383N (7 U.S.C. 2009bb–2 through 2009bb–13) as sections 383D through 383O, respectively; and

(B) by inserting after section 383B (7 U.S.C. 2009bb–1) the following:

"SEC. 383C. INTERSTATE COOPERATION FOR ECONOMIC OPPORTUNITY AND EFFICIENCY.

"(a) IN GENERAL.—The Authority shall provide assistance to States in developing regional plans to address multistate economic issues, including plans—

"(1) to develop a regional transmission system for movement of renewable energy to markets outside the region;

"(2) to address regional transportation concerns, including the establishment of a Northern Great Plains Regional Transportation Working Group;

"(3) to encourage and support interstate collaboration on federally-funded research that is in the national interest; and

"(4) to establish a Regional Working Group on Agriculture Development and Transportation.

"(b) ECONOMIC ISSUES.—The multistate economic issues referred to in subsection (a) shall include—

"(1) renewable energy development and transmission;

"(2) transportation planning and economic development;

"(3) information technology;

"(4) movement of freight and individuals within the region;

"(5) federally-funded research at institutions of higher education; and

"(6) conservation land management.".

(2) CONFORMING AMENDMENTS.—

(A) Section 383B(c)(3)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009bb–1(c)(3)(B)) is amended by striking "383I" and inserting "383J".

(B) Section 383D(a) of the Consolidated Farm and Rural Development Act (as redesignated by paragraph (1)(A)) is amended by striking "383I" and inserting "383J".

(C) Section 383E of the Consolidated Farm and Rural Development Act (as so redesignated) is amended—

(i) in subsection (b)(1), by striking "383F(b)" and inserting "383G(b)"; and

(ii) in subsection (c)(2)(A), by striking "383I" and inserting "383J".

(D) Section 383G of the Consolidated Farm and Rural Development Act (as so redesignated) is amended—

(i) in subsection (b)—

(I) in paragraph (1), by striking "383M" and inserting "383N"; and

(II) in paragraph (2), by striking "383D(b)" and inserting "383E(b)";

(ii) in subsection (c)(2)(A), by striking "383E(b)" and inserting "383F(b)"; and

(iii) in subsection (d)—

(I) by striking "383M" and inserting "383N"; and

(II) by striking "383C(a)" and inserting "383D(a)".

(E) Section 383J(c)(2) of the Consolidated Farm and Rural Development Act (as so redesignated) is amended by striking "383H" and inserting "383I".

(d) ECONOMIC AND COMMUNITY DEVELOPMENT GRANTS.—Section 383D of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "transportation and telecommunication" and inserting "transportation, renewable energy transmission, and telecommunication"; and

(B) by redesignating paragraphs (1) and (2) as paragraphs (2) and (1), respectively, and moving those paragraphs so as to appear in numerical order; and

(2) in subsection (b)(2), by striking "the activities in the following order or priority" and inserting "the following activities".

(e) SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.—Section 383E(a) of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended by striking ", including local development districts,".

(f) MULTISTATE AND LOCAL DEVELOPMENT DISTRICTS AND ORGANIZATIONS AND NORTHERN GREAT PLAINS INC.—Section 383F of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended—

*(1) by striking the section heading and inserting "**MULTISTATE AND LOCAL DEVELOPMENT DISTRICTS AND ORGANIZATIONS AND NORTHERN GREAT PLAINS INC.**"; and*

(2) by striking subsections (a) through (c) and inserting the following:

"(a) DEFINITION OF MULTISTATE AND LOCAL DEVELOPMENT DISTRICT OR ORGANIZATION.—In this section, the term 'multistate and local development district or organization' means an entity—

"(1) that—

"(A) is a planning district in existence on the date of enactment of this subtitle that is recognized by the Eco-

nomic Development Administration of the Department of Commerce; or

"(B) is—

"(i) organized and operated in a manner that ensures broad-based community participation and an effective opportunity for other nonprofit groups to contribute to the development and implementation of programs in the region;

"(ii) a nonprofit incorporated body organized or chartered under the law of the State in which the entity is located;

"(iii) a nonprofit agency or instrumentality of a State or local government;

"(iv) a public organization established before the date of enactment of this subtitle under State law for creation of multijurisdictional, area-wide planning organizations;

"(v) a nonprofit agency or instrumentality of a State that was established for the purpose of assisting with multistate cooperation; or

"(vi) a nonprofit association or combination of bodies, agencies, and instrumentalities described in clauses (ii) through (v); and

"(2) that has not, as certified by the Authority (in consultation with the Federal cochairperson or Secretary, as appropriate)—

"(A) inappropriately used Federal grant funds from any Federal source; or

"(B) appointed an officer who, during the period in which another entity inappropriately used Federal grant funds from any Federal source, was an officer of the other entity.

"(b) GRANTS TO MULTISTATE, LOCAL, OR REGIONAL DEVELOPMENT DISTRICTS AND ORGANIZATIONS.—

"(1) IN GENERAL.—The Authority may make grants for administrative expenses under this section to multistate, local, and regional development districts and organizations.

"(2) CONDITIONS FOR GRANTS.—

"(A) MAXIMUM AMOUNT.—The amount of any grant awarded under paragraph (1) shall not exceed 80 percent of the administrative expenses of the multistate, local, or regional development district or organization receiving the grant.

"(B) MAXIMUM PERIOD.—No grant described in paragraph (1) shall be awarded for a period greater than 3 years.

"(3) LOCAL SHARE.—The contributions of a multistate, local, or regional development district or organization for administrative expenses may be in cash or in kind, fairly evaluated, including space, equipment, and services.

"(c) DUTIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a local development district shall operate as a lead organization serving multicounty areas in the region at the local level.

"(2) DESIGNATION.—The Federal cochairperson may designate an Indian tribe or multijurisdictional organization to serve as a lead organization in such cases as the Federal cochairperson or Secretary, as appropriate, determines appropriate.".

(g) DISTRESSED COUNTIES AND AREAS AND NONDISTRESSED COUNTIES.—Section 383G of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended—

(1) in subsection (b)(1), by striking "75" and inserting "50";

(2) by striking subsection (c);

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

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

(A) in the subsection heading, by inserting "RENEWABLE ENERGY," after "TELECOMMUNICATION"; and

(B) by inserting ", renewable energy," after "telecommunication,".

(h) DEVELOPMENT PLANNING PROCESS.—Section 383H of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended—

(1) in subsection (c)(1), by striking subparagraph (A) and inserting the following:

"(A) multistate, regional, and local development districts and organizations; and"; and

(2) in subsection (d)(1), by striking "State and local development districts" and inserting "multistate, regional, and local development districts and organizations".

(i) PROGRAM DEVELOPMENT CRITERIA.—Section 383I(a)(1) of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended by inserting "multistate or" before "regional".

(j) AUTHORIZATION OF APPROPRIATIONS.—Section 383N(a) of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended by striking "2002 through 2007" and inserting "2008 through 2012".

(k) TERMINATION OF AUTHORITY.—Section 383O of the Consolidated Farm and Rural Development Act (as redesignated by subsection (c)(1)(A)) is amended by striking "2007" and inserting "2012".

SEC. 6027. RURAL BUSINESS INVESTMENT PROGRAM.

(a) ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.—Section 384F(b)(3)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–5(b)(3)(A)) is amended by striking "In the event" and inserting the following:

"(i) AUTHORITY TO PREPAY.—A debenture may be prepaid at any time without penalty.

"(ii) REDUCTION OF GUARANTEE.—Subject to clause (i), if".

(b) FEES.—Section 384G of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–6) is amended—

(1) in subsection (a), by striking "such fees as the Secretary considers appropriate" and inserting "a fee that does not exceed $500";

(2) in subsection (b), by striking "approved by the Secretary" and inserting "that does not exceed $500"; and

(3) in subsection (c)—

(A) in paragraph (1), by striking "The" and inserting "Except as provided in paragraph (3), the";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "and" at the end;

(ii) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(C) shall not exceed $500 for any fee collected under this subsection."; and

(C) by adding at the end the following:

"(3) PROHIBITION ON COLLECTION OF CERTAIN FEES.—In the case of a license described in paragraph (1) that was approved before July 1, 2007, the Secretary shall not collect any fees due on or after the date of enactment of this paragraph.".

(c) RURAL BUSINESS INVESTMENT COMPANIES.—Section 384I(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–8(c)) is amended—

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

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

"(3) TIME FRAME.—Each rural business investment company shall have a period of 2 years to meet the capital requirements of this subsection.".

(d) FINANCIAL INSTITUTION INVESTMENTS.—Section 384J of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–9) is amended—

(1) in subsection (a)(1), by inserting ", including an investment pool created entirely by such bank or savings association" before the period at the end; and

(2) in subsection (c), by striking "15" and inserting "25".

(e) CONTRACTING OF FUNCTIONS.—Section 384Q of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009cc–16) is repealed.

(f) FUNDING.—The Consolidated Farm and Rural Development Act is amended by striking section 384S (7 U.S.C. 2009cc–18) and inserting the following:

"SEC. 384S. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this subtitle $50,000,000 for the period of fiscal years 2008 through 2012.".

SEC. 6028. RURAL COLLABORATIVE INVESTMENT PROGRAM.

Subtitle I of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009dd et seq.) is amended to read as follows:

"Subtitle I—Rural Collaborative Investment Program

"SEC. 385A. PURPOSE.

"The purpose of this subtitle is to establish a regional rural collaborative investment program—

"(1) to provide rural regions with a flexible investment vehicle, allowing for local control with Federal oversight, assistance, and accountability;

"(2) to provide rural regions with incentives and resources to develop and implement comprehensive strategies for achieving regional competitiveness, innovation, and prosperity;

"(3) to foster multisector community and economic development collaborations that will optimize the asset-based competitive advantages of rural regions with particular emphasis on innovation, entrepreneurship, and the creation of quality jobs;

"(4) to foster collaborations necessary to provide the professional technical expertise, institutional capacity, and economies of scale that are essential for the long-term competitiveness of rural regions; and

"(5) to better use Department of Agriculture and other Federal, State, and local governmental resources, and to leverage those resources with private, nonprofit, and philanthropic investments, in order to achieve measurable community and economic prosperity, growth, and sustainability.

"SEC. 385B. DEFINITIONS.

"In this subtitle:

"(1) BENCHMARK.—The term 'benchmark' means an annual set of goals and performance measures established for the purpose of assessing performance in meeting a regional investment strategy of a Regional Board.

"(2) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(3) NATIONAL BOARD.—The term 'National Board' means the National Rural Investment Board established under section 385C(c).

"(4) NATIONAL INSTITUTE.—The term 'National Institute' means the National Institute on Regional Rural Competitiveness and Entrepreneurship established under section 385C(b)(2).

"(5) REGIONAL BOARD.—The term 'Regional Board' means a Regional Rural Investment Board described in section 385D(a).

"(6) REGIONAL INNOVATION GRANT.—The term 'regional innovation grant' means a grant made by the Secretary to a certified Regional Board under section 385F.

"(7) REGIONAL INVESTMENT STRATEGY GRANT.—The term 'regional investment strategy grant' means a grant made by the Secretary to a certified Regional Board under section 385E.

"(8) RURAL HERITAGE.—

"(A) IN GENERAL.—The term 'rural heritage' means historic sites, structures, and districts.

"(B) INCLUSIONS.—The term 'rural heritage' includes historic rural downtown areas and main streets, neighborhoods, farmsteads, scenic and historic trails, heritage areas, and historic landscapes.

"SEC. 385C. ESTABLISHMENT AND ADMINISTRATION OF RURAL COLLABORATIVE INVESTMENT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish a Rural Collaborative Investment Program to support comprehensive regional investment strategies for achieving rural competitiveness.

"(b) DUTIES OF SECRETARY.—In carrying out this subtitle, the Secretary shall—

"(1) appoint and provide administrative and program support to the National Board;

"(2) establish a national institute, to be known as the 'National Institute on Regional Rural Competitiveness and Entrepreneurship', to provide technical assistance to the Secretary and the National Board regarding regional competitiveness and rural entrepreneurship, including technical assistance for—

"(A) the development of rigorous analytic programs to assist Regional Boards in determining the challenges and opportunities that need to be addressed to receive the greatest regional competitive advantage;

"(B) the provision of support for best practices developed by the Regional Boards;

"(C) the establishment of programs to support the development of appropriate governance and leadership skills in the applicable regions; and

"(D) the evaluation of the progress and performance of the Regional Boards in achieving benchmarks established in a regional investment strategy;

"(3) work with the National Board to develop a national rural investment plan that shall—

"(A) create a framework to encourage and support a more collaborative and targeted rural investment portfolio in the United States;

"(B) establish a Rural Philanthropic Initiative, to work with rural communities to create and enhance the pool of permanent philanthropic resources committed to rural community and economic development;

"(C) cooperate with the Regional Boards and State and local governments, organizations, and entities to ensure investment strategies are developed that take into consideration existing rural assets; and

"(D) encourage the organization of Regional Boards;

"(4) certify the eligibility of Regional Boards to receive regional investment strategy grants and regional innovation grants;

"(5) provide grants for Regional Boards to develop and implement regional investment strategies;

"(6) provide technical assistance to Regional Boards on issues, best practices, and emerging trends relating to rural development, in cooperation with the National Rural Investment Board; and

"(7) provide analytic and programmatic support for regional rural competitiveness through the National Institute, including—

"(A) programs to assist Regional Boards in determining the challenges and opportunities that must be addressed to receive the greatest regional competitive advantage;

"(B) support for best practices development by the regional investment boards;

"(C) programs to support the development of appropriate governance and leadership skills in the region; and

"(D) a review and evaluation of the performance of the Regional Boards (including progress in achieving benchmarks established in a regional investment strategy) in an annual report submitted to—

"(i) the Committee on Agriculture of the House of Representatives; and

"(ii) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(c) NATIONAL RURAL INVESTMENT BOARD.—The Secretary shall establish within the Department of Agriculture a board to be known as the 'National Rural Investment Board'.

"(d) DUTIES OF NATIONAL BOARD.—The National Board shall—

"(1) not later than 180 days after the date of establishment of the National Board, develop rules relating to the operation of the National Board; and

"(2) provide advice to—

"(A) the Secretary and subsequently review the design, development, and execution of the National Rural Investment Plan;

"(B) Regional Boards on issues, best practices, and emerging trends relating to rural development; and

"(C) the Secretary and the National Institute on the development and execution of the program under this subtitle.

"(e) MEMBERSHIP.—

"(1) IN GENERAL.—The National Board shall consist of 14 members appointed by the Secretary not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008.

"(2) SUPERVISION.—The National Board shall be subject to the general supervision and direction of the Secretary.

"(3) SECTORS REPRESENTED.—The National Board shall consist of representatives from each of—

"(A) nationally recognized entrepreneurship organizations;

"(B) regional strategy and development organizations;

"(C) community-based organizations;

"(D) elected members of local governments;

"(E) members of State legislatures;

"(F) primary, secondary, and higher education, job skills training, and workforce development institutions;

"(G) the rural philanthropic community;

"(H) financial, lending, venture capital, entrepreneurship, and other related institutions;

"(I) private sector business organizations, including chambers of commerce and other for-profit business interests;

"(J) Indian tribes; and

"(K) cooperative organizations.

"(4) SELECTION OF MEMBERS.—

"(A) IN GENERAL.—In selecting members of the National Board, the Secretary shall consider recommendations made by—

"(i) the chairman and ranking member of each of the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate;

"(ii) the Majority Leader and Minority Leader of the Senate; and

"(iii) the Speaker and Minority Leader of the House of Representatives.

"(B) EX-OFFICIO MEMBERS.—In consultation with the chairman and ranking member of each of the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Secretary may appoint not more than 3 other officers or employees of the Executive Branch to serve as ex-officio, nonvoting members of the National Board.

"(5) TERM OF OFFICE.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term of office of a member of the National Board appointed under paragraph (1)(A) shall be for a period of not more than 4 years.

"(B) STAGGERED TERMS.—The members of the National Board shall be appointed to serve staggered terms.

"(6) INITIAL APPOINTMENTS.—Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall appoint the initial members of the National Board.

"(7) VACANCIES.—A vacancy on the National Board shall be filled in the same manner as the original appointment.

"(8) COMPENSATION.—A member of the National Board shall receive no compensation for service on the National Board, but shall be reimbursed for related travel and other expenses incurred in carrying out the duties of the member of the National Board in accordance with section 5702 and 5703 of title 5, United States Code.

"(9) CHAIRPERSON.—The National Board shall select a chairperson from among the members of the National Board.

"(10) FEDERAL STATUS.—For purposes of Federal law, a member of the National Board shall be considered a special Government employee (as defined in section 202(a) of title 18, United States Code).

"(f) ADMINISTRATIVE SUPPORT.—The Secretary, on a reimbursable basis from funds made available under section 385H, may provide such administrative support to the National Board as the Secretary determines is necessary.

"SEC. 385D. REGIONAL RURAL INVESTMENT BOARDS.

"(a) IN GENERAL.—A Regional Rural Investment Board shall be a multijurisdictional and multisectoral group that—

"(1) represents the long-term economic, community, and cultural interests of a region;

"(2) is certified by the Secretary to establish a rural investment strategy and compete for regional innovation grants;

"(3) is composed of residents of a region that are broadly representative of diverse public, nonprofit, and private sector interests in investment in the region, including (to the maximum extent practicable) representatives of—

"(A) units of local, multijurisdictional, or State government, including not more than 1 representative from each State in the region;

"(B) nonprofit community-based development organizations, including community development financial institutions and community development corporations;

"(C) agricultural, natural resource, and other asset-based related industries;

"(D) in the case of regions with federally recognized Indian tribes, Indian tribes;

"(E) regional development organizations;

"(F) private business organizations, including chambers of commerce;

"(G)(i) institutions of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)));

"(ii) tribally controlled colleges or universities (as defined in section 2(a) of Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a))); and

"(iii) tribal technical institutions;

"(H) workforce and job training organizations;

"(I) other entities and organizations, as determined by the Regional Board;

"(J) cooperatives; and

"(K) consortia of entities and organizations described in subparagraphs (A) through (J);

"(4) represents a region inhabited by—

"(A) more than 25,000 individuals, as determined in the latest available decennial census conducted under section 141(a) of title 13, United States Code; or

"(B) in the case of a region with a population density of less than 2 individuals per square mile, at least 10,000 individuals, as determined in that latest available decennial census;

"(5) has a membership of which not less than 25 percent, nor more than 40 percent, represents—

"(A) units of local government and Indian tribes described in subparagraphs (A) and (D) of paragraph (3);

"(B) nonprofit community and economic development organizations and institutions of higher education described in subparagraphs (B) and (G) of paragraph (3); or

"(C) private business (including chambers of commerce and cooperatives) and agricultural, natural resource, and other asset-based related industries described in subparagraphs (C) and (F) of paragraph (3);

"(6) has a membership that may include an officer or employee of a Federal agency, serving as an ex-officio, nonvoting member of the Regional Board to represent the agency; and

"(7) has organizational documents that demonstrate that the Regional Board will—

"(A) create a collaborative public-private strategy process;

"(B) develop, and submit to the Secretary for approval, a regional investment strategy that meets the requirements of section 385E, with benchmarks—

"(i) to promote investment in rural areas through the use of grants made available under this subtitle; and

"(ii) to provide financial and technical assistance to promote a broad-based regional development program aimed at increasing and diversifying economic

growth, improved community facilities, and improved quality of life;

"(C) implement the approved regional investment strategy;

"(D) provide annual reports to the Secretary and the National Board on progress made in achieving the benchmarks of the regional investment strategy, including an annual financial statement; and

"(E) select a non-Federal organization (such as a regional development organization) in the local area served by the Regional Board that has previous experience in the management of Federal funds to serve as fiscal manager of any funds of the Regional Board.

"(b) URBAN AREAS.—A resident of an urban area may serve as an ex-officio member of a Regional Board.

"(c) DUTIES.—A Regional Board shall—

"(1) create a collaborative planning process for public-private investment within a region;

"(2) develop, and submit to the Secretary for approval, a regional investment strategy;

"(3) develop approaches that will create permanent resources for philanthropic giving in the region, to the maximum extent practicable;

"(4) implement an approved strategy; and

"(5) provide annual reports to the Secretary and the National Board on progress made in achieving the strategy, including an annual financial statement.

"SEC. 385E. REGIONAL INVESTMENT STRATEGY GRANTS.

"(a) IN GENERAL.—The Secretary shall make regional investment strategy grants available to Regional Boards for use in developing, implementing, and maintaining regional investment strategies.

"(b) REGIONAL INVESTMENT STRATEGY.—A regional investment strategy shall provide—

"(1) an assessment of the competitive advantage of a region, including—

"(A) an analysis of the economic conditions of the region;

"(B) an assessment of the current economic performance of the region;

"(C) an overview of the population, geography, workforce, transportation system, resources, environment, and infrastructure needs of the region; and

"(D) such other pertinent information as the Secretary may request;

"(2) an analysis of regional economic and community development challenges and opportunities, including—

"(A) incorporation of relevant material from other government-sponsored or supported plans and consistency with applicable State, regional, and local workforce investment strategies or comprehensive economic development plans; and

"(B) an identification of past, present, and projected Federal and State economic and community development investments in the region;

"(3) a section describing goals and objectives necessary to solve regional competitiveness challenges and meet the potential of the region;

"(4) an overview of resources available in the region for use in—

"(A) establishing regional goals and objectives;

"(B) developing and implementing a regional action strategy;

"(C) identifying investment priorities and funding sources; and

"(D) identifying lead organizations to execute portions of the strategy;

"(5) an analysis of the current state of collaborative public, private, and nonprofit participation and investment, and of the strategic roles of public, private, and nonprofit entities in the development and implementation of the regional investment strategy;

"(6) a section identifying and prioritizing vital projects, programs, and activities for consideration by the Secretary, including—

"(A) other potential funding sources; and

"(B) recommendations for leveraging past and potential investments;

"(7) a plan of action to implement the goals and objectives of the regional investment strategy;

"(8) a list of performance measures to be used to evaluate implementation of the regional investment strategy, including—

"(A) the number and quality of jobs, including self-employment, created during implementation of the regional rural investment strategy;

"(B) the number and types of investments made in the region;

"(C) the growth in public, private, and nonprofit investment in the human, community, and economic assets of the region;

"(D) changes in per capita income and the rate of unemployment; and

"(E) other changes in the economic environment of the region;

"(9) a section outlining the methodology for use in integrating the regional investment strategy with the economic priorities of the State; and

"(10) such other information as the Secretary determines to be appropriate.

"(c) MAXIMUM AMOUNT OF GRANT.—A regional investment strategy grant shall not exceed $150,000.

"(d) COST SHARING.—

"(1) IN GENERAL.—Subject to paragraph (2), of the share of the costs of developing, maintaining, evaluating, implementing, and reporting with respect to a regional investment strategy funded by a grant under this section—

"(A) not more than 40 percent may be paid using funds from the grant; and

"(B) the remaining share shall be provided by the applicable Regional Board or other eligible grantee.

"(2) FORM.—A Regional Board or other eligible grantee shall pay the share described in paragraph (1)(B) in the form of cash, services, materials, or other in-kind contributions, on the condition that not more than 50 percent of that share is provided in the form of services, materials, and other in-kind contributions.

"SEC. 385F. REGIONAL INNOVATION GRANTS PROGRAM.

"(a) GRANTS.—

"(1) IN GENERAL.—The Secretary shall provide, on a competitive basis, regional innovation grants to Regional Boards for use in implementing projects and initiatives that are identified in a regional rural investment strategy approved under section 385E.

"(2) TIMING.—After October 1, 2008, the Secretary shall provide awards under this section on a quarterly funding cycle.

"(b) ELIGIBILITY.—To be eligible to receive a regional innovation grant, a Regional Board shall demonstrate to the Secretary that—

"(1) the regional rural investment strategy of a Regional Board has been reviewed by the National Board prior to approval by the Secretary;

"(2) the management and organizational structure of the Regional Board is sufficient to oversee grant projects, including management of Federal funds; and

"(3) the Regional Board has a plan to achieve, to the maximum extent practicable, the performance-based benchmarks of the project in the regional rural investment strategy.

"(c) LIMITATIONS.—

"(1) AMOUNT RECEIVED.—A Regional Board may not receive more than $6,000,000 in regional innovation grants under this section during any 5-year period.

"(2) DETERMINATION OF AMOUNT.—The Secretary shall determine the amount of a regional innovation grant based on—

"(A) the needs of the region being addressed by the applicable regional rural investment strategy consistent with the purposes described in subsection (f)(2); and

"(B) the size of the geographical area of the region.

"(3) GEOGRAPHIC DIVERSITY.—The Secretary shall ensure that not more than 10 percent of funding made available under this section is provided to Regional Boards in any State.

"(d) COST-SHARING.—

"(1) LIMITATION.—Subject to paragraph (2), the amount of a grant made under this section shall not exceed 50 percent of the cost of the project.

"(2) WAIVER OF GRANTEE SHARE.—The Secretary may waive the limitation in paragraph (1) under special circumstances, as determined by the Secretary, including—

"(A) a sudden or severe economic dislocation;

"(B) significant chronic unemployment or poverty;

"(C) a natural disaster; or

"(D) other severe economic, social, or cultural duress.

"(3) OTHER FEDERAL ASSISTANCE.—For the purpose of determining cost-share limitations for any other Federal program, funds provided under this section shall be considered to be non-Federal funds.

"(e) PREFERENCES.—In providing regional innovation grants under this section, the Secretary shall give—

"(1) a high priority to strategies that demonstrate significant leverage of capital and quality job creation; and

"(2) a preference to an application proposing projects and initiatives that would—

"(A) advance the overall regional competitiveness of a region;

"(B) address the priorities of a regional rural investment strategy, including priorities that—

"(i) promote cross-sector collaboration, public-private partnerships, or the provision of interim financing or seed capital for program implementation;

"(ii) exhibit collaborative innovation and entrepreneurship, particularly within a public-private partnership; and

"(iii) represent a broad coalition of interests described in section 385D(a);

"(C) include a strategy to leverage public non-Federal and private funds and existing assets, including agricultural, natural resource, and public infrastructure assets, with substantial emphasis placed on the existence of real financial commitments to leverage available funds;

"(D) create quality jobs;

"(E) enhance the role, relevance, and leveraging potential of community and regional foundations in support of regional investment strategies;

"(F) demonstrate a history, or involve organizations with a history, of successful leveraging of capital for economic development and public purposes;

"(G) address gaps in existing basic services, including technology, within a region;

"(H) address economic diversification, including agricultural and non-agriculturally based economies, within a regional framework;

"(I) improve the overall quality of life in the region;

"(J) enhance the potential to expand economic development successes across diverse stakeholder groups within the region;

"(K) include an effective working relationship with 1 or more institutions of higher education, tribally controlled colleges or universities, or tribal technical institutions;

"(L) help to meet the other regional competitiveness needs identified by a Regional Board; or

"(M) protect and promote rural heritage.

"(f) USES.—

"(1) LEVERAGE.—A Regional Board shall prioritize projects and initiatives carried out using funds from a regional innovation grant provided under this section, based in part on the degree to which members of the Regional Board are able to leverage additional funds for the implementation of the projects.

"(2) PURPOSES.—A Regional Board may use a regional innovation grant—

"(A) to support the development of critical infrastructure (including technology deployment and services) necessary to facilitate the competitiveness of a region;

"(B) to provide assistance to entities within the region that provide essential public and community services;

"(C) to enhance the value-added production, marketing, and use of agricultural and natural resources within the region, including activities relating to renewable and alternative energy production and usage;

"(D) to assist with entrepreneurship, job training, workforce development, housing, educational, or other quality of life services or needs, relating to the development and maintenance of strong local and regional economies;

"(E) to assist in the development of unique new collaborations that link public, private, and philanthropic resources, including community foundations;

"(F) to provide support for business and entrepreneurial investment, strategy, expansion, and development, including feasibility strategies, technical assistance, peer networks, business development funds, and other activities to strengthen the economic competitiveness of the region;

"(G) to provide matching funds to enable community foundations located within the region to build endowments which provide permanent philanthropic resources to implement a regional investment strategy; and

"(H) to preserve and promote rural heritage.

"(3) AVAILABILITY OF FUNDS.—The funds made available to a Regional Board or any other eligible grantee through a regional innovation grant shall remain available for the 7-year period beginning on the date on which the award is provided, on the condition that the Regional Board or other grantee continues to be certified by the Secretary as making adequate progress toward achieving established benchmarks.

"(g) COST SHARING.—

"(1) WAIVER OF GRANTEE SHARE.—The Secretary may waive the share of a grantee of the costs of a project funded by a regional innovation grant under this section if the Secretary determines that such a waiver is appropriate, including with respect to special circumstances within tribal regions, in the event an area experiences—

"(A) a sudden or severe economic dislocation;

"(B) significant chronic unemployment or poverty;

"(C) a natural disaster; or

"(D) other severe economic, social, or cultural duress.

"(2) OTHER FEDERAL PROGRAMS.—For the purpose of determining cost-sharing requirements for any other Federal program, funds provided as a regional innovation grant under this section shall be considered to be non-Federal funds.

"(h) NONCOMPLIANCE.—If a Regional Board or other eligible grantee fails to comply with any requirement relating to the use of funds provided under this section, the Secretary may—

"(1) take such actions as are necessary to obtain reimbursement of unused grant funds; and

"(2) reprogram the recaptured funds for purposes relating to implementation of this subtitle.

"(i) PRIORITY TO AREAS WITH AWARDS AND APPROVED STRATEGIES.—

"(1) IN GENERAL.—Subject to paragraph (3), in providing rural development assistance under other programs, the Secretary shall give a high priority to areas that receive innovation grants under this section.

"(2) CONSULTATION.—The Secretary shall consult with the heads of other Federal agencies to promote the development of priorities similar to those described in paragraph (1).

"(3) EXCLUSION OF CERTAIN PROGRAMS.—Paragraph (1) shall not apply to the provision of rural development assistance under any program relating to basic health, safety, or infrastructure, including broadband deployment or minimum environmental needs.

"SEC. 385G. RURAL ENDOWMENT LOANS PROGRAM.

"(a) IN GENERAL.—The Secretary may provide long-term loans to eligible community foundations to assist in the implementation of regional investment strategies.

"(b) ELIGIBLE COMMUNITY FOUNDATIONS.—To be eligible to receive a loan under this section, a community foundation shall—

"(1) be located in an area that is covered by a regional investment strategy;

"(2) match the amount of the loan with an amount that is at least 250 percent of the amount of the loan; and

"(3) use the loan and the matching amount to carry out the regional investment strategy in a manner that is targeted to community and economic development, including through the development of community foundation endowments.

"(c) TERMS.—A loan made under this section shall—

"(1) have a term of not less than 10, nor more than 20, years;

"(2) bear an interest rate of 1 percent per annum; and

"(3) be subject to such other terms and conditions as are determined appropriate by the Secretary.

"SEC. 385H. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle $135,000,000 for the period of fiscal years 2009 through 2012.".

SEC. 6029. FUNDING OF PENDING RURAL DEVELOPMENT LOAN AND GRANT APPLICATIONS.

(a) DEFINITION OF APPLICATION.—In this section, the term "application" does not include an application for a loan or grant that, as of the date of enactment of this Act, is in the preapplication phase of consideration under regulations of the Secretary in effect on the date of enactment of this Act.

(b) USE OF FUNDS.—Subject to subsection (c), the Secretary shall use funds made available under subsection (d) to provide funds for applications that are pending on the date of enactment of this Act for—

(1) water or waste disposal grants or direct loans under paragraph (1) or (2) of section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)); and

(2) emergency community water assistance grants under section 306A of that Act (7 U.S.C. 1926a).

(c) LIMITATIONS.—

(1) APPROPRIATED AMOUNTS.—Funds made available under this section shall be available to the Secretary to provide funds for applications for loans and grants described in subsection (b) that are pending on the date of enactment of this Act only to the extent that funds for the loans and grants appropriated in the annual appropriations Act for fiscal year 2007 have been exhausted.

(2) PROGRAM REQUIREMENTS.—The Secretary may use funds made available under this section to provide funds for a pending application for a loan or grant described in subsection (b) only if the Secretary processes, reviews, and approves the application in accordance with regulations in effect on the date of enactment of this Act.

(3) PRIORITY.—In providing funding under this section for pending applications for loans or grants described in subsection (b), the Secretary shall provide funding in the following order of priority (until funds made available under this section are exhausted):

(A) Pending applications for water systems.

(B) Pending applications for waste disposal systems.

(d) FUNDING.—Notwithstanding any other provision of law, of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section $120,000,000, to remain available until expended.

Subtitle B—Rural Electrification Act of 1936

SEC. 6101. ENERGY EFFICIENCY PROGRAMS.

Sections 2(a) and 4 of the Rural Electrification Act of 1936 (7 U.S.C. 902(a), 904) are amended by inserting "efficiency and" before "conservation" each place it appears.

SEC. 6102. REINSTATEMENT OF RURAL UTILITY SERVICES DIRECT LENDING.

(a) IN GENERAL.—Section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904) is amended—

(1) by designating the first, second, and third sentences as subsections (a), (b), and (d), respectively; and

(2) by inserting after subsection (b) (as so designated) the following:

"(c) DIRECT LOANS.—

"(1) DIRECT HARDSHIP LOANS.—Direct hardship loans under this section shall be for the same purposes and on the same terms and conditions as hardship loans made under section 305(c)(1).

"(2) OTHER DIRECT LOANS.—All other direct loans under this section shall bear interest at a rate equal to the then current cost of money to the Government of the United States for loans of similar maturity, plus 1/8 of 1 percent.".

(b) ELIMINATION OF FEDERAL FINANCING BANK GUARANTEED LOANS.—Section 306 of the Rural Electrification Act of 1936 (7 U.S.C. 936) is amended—

(1) in the third sentence, by striking "guarantee, accommodation, or subordination" and inserting "accommodation or subordination"; and

(2) by striking the fourth sentence.

SEC. 6103. DEFERMENT OF PAYMENTS TO ALLOW LOANS FOR IMPROVED ENERGY EFFICIENCY AND DEMAND REDUCTION AND FOR ENERGY EFFICIENCY AND USE AUDITS.

Section 12 of the Rural Electrification Act of 1936 (7 U.S.C. 912) is amended by adding at the end the following:

"(c) DEFERMENT OF PAYMENTS ON LOANS.—

"(1) IN GENERAL.—The Secretary shall allow borrowers to defer payment of principal and interest on any direct loan made under this Act to enable the borrower to make loans to residential, commercial, and industrial consumers—

"(A) to conduct energy efficiency and use audits; and

"(B) to install energy efficient measures or devices that reduce the demand on electric systems.

"(2) AMOUNT.—The total amount of a deferment under this subsection shall not exceed the sum of the principal and interest on the loans made to a customer of the borrower, as determined by the Secretary.

"(3) TERM.—The term of a deferment under this subsection shall not exceed 60 months.".

SEC. 6104. RURAL ELECTRIFICATION ASSISTANCE.

Section 13 of the Rural Electrification Act of 1936 (7 U.S.C. 913) is amended to read as follows:

"SEC. 13. DEFINITIONS.

"In this Act:

"(1) FARM.—The term 'farm' means a farm, as defined by the Bureau of the Census.

"(2) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(3) RURAL AREA.—Except as provided otherwise in this Act, the term 'rural area' means the farm and nonfarm population of—

"(A) any area described in section 343(a)(13)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)(C)); and

"(B) any area within a service area of a borrower for which a borrower has an outstanding loan made under titles I through V as of the date of enactment of this paragraph.

"(4) TERRITORY.—The term 'territory' includes any insular possession of the United States.

"(5) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.".

SEC. 6105. SUBSTANTIALLY UNDERSERVED TRUST AREAS.

The Rural Electrification Act of 1936 is amended by inserting after section 306E (7 U.S.C. 936e) the following:

"SEC. 306F. SUBSTANTIALLY UNDERSERVED TRUST AREAS.

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE PROGRAM.—The term 'eligible program' means a program administered by the Rural Utilities Service and authorized in—

"(A) this Act; or

"(B) paragraph (1), (2), (14), (22), or (24) of section 306(a) or section 306A, 306C, 306D, or 306E of the Consoli-

dated Farm and Rural Development Act (7 U.S.C. 1926(a), 1926a, 1926c, 1926d, 1926e).

"(2) SUBSTANTIALLY UNDERSERVED TRUST AREA.—The term 'substantially underserved trust area' means a community in 'trust land' (as defined in section 3765 of title 38, United States Code) with respect to which the Secretary determines has a high need for the benefits of an eligible program.

"(b) INITIATIVE.—The Secretary, in consultation with local governments and Federal agencies, may implement an initiative to identify and improve the availability of eligible programs in communities in substantially underserved trust areas.

"(c) AUTHORITY OF SECRETARY.—In carrying out subsection (b), the Secretary—

"(1) may make available from loan or loan guarantee programs administered by the Rural Utilities Service to qualified utilities or applicants financing with an interest rate as low as 2 percent, and with extended repayment terms;

"(2) may waive nonduplication restrictions, matching fund requirements, or credit support requirements from any loan or grant program administered by the Rural Utilities Service to facilitate the construction, acquisition, or improvement of infrastructure;

"(3) may give the highest funding priority to designated projects in substantially underserved trust areas; and

"(4) shall only make loans or loan guarantees that are found to be financially feasible and that provide eligible program benefits to substantially underserved trust areas.

"(d) REPORT.—Not later than 1 year after the date of enactment of this section and annually thereafter, the Secretary shall submit to Congress a report that describes—

"(1) the progress of the initiative implemented under subsection (b); and

"(2) recommendations for any regulatory or legislative changes that would be appropriate to improve services to substantially underserved trust areas.".

SEC. 6106. GUARANTEES FOR BONDS AND NOTES ISSUED FOR ELECTRIFICATION OR TELEPHONE PURPOSES.

(a) IN GENERAL.—Section 313A of the Rural Electrification Act of 1936 (7 U.S.C. 940c–1) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "for electrification" and all that follows through the end and inserting "for eligible electrification or telephone purposes consistent with this Act."; and

(B) by striking paragraph (4) and inserting the following:

"(4) ANNUAL AMOUNT.—The total amount of guarantees provided by the Secretary under this section during a fiscal year shall not exceed $1,000,000,000, subject to the availability of funds under subsection (e).";

(2) in subsection (c), by striking paragraphs (2) and (3) and inserting the following:

"(2) AMOUNT.—

"(A) IN GENERAL.—The amount of the annual fee paid for the guarantee of a bond or note under this section shall

be equal to 30 basis points of the amount of the unpaid principal of the bond or note guaranteed under this section.

"(B) PROHIBITION.—Except as otherwise provided in this subsection and subsection (e)(2), no other fees shall be assessed.

"(3) PAYMENT.—

"(A) IN GENERAL.—A lender shall pay the fees required under this subsection on a semiannual basis.

"(B) STRUCTURED SCHEDULE.—The Secretary shall, with the consent of the lender, structure the schedule for payment of the fee to ensure that sufficient funds are available to pay the subsidy costs for note or bond guarantees as provided for in subsection (e)(2).'"; and

(3) in subsection (f), by striking "2007" and inserting "2012".

(b) ADMINISTRATION.—The Secretary shall continue to carry out section 313A of the Rural Electrification Act of 1936 (7 U.S.C. 940c–1) in the same manner as on the day before the date of enactment of this Act, except without regard to the limitations prescribed in subsection (b)(1) of that section, until such time as any regulations necessary to carry out the amendments made by this section are fully implemented.

SEC. 6107. EXPANSION OF 911 ACCESS.

Section 315 of the Rural Electrification Act of 1936 (7 U.S.C. 940e) is amended to read as follows:

"SEC. 315. EXPANSION OF 911 ACCESS.

"(a) IN GENERAL.—Subject to subsection (c) and such terms and conditions as the Secretary may prescribe, the Secretary may make loans under this title to entities eligible to borrow from the Rural Utilities Service, State or local governments, Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), or other public entities for facilities and equipment to expand or improve in rural areas—

"(1) 911 access;

"(2) integrated interoperable emergency communications, including multiuse networks that provide commercial or transportation information services in addition to emergency communications services;

"(3) homeland security communications;

"(4) transportation safety communications; or

"(5) location technologies used outside an urbanized area.

"(b) LOAN SECURITY.—Government-imposed fees related to emergency communications (including State or local 911 fees) may be considered to be security for a loan under this section.

"(c) EMERGENCY COMMUNICATIONS EQUIPMENT PROVIDERS.—The Secretary may make a loan under this section to an emergency communication equipment provider to expand or improve 911 access or other communications or technologies described in subsection (a) if the local government that has jurisdiction over the project is not allowed to acquire the debt resulting from the loan.

"(d) AUTHORIZATION OF APPROPRIATIONS.—The Secretary shall use to make loans under this section any funds otherwise made available for telephone loans for each of fiscal years 2008 through 2012.".

SEC. 6108. ELECTRIC LOANS FOR RENEWABLE ENERGY.

Title III of the Rural Electrification Act of 1936 is amended by inserting after section 316 (7 U.S.C. 940f) the following:

"SEC. 317. ELECTRIC LOANS FOR RENEWABLE ENERGY.

"(a) DEFINITION OF RENEWABLE ENERGY SOURCE.—In this section, the term 'renewable energy source' means an energy conversion system fueled from a solar, wind, hydropower, biomass, or geothermal source of energy.

"(b) LOANS.—In addition to any other funds or authorities otherwise made available under this Act, the Secretary may make electric loans under this title for electric generation from renewable energy resources for resale to rural and nonrural residents.

"(c) RATE.—The rate of a loan under this section shall be equal to the average tax-exempt municipal bond rate of similar maturities.".

SEC. 6109. BONDING REQUIREMENTS.

Title III of the Rural Electrification Act of 1936 is amended by inserting after section 317 (as added by section 6108) the following:

"SEC. 318. BONDING REQUIREMENTS.

"The Secretary shall review the bonding requirements for all programs administered by the Rural Utilities Service under this Act to ensure that bonds are not required if—

"(1) the interests of the Secretary are adequately protected by product warranties; or

"(2) the costs or conditions associated with a bond exceed the benefit of the bond.".

SEC. 6110. ACCESS TO BROADBAND TELECOMMUNICATIONS SERVICES IN RURAL AREAS.

(a) IN GENERAL.—Section 601 of the Rural Electrification Act of 1936 (7 U.S.C. 950bb) is amended to read as follows:

"SEC. 601. ACCESS TO BROADBAND TELECOMMUNICATIONS SERVICES IN RURAL AREAS.

"(a) PURPOSE.—The purpose of this section is to provide loans and loan guarantees to provide funds for the costs of the construction, improvement, and acquisition of facilities and equipment for broadband service in rural areas.

"(b) DEFINITIONS.—In this section:

"(1) BROADBAND SERVICE.—The term 'broadband service' means any technology identified by the Secretary as having the capacity to transmit data to enable a subscriber to the service to originate and receive high-quality voice, data, graphics, and video.

"(2) INCUMBENT SERVICE PROVIDER.—The term 'incumbent service provider', with respect to an application submitted under this section, means an entity that, as of the date of submission of the application, is providing broadband service to not less than 5 percent of the households in the service territory proposed in the application.

"(3) RURAL AREA.—

"(A) IN GENERAL.—The term 'rural area' means any area other than—

"(i) an area described in clause (i) or (ii) of section 343(a)(13)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)(A)); and

"(ii) a city, town, or incorporated area that has a population of greater than 20,000 inhabitants.

"(B) URBAN AREA GROWTH.—The Secretary may, by regulation only, consider an area described in section 343(a)(13)(F)(i)(I) of that Act to not be a rural area for purposes of this section.

"(c) LOANS AND LOAN GUARANTEES.—

"(1) IN GENERAL.—The Secretary shall make or guarantee loans to eligible entities described in subsection (d) to provide funds for the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in rural areas.

"(2) PRIORITY.—In making or guaranteeing loans under paragraph (1), the Secretary shall give the highest priority to applicants that offer to provide broadband service to the greatest proportion of households that, prior to the provision of the broadband service, had no incumbent service provider.

"(d) ELIGIBILITY.—

"(1) ELIGIBLE ENTITIES.—

"(A) IN GENERAL.—To be eligible to obtain a loan or loan guarantee under this section, an entity shall—

"(i) demonstrate the ability to furnish, improve, or extend a broadband service to a rural area;

"(ii) submit to the Secretary a loan application at such time, in such manner, and containing such information as the Secretary may require; and

"(iii) agree to complete buildout of the broadband service described in the loan application by not later than 3 years after the initial date on which proceeds from the loan made or guaranteed under this section are made available.

"(B) LIMITATION.—An eligible entity that provides telecommunications or broadband service to at least 20 percent of the households in the United States may not receive an amount of funds under this section for a fiscal year in excess of 15 percent of the funds authorized and appropriated under subsection (k) for the fiscal year.

"(2) ELIGIBLE PROJECTS.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the proceeds of a loan made or guaranteed under this section may be used to carry out a project in a proposed service territory only if, as of the date on which the application for the loan or loan guarantee is submitted—

"(i) not less than 25 percent of the households in the proposed service territory is offered broadband service by not more than 1 incumbent service provider; and

"(ii) broadband service is not provided in any part of the proposed service territory by 3 or more incumbent service providers.

"(B) EXCEPTION TO 25 PERCENT REQUIREMENT.—Subparagraph (A)(i) shall not apply to the proposed service territory of a project if a loan or loan guarantee has been made under this section to the applicant to provide broadband service in the proposed service territory.

"(C) EXCEPTION TO 3 OR MORE INCUMBENT SERVICE PROVIDER REQUIREMENT.—

"(i) IN GENERAL.—Except as provided in clause (ii), subparagraph (A)(ii) shall not apply to an incumbent service provider that is upgrading broadband service to the existing territory of the incumbent service provider.

"(ii) EXCEPTION.—Clause (i) shall not apply if the applicant is eligible for funding under another title of this Act.

"(3) EQUITY AND MARKET SURVEY REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary may require an entity to provide a cost share in an amount not to exceed 10 percent of the amount of the loan or loan guarantee requested in the application of the entity, unless the Secretary determines that a higher percentage is required for financial feasibility.

"(B) MARKET SURVEY.—

"(i) IN GENERAL.—The Secretary may require an entity that proposes to have a subscriber projection of more than 20 percent of the broadband service market in a rural area to submit to the Secretary a market survey.

"(ii) LESS THAN 20 PERCENT.—The Secretary may not require an entity that proposes to have a subscriber projection of less than 20 percent of the broadband service market in a rural area to submit to the Secretary a market survey.

"(4) STATE AND LOCAL GOVERNMENTS AND INDIAN TRIBES.—Subject to paragraph (1), a State or local government (including any agency, subdivision, or instrumentality thereof (including consortia thereof)) and an Indian tribe shall be eligible for a loan or loan guarantee under this section to provide broadband services to a rural area.

"(5) NOTICE REQUIREMENT.—The Secretary shall publish a notice of each application for a loan or loan guarantee under this section describing the application, including—

"(A) the identity of the applicant;

"(B) each area proposed to be served by the applicant; and

"(C) the estimated number of households without terrestrial-based broadband service in those areas.

"(6) PAPERWORK REDUCTION.—The Secretary shall take steps to reduce, to the maximum extent practicable, the cost and paperwork associated with applying for a loan or loan guarantee under this section by first-time applicants (particularly first-time applicants who are small and start-up broadband service providers), including by providing for a new application that maintains the ability of the Secretary to make an analysis of the risk associated with the loan involved.

"(7) PREAPPLICATION PROCESS.—The Secretary shall establish a process under which a prospective applicant may seek a determination of area eligibility prior to preparing a loan application under this section.

"(e) BROADBAND SERVICE.—

"(1) IN GENERAL.—The Secretary shall, from time to time as advances in technology warrant, review and recommend modifications of rate-of-data transmission criteria for purposes of the identification of broadband service technologies under subsection (b)(1).

"(2) PROHIBITION.—The Secretary shall not establish requirements for bandwidth or speed that have the effect of precluding the use of evolving technologies appropriate for rural areas.

"(f) TECHNOLOGICAL NEUTRALITY.—For purposes of determining whether to make a loan or loan guarantee for a project under this section, the Secretary shall use criteria that are technologically neutral.

"(g) TERMS AND CONDITIONS FOR LOANS AND LOAN GUARANTEES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a loan or loan guarantee under this section shall—

"(A) bear interest at an annual rate of, as determined by the Secretary—

"(i) in the case of a direct loan, a rate equivalent to—

"(I) the cost of borrowing to the Department of the Treasury for obligations of comparable maturity; or

"(II) 4 percent; and

"(ii) in the case of a guaranteed loan, the current applicable market rate for a loan of comparable maturity; and

"(B) have a term of such length, not exceeding 35 years, as the borrower may request, if the Secretary determines that the loan is adequately secured.

"(2) TERM.—In determining the term of a loan or loan guarantee, the Secretary shall consider whether the recipient is or would be serving an area that is not receiving broadband services.

"(3) RECURRING REVENUE.—The Secretary shall consider the existing recurring revenues of the entity at the time of application in determining an adequate level of credit support.

"(h) ADEQUACY OF SECURITY.—

"(1) IN GENERAL.—The Secretary shall ensure that the type and amount of, and method of security used to secure, any loan or loan guarantee under this section is commensurate to the risk involved with the loan or loan guarantee, particularly in any case in which the loan or loan guarantee is issued to a financially strong and stable entity, as determined by the Secretary.

"(2) DETERMINATION OF AMOUNT AND METHOD OF SECURITY.—In determining the amount of, and method of security used to secure, a loan or loan guarantee under this section, the Secretary shall consider reducing the security in a rural area that does not have broadband service.

"(i) USE OF LOAN PROCEEDS TO REFINANCE LOANS FOR DEPLOYMENT OF BROADBAND SERVICE.—Notwithstanding any other provision of this Act, the proceeds of any loan made or guaranteed by the Secretary under this Act may be used by the recipient of the

loan for the purpose of refinancing an outstanding obligation of the recipient on another telecommunications loan made under this Act if the use of the proceeds for that purpose will support the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in rural areas.

"(j) REPORTS.—Not later than 1 year after the date of enactment of the Food, Conservation, and Energy Act of 2008, and annually thereafter, the Administrator shall submit to Congress a report that describes the extent of participation in the loan and loan guarantee program under this section for the preceding fiscal year, including a description of —

"(1) the number of loans applied for and provided under this section;

"(2)(A) the communities proposed to be served in each loan application submitted for the fiscal year; and

"(B) the communities served by projects funded by loans and loan guarantees provided under this section;

"(3) the period of time required to approve each loan application under this section;

"(4) any outreach activities carried out by the Secretary to encourage entities in rural areas without broadband service to submit applications under this section;

"(5) the method by which the Secretary determines that a service enables a subscriber to originate and receive high-quality voice, data, graphics, and video for purposes of subsection (b)(1); and

"(6) each broadband service, including the type and speed of broadband service, for which assistance was sought, and each broadband service for which assistance was provided, under this section.

"(k) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $25,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.

"(2) ALLOCATION OF FUNDS.—

"(A) IN GENERAL.—From amounts made available for each fiscal year under this subsection, the Secretary shall—

"(i) establish a national reserve for loans and loan guarantees to eligible entities in States under this section; and

"(ii) allocate amounts in the reserve to each State for each fiscal year for loans and loan guarantees to eligible entities in the State.

"(B) AMOUNT.—The amount of an allocation made to a State for a fiscal year under subparagraph (A) shall bear the same ratio to the amount of allocations made for all States for the fiscal year as—

"(i) the number of communities with a population of 2,500 inhabitants or less in the State; bears to

"(ii) the number of communities with a population of 2,500 inhabitants or less in all States.

"(C) UNOBLIGATED AMOUNTS.—Any amounts in the reserve established for a State for a fiscal year under subparagraph (B) that are not obligated by April 1 of the fiscal

year shall be available to the Secretary to make loans and loan guarantees under this section to eligible entities in any State, as determined by the Secretary.

"(l) TERMINATION OF AUTHORITY.—No loan or loan guarantee may be made under this section after September 30, 2012.".

(b) REGULATIONS.—The Secretary may implement the amendment made by subsection (a) through the promulgation of an interim regulation.

(c) APPLICATION.—The amendment made by subsection (a) shall not apply to—

(1) an application submitted under section 601 of the Rural Electrification Act of 1936 (7 U.S.C. 950bb) (as it existed before the amendment made by subsection (a)) that—

(A) was pending on the date that is 45 days prior to the date of enactment of this Act; and

(B) is pending on the date of enactment of this Act; or

(2) a petition for reconsideration of a decision on an application described in paragraph (1).

SEC. 6111. NATIONAL CENTER FOR RURAL TELECOMMUNICATIONS ASSESSMENT.

Title VI of the Rural Electrification Act of 1936 (7 U.S.C. 950bb et seq.) is amended by adding at the end the following:

"SEC. 602. NATIONAL CENTER FOR RURAL TELECOMMUNICATIONS ASSESSMENT.

"(a) DESIGNATION OF CENTER.—The Secretary shall designate an entity to serve as the National Center for Rural Telecommunications Assessment (referred to in this section as the 'Center').

"(b) CRITERIA.—In designating the Center under subsection (a), the Secretary shall take into consideration the following criteria:

"(1) The Center shall be an entity that demonstrates to the Secretary—

"(A) a focus on rural policy research; and

"(B) a minimum of 5 years of experience relating to rural telecommunications research and assessment.

"(2) The Center shall be capable of assessing broadband services in rural areas.

"(3) The Center shall have significant experience involving other rural economic development centers and organizations with respect to the assessment of rural policies and the formulation of policy solutions at the Federal, State, and local levels.

"(c) BOARD OF DIRECTORS.—The Center shall be managed by a board of directors, which shall be responsible for the duties of the Center described in subsection (d).

"(d) DUTIES.—The Center shall—

"(1) assess the effectiveness of programs carried out under this title in increasing broadband penetration and purchase in rural areas, especially in rural communities identified by the Secretary as having no broadband service before the provision of a loan or loan guarantee under this title;

"(2) work with existing rural development centers selected by the Center to identify policies and initiatives at the Federal, State, and local levels that have increased broadband penetration and purchase in rural areas and provide recommendations to Federal, State, and local policymakers on effective strategies to bring affordable broadband services to residents of rural

areas, particularly residents located outside of the municipal boundaries of a rural city or town; and

"(3) develop and publish reports describing the activities carried out by the Center under this section.

"(e) REPORTING REQUIREMENTS.—Not later than December 1 of each applicable fiscal year, the board of directors of the Center shall submit to Congress and the Secretary a report describing the activities carried out by the Center during the preceding fiscal year and the results of any research conducted by the Center during that fiscal year, including—

"(1) an assessment of each program carried out under this title; and

"(2) an assessment of the effects of the policy initiatives identified under subsection (d)(2).

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $1,000,000 for each of fiscal years 2008 through 2012.".

SEC. 6112. COMPREHENSIVE RURAL BROADBAND STRATEGY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Chairman of the Federal Communications Commission, in coordination with the Secretary, shall submit to Congress a report describing a comprehensive rural broadband strategy that includes—

(1) recommendations—

(A) to promote interagency coordination of Federal agencies in regards to policies, procedures, and targeted resources, and to streamline or otherwise improve and streamline the policies, programs, and services;

(B) to coordinate existing Federal rural broadband or rural initiatives;

(C) to address both short- and long-term needs assessments and solutions for a rapid build-out of rural broadband solutions and application of the recommendations for Federal, State, regional, and local government policymakers; and

(D) to identify how specific Federal agency programs and resources can best respond to rural broadband requirements and overcome obstacles that currently impede rural broadband deployment; and

(2) a description of goals and timeframes to achieve the purposes of the report.

(b) UPDATES.—The Chairman of the Federal Communications Commission, in coordination with the Secretary, shall update and evaluate the report described in subsection (a) during the third year after the date of enactment of this Act.

SEC. 6113. STUDY ON RURAL ELECTRIC POWER GENERATION.

(a) IN GENERAL.—The Secretary shall conduct a study on the electric power generation needs in rural areas of the United States.

(b) COMPONENTS.—The study shall include an examination of—

(1) generation in various areas in rural areas of the United States, particularly by rural electric cooperatives;

(2) financing available for capacity, including financing available through programs authorized under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.);

(3) the impact of electricity costs on consumers and local economic development;

(4) the ability of fuel feedstock technology to meet regulatory requirements, such as carbon capture and sequestration; and

(5) any other factors that the Secretary considers appropriate.

(c) REPORT.—Not later than 60 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the findings of the study under this section.

Subtitle C—Miscellaneous

SEC. 6201. DISTANCE LEARNING AND TELEMEDICINE.

(a) IN GENERAL.—Section 2333(c)(1) of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. Sec. 950aaa–2(a)(1)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(C) libraries.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 2335A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa–5) is amended by striking "2007" and inserting "2012".

(c) CONFORMING AMENDMENT.—Section 1(b) of Public Law 102–551 (7 U.S.C. 950aaa note; Public Law 102–551) is amended by striking "2007" and inserting "2012".

SEC. 6202. VALUE-ADDED AGRICULTURAL MARKET DEVELOPMENT PROGRAM GRANTS.

(a) DEFINITIONS.—Section 231 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note; Public Law 106–224) is amended by striking subsection (a) and inserting the following:

"(a) DEFINITIONS.—In this section:

"(1) BEGINNING FARMER OR RANCHER.—The term 'beginning farmer or rancher' has the meaning given the term in section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)).

"(2) FAMILY FARM.—The term 'family farm' has the meaning given the term in section 761.2 of title 7, Code of Federal Regulations (as in effect on December 30, 2007).

"(3) MID-TIER VALUE CHAIN.—The term 'mid-tier value chain' means local and regional supply networks that link independent producers with businesses and cooperatives that market value-added agricultural products in a manner that—

"(A) targets and strengthens the profitability and competitiveness of small and medium-sized farms and ranches that are structured as a family farm; and

"(B) obtains agreement from an eligible agricultural producer group, farmer or rancher cooperative, or majority-controlled producer-based business venture that is engaged in the value chain on a marketing strategy.

"(4) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)).

"(5) VALUE-ADDED AGRICULTURAL PRODUCT.—The term 'value-added agricultural product' means any agricultural commodity or product that—

"(A)(i) has undergone a change in physical state;

"(ii) was produced in a manner that enhances the value of the agricultural commodity or product, as demonstrated through a business plan that shows the enhanced value, as determined by the Secretary;

"(iii) is physically segregated in a manner that results in the enhancement of the value of the agricultural commodity or product;

"(iv) is a source of farm- or ranch-based renewable energy, including E–85 fuel; or

"(v) is aggregated and marketed as a locally-produced agricultural food product; and

"(B) as a result of the change in physical state or the manner in which the agricultural commodity or product was produced, marketed, or segregated—

"(i) the customer base for the agricultural commodity or product is expanded; and

"(ii) a greater portion of the revenue derived from the marketing, processing, or physical segregation of the agricultural commodity or product is available to the producer of the commodity or product.".

(b) GRANT PROGRAM.—Section 231(b) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note; Public Law 106–224) is amended—

(1) in paragraph (1), by striking "paragraph (4)" and inserting "paragraph (7)"; and

(2) by striking paragraph (4) and inserting the following:

"(4) TERM.—A grant under this subsection shall have a term that does not exceed 3 years.

"(5) SIMPLIFIED APPLICATION.—The Secretary shall offer a simplified application form and process for project proposals requesting less than $50,000.

"(6) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to projects that contribute to increasing opportunities for—

"(A) beginning farmers or ranchers;

"(B) socially disadvantaged farmers or ranchers; and

"(C) operators of small- and medium-sized farms and ranches that are structured as a family farm.

"(7) FUNDING.—

"(A) MANDATORY FUNDING.—On October 1, 2008, of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this subsection $15,000,000, to remain available until expended.

"(B) DISCRETIONARY FUNDING.—There is authorized to be appropriated to carry out this subsection $40,000,000 for each of fiscal years 2008 through 2012.

"(C) RESERVATION OF FUNDS FOR PROJECTS TO BENEFIT BEGINNING FARMERS OR RANCHERS, SOCIALLY DISADVANTAGED FARMERS OR RANCHERS, AND MID-TIER VALUE CHAINS.—

"(i) IN GENERAL.—The Secretary shall reserve 10 percent of the amounts made available for each fiscal year under this paragraph to fund projects that benefit beginning farmers or ranchers or socially disadvantaged farmers or ranchers.

"(ii) MID-TIER VALUE CHAINS.—The Secretary shall reserve 10 percent of the amounts made available for each fiscal year under this paragraph to fund applications of eligible entities described in paragraph (1) that propose to develop mid-tier value chains.

"(iii) UNOBLIGATED AMOUNTS.—Any amounts in the reserves for a fiscal year established under clauses (i) and (ii) that are not obligated by June 30 of the fiscal year shall be available to the Secretary to make grants under this subsection to eligible entities in any State, as determined by the Secretary.".

SEC. 6203. AGRICULTURE INNOVATION CENTER DEMONSTRATION PROGRAM.

Section 6402 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1621 note; Public Law 107–171) is amended by striking subsection (i) and inserting the following:

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $6,000,000 for each of fiscal years 2008 through 2012.".

SEC. 6204. RURAL FIREFIGHTERS AND EMERGENCY MEDICAL SERVICE ASSISTANCE PROGRAM.

Section 6405 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 2655) is amended to read as follows:

"SEC. 6405. RURAL FIREFIGHTERS AND EMERGENCY MEDICAL SERVICE ASSISTANCE PROGRAM.

"(a) DEFINITION OF EMERGENCY MEDICAL SERVICES.—In this section:

"(1) IN GENERAL.—The term 'emergency medical services' means resources used by a public or nonprofit entity to deliver medical care outside of a medical facility under emergency conditions that occur as a result of—

"(A) the condition of a patient; or

"(B) a natural disaster or related condition.

"(2) INCLUSION.—The term 'emergency medical services' includes services (whether compensated or volunteer) delivered by an emergency medical services provider or other provider recognized by the State involved that is licensed or certified by the State as—

"(A) an emergency medical technician or the equivalent (as determined by the State);

"(B) a registered nurse;

"(C) a physician assistant; or

"(D) a physician that provides services similar to services provided by such an emergency medical services provider.

"(b) GRANTS.—The Secretary shall award grants to eligible entities—

"(1) to enable the entities to provide for improved emergency medical services in rural areas; and

"(2) to pay the cost of training firefighters and emergency medical personnel in firefighting, emergency medical practices, and responding to hazardous materials and bioagents in rural areas.

"(c) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

"(1) be—

"(A) a State emergency medical services office;

"(B) a State emergency medical services association;

"(C) a State office of rural health or an equivalent agency;

"(D) a local government entity;

"(E) an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b));

"(F) a State or local ambulance provider; or

"(G) any other public or nonprofit entity determined appropriate by the Secretary; and

"(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, that includes—

"(A) a description of the activities to be carried out under the grant; and

"(B) an assurance that the applicant will comply with the matching requirement of subsection (f).

"(d) USE OF FUNDS.—An entity shall use amounts received under a grant made under subsection (b) only in a rural area—

"(1) to hire or recruit emergency medical service personnel;

"(2) to recruit or retain volunteer emergency medical service personnel;

"(3) to train emergency medical service personnel in emergency response, injury prevention, safety awareness, or other topics relevant to the delivery of emergency medical services;

"(4) to fund training to meet State or Federal certification requirements;

"(5) to provide training for firefighters or emergency medical personnel for improvements to the training facility, equipment, curricula, or personnel;

"(6) to develop new ways to educate emergency health care providers through the use of technology-enhanced educational methods (such as distance learning);

"(7) to acquire emergency medical services vehicles, including ambulances;

"(8) to acquire emergency medical services equipment, including cardiac defibrillators;

"(9) to acquire personal protective equipment for emergency medical services personnel as required by the Occupational Safety and Health Administration; or

"(10) to educate the public concerning cardiopulmonary resuscitation (CPR), first aid, injury prevention, safety awareness,

illness prevention, or other related emergency preparedness topics.

"(e) PREFERENCE.—In awarding grants under this section, the Secretary shall give preference to—

"(1) applications that reflect a collaborative effort by 2 or more of the entities described in subparagraphs (A) through (G) of subsection (c)(1); and

"(2) applications submitted by entities that intend to use amounts provided under the grant to fund activities described in any of paragraphs (1) through (5) of subsection (d).

"(f) MATCHING REQUIREMENT.—The Secretary may not make a grant under this section to an entity unless the entity makes available (directly or through contributions from other public or private entities) non-Federal contributions toward the activities to be carried out under the grant in an amount equal to at least 5 percent of the amount received under the grant.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out this section not more than $30,000,000 for each of fiscal years 2008 through 2012.

"(2) ADMINISTRATIVE COSTS.—Not more than 5 percent of the amount appropriated under paragraph (1) for a fiscal year may be used for administrative expenses incurred in carrying out this section.".

SEC. 6205. INSURANCE OF LOANS FOR HOUSING AND RELATED FACILITIES FOR DOMESTIC FARM LABOR.

Section 514(f)(3) of the Housing Act of 1949 (42 U.S.C. 1484(f)(3)) is amended by striking "or the handling of such commodities in the unprocessed stage" and inserting ", the handling of agricultural or aquacultural commodities in the unprocessed stage, or the processing of agricultural or aquacultural commodities".

SEC. 6206. STUDY OF RURAL TRANSPORTATION ISSUES.

(a) IN GENERAL.—The Secretary of Agriculture and the Secretary of Transportation shall jointly conduct a study of transportation issues regarding the movement of agricultural products, domestically produced renewable fuels, and domestically produced resources for the production of electricity for rural areas of the United States, and economic development in those areas.

(b) INCLUSIONS.—The study shall include an examination of—

(1) the importance of freight transportation, including rail, truck, and barge, to—

(A) the delivery of equipment, seed, fertilizer, and other such products important to the development of agricultural commodities and products;

(B) the movement of agricultural commodities and products to market;

(C) the delivery of ethanol and other renewable fuels;

(D) the delivery of domestically produced resources for use in the generation of electricity for rural areas;

(E) the location of grain elevators, ethanol plants, and other facilities;

(F) the development of manufacturing facilities in rural areas; and

(G) the vitality and economic development of rural communities;

(2) the sufficiency in rural areas of transportation capacity, the sufficiency of competition in the transportation system, the reliability of transportation services, and the reasonableness of transportation rates;

(3) the sufficiency of facility investment in rural areas necessary for efficient and cost-effective transportation; and

(4) the accessibility to shippers in rural areas of Federal processes for the resolution of grievances arising within various transportation modes.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of Transportation shall submit to Congress a report that contains the results of the study required by subsection (a).

Subtitle D—Housing Assistance Council

SEC. 6301. SHORT TITLE.

This subtitle may be cited as the "Housing Assistance Council Authorization Act of 2008".

SEC. 6302. ASSISTANCE TO HOUSING ASSISTANCE COUNCIL.

(a) USE.—The Secretary of Housing and Urban Development may provide financial assistance to the Housing Assistance Council for use by the Council to develop the ability and capacity of community-based housing development organizations to undertake community development and affordable housing projects and programs in rural areas. Assistance provided by the Secretary under this section may be used by the Housing Assistance Council for—

(1) technical assistance, training, support, research, and advice to develop the business and administrative capabilities of rural community-based housing development organizations;

(2) loans, grants, or other financial assistance to rural community-based housing development organizations to carry out community development and affordable housing activities for low- and moderate-income families; and

(3) such other activities as may be determined by the Secretary of Housing and Urban Development and the Housing Assistance Council.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for financial assistance under this section for the Housing Assistance Council $10,000,000 for each of fiscal years 2009 through 2011.

SEC. 6303. AUDITS AND REPORTS.

(a) AUDIT.—

(1) IN GENERAL.—The financial transactions and activities of the Housing Assistance Council shall be audited annually by an independent certified public accountant or an independent licensed public accountant certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

(2) REQUIREMENTS OF AUDITS.—The Comptroller General of the United States may rely on any audit completed under paragraph (1), if the audit complies with—

(A) the annual programmatic and financial examination requirements established in OMB Circular A–133; and

(B) generally accepted government auditing standards.

(3) REPORT TO CONGRESS.—The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report detailing each audit completed under paragraph (1).

(b) GAO REPORT.—The Comptroller General of the United States shall conduct a study and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the use of any funds appropriated to the Housing Assistance Council over the past 7 years.

SEC. 6304. PERSONS NOT LAWFULLY PRESENT IN THE UNITED STATES.

Aliens who are not lawfully present in the United States shall be ineligible for financial assistance under this subtitle, as provided and defined by section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a). Nothing in this subtitle shall be construed to alter the restrictions or definitions in such section 214.

SEC. 6305. LIMITATION ON USE OF AUTHORIZED AMOUNTS.

None of the amounts authorized by this subtitle may be used to lobby or retain a lobbyist for the purpose of influencing a Federal, State, or local governmental entity or officer.

TITLE VII—RESEARCH AND RELATED MATTERS

Subtitle A—National Agricultural Research, Extension, and Teaching Policy Act of 1977

SEC. 7101. DEFINITIONS.

(a) IN GENERAL.—Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) is amended—

(1) in paragraph (4)—

(A) by redesignating subparagraphs (A) through (E) as clauses (i) through (v), respectively;

(B) by striking "(4) The terms" and inserting the following:

"(4) COLLEGE AND UNIVERSITY.—

"(A) IN GENERAL.—The terms"; and

(C) by adding at the end the following:

"(B) INCLUSIONS.—The terms 'college' and 'university' include a research foundation maintained by a college or university described in subparagraph (A).";

(2) by redesignating paragraphs (5) through (8), (9) through (11), (12) through (14), (15), (16), (17), and (18) as paragraphs (6) through (9), (11) through (13), (15) through (17), (20), (5), (18), and (19), respectively, and moving the paragraphs so as to appear in alphabetical and numerical order;

(3) in paragraph (9) (as redesignated by paragraph (2))—

(A) by striking "renewable natural resources" and inserting "renewable energy and natural resources"; and

(B) by striking subparagraph (F) and inserting the following:

"(F) Soil, water, and related resource conservation and improvement.";

(4) by inserting after paragraph (9) (as so redesignated) the following:

"(10) HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.—

"(A) IN GENERAL.—The term 'Hispanic-serving agricultural colleges and universities' means colleges or universities that—

"(i) qualify as Hispanic-serving institutions; and

"(ii) offer associate, bachelors, or other accredited degree programs in agriculture-related fields.

"(B) EXCEPTION.—The term 'Hispanic-serving agricultural colleges and universities' does not include 1862 institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601)).";

(5) by striking paragraph (11) (as so redesignated) and inserting the following:

"(11) HISPANIC-SERVING INSTITUTION.—The term 'Hispanic-serving institution' has the meaning given the term in section 502 of the Higher Education Act of 1965 (20 U.S.C. 1101a).";

and

(6) by inserting after paragraph (13) (as so redesignated) the following:

"(14) NLGCA INSTITUTION; NON-LAND-GRANT COLLEGE OF AGRICULTURE.—

"(A) IN GENERAL.—The terms 'NLGCA Institution' and 'non-land-grant college of agriculture' mean a public college or university offering a baccalaureate or higher degree in the study of agriculture or forestry.

"(B) EXCLUSIONS.—The terms 'NLGCA Institution' and 'non-land-grant college of agriculture' do not include—

"(i) Hispanic-serving agricultural colleges and universities; or

"(ii) any institution designated under—

"(I) the Act of July 2, 1862 (commonly known as the 'First Morrill Act'; 7 U.S.C. 301 et seq.);

"(II) the Act of August 30, 1890 (commonly known as the 'Second Morrill Act') (7 U.S.C. 321 et seq.);

"(III) the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note); or

"(IV) Public Law 87–788 (commonly known as the 'McIntire-Stennis Cooperative Forestry Act') (16 U.S.C. 582a et seq.).".

(b) CONFORMING AMENDMENTS.—

(1) Section 2(3) of the Research Facilities Act (7 U.S.C. 390(3)) is amended by striking "section 1404(8) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(8))" and inserting "section 1404 of the Na-

tional Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)".

(2) Section 2(k) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(k)) is amended in the second sentence by striking "section 1404(17) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(17))" and inserting "section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)".

(3) Section 18(a)(3)(B) of the Food and Nutrition Act of 2008 (7 U.S.C. 2027(a)(3)(B)) is amended by striking "section 1404(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(5)))" and inserting "section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103))".

(4) Section 1473 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319) is amended in the first sentence by striking "section 1404(16) of this title" and inserting "section 1404(18)".

(5) Section 1619(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5801(b)) is amended—

(A) in paragraph (1), by striking "section 1404(17) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(17))" and inserting "section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)";

(B) in paragraph (5), by striking "section 1404(7) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(7))" and inserting "section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)"; and

(C) in paragraph (8), by striking "section 1404(13) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(13))" and inserting "section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)".

(6) Section 125(c)(1)(C) of Public Law 100–238 (5 U.S.C. 8432 note) is amended by striking "section 1404(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(5))" and inserting "section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)".

SEC. 7102. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, EDUCATION, AND ECONOMICS ADVISORY BOARD.

(a) IN GENERAL.—Section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "31" and inserting "25"; and

(B) by striking paragraph (3) and inserting the following:

"(3) MEMBERSHIP CATEGORIES.—The Advisory Board shall consist of members from each of the following categories:

"(A) 1 member representing a national farm organization.

"(B) 1 member representing farm cooperatives.

"(C) 1 member actively engaged in the production of a food animal commodity, recommended by a coalition of national livestock organizations.

"(D) 1 member actively engaged in the production of a plant commodity, recommended by a coalition of national crop organizations.

"(E) 1 member actively engaged in aquaculture, recommended by a coalition of national aquacultural organizations.

"(F) 1 member representing a national food animal science society.

"(G) 1 member representing a national crop, soil, agronomy, horticulture, plant pathology, or weed science society.

"(H) 1 member representing a national food science organization.

"(I) 1 member representing a national human health association.

"(J) 1 member representing a national nutritional science society.

"(K) 1 member representing the land-grant colleges and universities eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301 et seq.).

"(L) 1 member representing the 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.

"(M) 1 member representing the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382)).

"(N) 1 member representing NLGCA Institutions.

"(O) 1 member representing Hispanic-serving institutions.

"(P) 1 member representing the American Colleges of Veterinary Medicine.

"(Q) 1 member engaged in the transportation of food and agricultural products to domestic and foreign markets.

"(R) 1 member representing food retailing and marketing interests.

"(S) 1 member representing food and fiber processors.

"(T) 1 member actively engaged in rural economic development.

"(U) 1 member representing a national consumer interest group.

"(V) 1 member representing a national forestry group.

"(W) 1 member representing a national conservation or natural resource group.

"(X) 1 member representing private sector organizations involved in international development.

"(Y) 1 member representing a national social science association.";

(2) in subsection (g)(1), by striking "$350,000" and inserting "$500,000"; and

(3) in subsection (h), by striking "2007" and inserting "2012".

(b) NO EFFECT ON TERMS.—Nothing in this section or any amendment made by this section affects the term of any member of the National Agricultural Research, Extension, Education, and Economics Advisory Board serving as of the date of enactment of this Act.

SEC. 7103. SPECIALTY CROP COMMITTEE REPORT.

Section 1408A(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123a(c)) is amended by adding at the end the following:

"(4) Analyses of changes in macroeconomic conditions, technologies, and policies on specialty crop production and consumption, with particular focus on the effect of those changes on the financial stability of producers.

"(5) Development of data that provide applied information useful to specialty crop growers, their associations, and other interested beneficiaries in evaluating that industry from a regional and national perspective.".

SEC. 7104. RENEWABLE ENERGY COMMITTEE.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1408A (7 U.S.C. 3123a) the following:

"SEC. 1408B. RENEWABLE ENERGY COMMITTEE.

"(a) INITIAL MEMBERS.—Not later than 90 days after the date of enactment of this section, the executive committee of the Advisory Board shall establish and appoint the initial members of a permanent renewable energy committee.

"(b) DUTIES.—The permanent renewable energy committee shall study the scope and effectiveness of research, extension, and economics programs affecting the renewable energy industry.

"(c) NONADVISORY BOARD MEMBERS.—

"(1) IN GENERAL.—An individual who is not a member of the Advisory Board may be appointed as a member of the renewable energy committee.

"(2) SERVICE.—A member of the renewable energy committee shall serve at the discretion of the executive committee.

"(d) REPORT BY RENEWABLE ENERGY COMMITTEE.—Not later than 180 days after the date of establishment of the renewable energy committee, and annually thereafter, the renewable energy committee shall submit to the Advisory Board a report that contains the findings and any recommendations of the renewable energy committee with respect to the study conducted under subsection (b).

"(e) CONSULTATION.—In carrying out the duties described in subsection (b), the renewable energy committee shall consult with the Biomass Research and Development Technical Advisory Committee established under section 9008(d) of the Biomass Research and Development Act of 2000 (7 U.S.C. 8605).

"(f) MATTERS TO BE CONSIDERED IN BUDGET RECOMMENDATION.—In preparing the annual budget recommendations for the Department, the Secretary shall take into consideration those findings and recommendations contained in the most recent report of the re-

newable energy committee under subsection (d) that are developed by the Advisory Committee.

"(g) REPORT BY THE SECRETARY.—In the budget material submitted to Congress by the Secretary in connection with the budget submitted pursuant to section 1105 of title 31, United States Code, for a fiscal year, the Secretary shall include a report that describes the ways in which the Secretary addressed each recommendation of the renewable energy committee described in subsection (f).".

SEC. 7105. VETERINARY MEDICINE LOAN REPAYMENT.

(a) IN GENERAL.—Section 1415A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3151a) is amended—

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

"(b) DETERMINATION OF VETERINARIAN SHORTAGE SITUATIONS.—In determining 'veterinarian shortage situations', the Secretary may consider—

"(1) geographical areas that the Secretary determines have a shortage of veterinarians; and

"(2) areas of veterinary practice that the Secretary determines have a shortage of veterinarians, such as food animal medicine, public health, epidemiology, and food safety.";

(2) in subsection (c), by adding at the end the following:

"(8) PRIORITY.—In administering the program, the Secretary shall give priority to agreements with veterinarians for the practice of food animal medicine in veterinarian shortage situations.";

(3) by redesignating subsection (d) as subsection (f); and

(4) by inserting after subsection (c) the following:

"(d) USE OF FUNDS.—None of the funds appropriated to the Secretary under subsection (f) may be used to carry out section 5379 of title 5, United States Code.

"(e) REGULATIONS.—Notwithstanding subchapter II of chapter 5 of title 5, United States Code, not later than 270 days after the date of enactment of this subsection, the Secretary shall promulgate regulations to carry out this section.".

(b) DISAPPROVAL OF TRANSFER OF FUNDS.—Congress disapproves the transfer of funds from the Cooperative State Research, Education, and Extension Service to the Food Safety and Inspection Service described in the notice of use of funds for implementation of the veterinary medicine loan repayment program authorized by the National Veterinary Medical Service Act (72 Fed. Reg. 48609 (August 24, 2007)), and such funds shall be rescinded on the date of enactment of this Act and made available to the Secretary, without further appropriation or fiscal year limitation, for use only in accordance with section 1415A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3151a) (as amended by subsection (a)).

SEC. 7106. ELIGIBILITY OF UNIVERSITY OF THE DISTRICT OF COLUMBIA FOR GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.

Section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152) is amended—

(1) in the matter preceding paragraph (1) of subsection (b), by inserting "(including the University of the District of Columbia)" after "land-grant colleges and universities"; and

(2) in subsection (d)(2), by inserting "(including the University of the District of Columbia)" after "universities".

SEC. 7107. GRANTS TO 1890 SCHOOLS TO EXPAND EXTENSION CAPACITY.

Section 1417(b)(4) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(b)(4)) is amended by striking "teaching and research" and inserting "teaching, research, and extension".

SEC. 7108. EXPANSION OF FOOD AND AGRICULTURAL SCIENCES AWARDS.

Section 1417(i) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(i)) is amended—

(1) in the subsection heading, by striking "Teaching Awards" and inserting "Teaching, Extension, and Research Awards"; and

(2) by striking paragraph (1) and inserting the following: "(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary shall establish a National Food and Agricultural Sciences Teaching, Extension, and Research Awards program to recognize and promote excellence in teaching, extension, and research in the food and agricultural sciences at a college or university.

"(B) MINIMUM REQUIREMENT.—The Secretary shall make at least 1 cash award in each fiscal year to a nominee selected by the Secretary for excellence in each of the areas of teaching, extension, and research of food and agricultural science at a college or university.".

SEC. 7109. GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.

(a) EDUCATION TEACHING PROGRAMS.—Section 1417(j) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(j)) is amended—

(1) in the subsection heading, by striking "SECONDARY EDUCATION AND 2-YEAR POSTSECONDARY EDUCATION TEACHING PROGRAMS" and inserting "SECONDARY EDUCATION, 2-YEAR POSTSECONDARY EDUCATION, AND AGRICULTURE IN THE K–12 CLASSROOM"; and

(2) in paragraph (3)—

(A) by striking "secondary schools, and institutions of higher education that award an associate's degree" and inserting "secondary schools, institutions of higher education that award an associate's degree, other institutions of higher education, and nonprofit organizations";

(B) in subparagraph (E), by striking "and" at the end;

(C) in subparagraph (F), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(G) to support current agriculture in the classroom programs for grades K–12.".

(b) REPORT.—Section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152) is amended—

(1) by redesignating subsection (l) as subsection (m); and

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

"(l) REPORT.—The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a biennial report detailing the distribution of funds used to implement the teaching programs under subsection (j).".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1417(m) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (as redesignated by subsection (b)(1)) is amended by striking "2007" and inserting "2012".

(d) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on October 1, 2008.

SEC. 7110. GRANTS FOR RESEARCH ON PRODUCTION AND MARKETING OF ALCOHOLS AND INDUSTRIAL HYDROCARBONS FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS.

(a) IN GENERAL.—Section 1419 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154) is repealed.

(b) CONFORMING AMENDMENT.—Section 1463(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311(a)) is amended by striking "1419,".

SEC. 7111. POLICY RESEARCH CENTERS.

Section 1419A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3155) is amended—

(1) in subsection (a)(1), by inserting "(including commodities, livestock, dairy, and specialty crops)" after "agricultural sectors";

(2) in subsection (b), by inserting "(including the Food Agricultural Policy Research Institute, the Agricultural and Food Policy Center, the Rural Policy Research Institute, and the National Drought Mitigation Center)" after "research institutions and organizations"; and

(3) in subsection (d), by striking "2007" and inserting "2012".

SEC. 7112. EDUCATION GRANTS TO ALASKA NATIVE-SERVING INSTITUTIONS AND NATIVE HAWAIIAN-SERVING INSTITUTIONS.

Section 759 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (7 U.S.C. 3242)—

(1) is amended—

(A) in subsection (a)(3), by striking "2006" and inserting "2012"; and

(B) in subsection (b)—

(i) in paragraph (2)(A), by inserting before the semicolon at the end the following: ", including permitting consortia to designate fiscal agents for the members of the consortia and to allocate among the members funds made available under this section"; and

(ii) in paragraph (3), by striking "2006" and inserting "2012";

(2) is redesignated as section 1419B of the National Agricultural Research, Extension, and Teaching Policy Act of 1977; and

(3) is moved so as to appear after section 1419A of that Act (7 U.S.C. 3155).

SEC. 7113. EMPHASIS OF HUMAN NUTRITION INITIATIVE.

Section 1424(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174(b)) is amended—

(1) in paragraph (1), by striking "and,";

(2) in paragraph (2), by striking the comma at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) proposals that examine the efficacy of current agriculture policies in promoting the health and welfare of economically disadvantaged populations;".

SEC. 7114. HUMAN NUTRITION INTERVENTION AND HEALTH PROMOTION RESEARCH PROGRAM.

Section 1424(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174(d)) is amended by striking "2007" and inserting "2012".

SEC. 7115. PILOT RESEARCH PROGRAM TO COMBINE MEDICAL AND AGRICULTURAL RESEARCH.

Section 1424A(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174a(d)) is amended by striking "2007" and inserting "2012".

SEC. 7116. NUTRITION EDUCATION PROGRAM.

(a) IN GENERAL.—Section 1425 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175) is amended—

(1) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;

(2) by striking the section heading and designation and inserting the following:

"SEC. 1425. NUTRITION EDUCATION PROGRAM.

"(a) DEFINITION OF 1862 INSTITUTION AND 1890 INSTITUTION.—In this section, the terms '1862 Institution' and '1890 Institution' have the meaning given those terms in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601).";

(3) in subsection (b) (as redesignated by paragraph (1)), by striking "(b) The Secretary" and inserting the following:

"(b) ESTABLISHMENT.—The Secretary";

(4) in subsection (c) (as so redesignated), by striking "(c) In order to enable" and inserting the following:

"(c) EMPLOYMENT AND TRAINING.—To enable";

(5) in subsection (d) (as redesignated by paragraph (1))—

(A) by striking "(d) Beginning" and inserting the following:

"(d) ALLOCATION OF FUNDING.—Beginning";

(B) in paragraph (2), by striking subparagraph (B) and inserting the following:

"(B) Notwithstanding section 3(d) of the Act of May 8, 1914 (7 U.S.C. 343(d)), the remainder shall be allocated among the States as follows:

"(i) $100,000 shall be distributed to each 1862 Institution and 1890 Institution.

"(ii) Subject to clause (iii), the remainder shall be allocated to each State in an amount that bears the same ratio to the total amount to be allocated under this clause as—

"(I) the population living at or below 125 percent of the income poverty guidelines (as prescribed by the Office of Management and Budget and as adjusted pursuant to section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) in the State; bears to

"(II) the total population living at or below 125 percent of those income poverty guidelines in all States;

as determined by the most recent decennial census at the time at which each such additional amount is first appropriated.

"(iii)(I) Before any allocation of funds under clause (ii), for any fiscal year for which the amount of funds appropriated for the conduct of the expanded food and nutrition education program exceeds the amount of funds appropriated for the program for fiscal year 2007, the following percentage of such excess funds for the fiscal year shall be allocated to the 1890 Institutions in accordance with subclause (II):

"(aa) 10 percent for fiscal year 2009.

"(bb) 11 percent for fiscal year 2010.

"(cc) 12 percent for fiscal year 2011.

"(dd) 13 percent for fiscal year 2012.

"(ee) 14 percent for fiscal year 2013.

"(ff) 15 percent for fiscal year 2014 and for each fiscal year thereafter.

"(II) Funds made available under subclause (I) shall be allocated to each 1890 Institution in an amount that bears the same ratio to the total amount to be allocated under this clause as—

"(aa) the population living at or below 125 percent of the income poverty guidelines (as prescribed by the Office of Management and Budget and as adjusted pursuant to section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) in the State in which the 1890 Institution is located; bears to

"(bb) the total population living at or below 125 percent of those income poverty guidelines in all States in which 1890 Institutions are located;

as determined by the most recent decennial census at the time at which each such additional amount is first appropriated.

"(iv) Nothing in this subparagraph precludes the Secretary from developing educational materials and programs for persons in income ranges above the level designated in this subparagraph."; and

(C) by striking paragraph (3); and

(6) by adding at the end the following:

"(e) COMPLEMENTARY ADMINISTRATION.—The Secretary shall ensure the complementary administration of the expanded food and nutrition education program by 1862 Institutions and 1890 Institutions in a State.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the expanded food and nutrition education program established under section 3(d) of the Act of May 8, 1914 (7 U.S.C. 343(d)), and this section $90,000,000 for each of fiscal years 2009 through 2012.".

(b) CONFORMING AMENDMENT.—Section 1588(b) of the Food Security Act of 1985 (7 U.S.C. 3175e(b)) is amended by striking "section 1425(c)(2)" and inserting "section 1425(d)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2008.

SEC. 7117. CONTINUING ANIMAL HEALTH AND DISEASE RESEARCH PROGRAMS.

Section 1433(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195(a)) is amended in the first sentence by striking "2007" and inserting "2012".

SEC. 7118. COOPERATION AMONG ELIGIBLE INSTITUTIONS.

Section 1433 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195) is amended by adding at the end the following:

"(g) COOPERATION AMONG ELIGIBLE INSTITUTIONS.—The Secretary, to the maximum extent practicable, shall encourage eligible institutions to cooperate in setting research priorities under this section through the conduct of regular regional and national meetings.".

SEC. 7119. APPROPRIATIONS FOR RESEARCH ON NATIONAL OR REGIONAL PROBLEMS.

Section 1434(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196(a)) is amended by striking "2007" and inserting "2012".

SEC. 7120. ANIMAL HEALTH AND DISEASE RESEARCH PROGRAM.

Section 1434(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196(b)) is amended by inserting after "universities" the following: "(including 1890 Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601)))".

SEC. 7121. AUTHORIZATION LEVEL FOR EXTENSION AT 1890 LAND-GRANT COLLEGES.

Section 1444(a)(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(a)(2)) is amended by striking "15 percent" and inserting "20 percent".

SEC. 7122. AUTHORIZATION LEVEL FOR AGRICULTURAL RESEARCH AT 1890 LAND-GRANT COLLEGES.

Section 1445(a)(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(a)(2)) is amended by striking "25 percent" and inserting "30 percent".

SEC. 7123. GRANTS TO UPGRADE AGRICULTURAL AND FOOD SCIENCES FACILITIES AT 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE UNIVERSITY.

Section 1447(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222b(b)) is amended by striking "2007" and inserting "2012".

SEC. 7124. GRANTS TO UPGRADE AGRICULTURE AND FOOD SCIENCES FACILITIES AT THE DISTRICT OF COLUMBIA LAND-GRANT UNIVERSITY.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1447 (7 U.S.C. 3222b) the following:

"SEC. 1447A. GRANTS TO UPGRADE AGRICULTURE AND FOOD SCIENCES FACILITIES AT THE DISTRICT OF COLUMBIA LAND-GRANT UNIVERSITY.

"(a) PURPOSE.—It is the intent of Congress to assist the land-grant university in the District of Columbia established under section 208 of the District of Columbia Public Postsecondary Education Reorganization Act (Public Law 93–471; 88 Stat. 1428) in efforts to acquire, alter, or repair facilities or relevant equipment necessary for conducting agricultural research.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $750,000 for each of fiscal years 2008 through 2012.".

SEC. 7125. GRANTS TO UPGRADE AGRICULTURE AND FOOD SCIENCES FACILITIES AND EQUIPMENT AT INSULAR AREA LAND-GRANT INSTITUTIONS.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended by inserting after section 1447A (as added by section 7124) the following:

"SEC. 1447B. GRANTS TO UPGRADE AGRICULTURE AND FOOD SCIENCES FACILITIES AND EQUIPMENT AT INSULAR AREA LAND-GRANT INSTITUTIONS.

"(a) PURPOSE.—It is the intent of Congress to assist the land-grant institutions in the insular areas in efforts to acquire, alter, or repair facilities or relevant equipment necessary for conducting agricultural research.

"(b) METHOD OF AWARDING GRANTS.—Grants awarded pursuant to this section shall be made in such amounts and under such terms and conditions as the Secretary determines necessary to carry out the purposes of this section.

"(c) REGULATIONS.—The Secretary may promulgate such rules and regulations as the Secretary considers to be necessary to carry out this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $8,000,000 for each of fiscal years 2008 through 2012.".

SEC. 7126. NATIONAL RESEARCH AND TRAINING VIRTUAL CENTERS.

Section 1448 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222c) is amended by striking "2007" each place it appears in subsections (a)(1) and (f) and inserting "2012".

SEC. 7127. MATCHING FUNDS REQUIREMENT FOR RESEARCH AND EXTENSION ACTIVITIES OF 1890 INSTITUTIONS.

Section 1449(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222d(c)) is amended—

(1) in the first sentence—

(A) by striking "for each of fiscal years 2003 through 2007,"; and

(B) by inserting "equal" before "matching"; and

(2) by striking the second sentence and all that follows through paragraph (5).

SEC. 7128. HISPANIC-SERVING INSTITUTIONS.

Section 1455 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3241) is amended—

(1) in subsection (a) by striking "(or grants without regard to any requirement for competition)";

(2) in subsection (b)(1), by striking "of consortia"; and

(3) in subsection (c)—

(A) by striking "$20,000,000" and inserting "$40,000,000"; and

(B) by striking "2007" and inserting "2012".

SEC. 7129. HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.

(a) IN GENERAL.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1455 (7 U.S.C. 3241) the following:

"SEC. 1456. HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.

"(a) DEFINITION OF ENDOWMENT FUND.—In this section, the term 'endowment fund' means the Hispanic-Serving Agricultural Colleges and Universities Fund established under subsection (b).

"(b) ENDOWMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall establish in accordance with this subsection a Hispanic-Serving Agricultural Colleges and Universities Fund.

"(2) AGREEMENTS.—The Secretary of the Treasury may enter into such agreements as are necessary to carry out this subsection.

"(3) DEPOSIT TO THE ENDOWMENT FUND.—The Secretary of the Treasury shall deposit in the endowment fund any—

"(A) amounts made available through Acts of appropriations, which shall be the endowment fund corpus; and

"(B) interest earned on the endowment fund corpus.

"(4) INVESTMENTS.—The Secretary of the Treasury shall invest the endowment fund corpus and income in interest-bearing obligations of the United States.

"(5) WITHDRAWALS AND EXPENDITURES.—

"(A) CORPUS.—The Secretary of the Treasury may not make a withdrawal or expenditure from the endowment fund corpus.

"(B) WITHDRAWALS.—On September 30, 2008, and each September 30 thereafter, the Secretary of the Treasury shall withdraw the amount of the income from the endowment fund for the fiscal year and warrant the funds to the Secretary of Agriculture who, after making adjustments for the

cost of administering the endowment fund, shall distribute the adjusted income as follows:

"(i) 60 percent shall be distributed among the Hispanic-serving agricultural colleges and universities on a pro rata basis based on the Hispanic enrollment count of each institution.

"(ii) 40 percent shall be distributed in equal shares to the Hispanic-serving agricultural colleges and universities.

"(6) ENDOWMENTS.—Amounts made available under this subsection shall be held and considered to be granted to Hispanic-serving agricultural colleges and universities to establish an endowment in accordance with this subsection.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this subsection for fiscal year 2008 and each fiscal year thereafter.

"(c) AUTHORIZATION FOR ANNUAL PAYMENTS.—

"(1) IN GENERAL.—For fiscal year 2008 and each fiscal year thereafter, there are authorized to be appropriated to the Department of Agriculture to carry out this subsection an amount equal to the product obtained by multiplying—

"(A) $80,000; by

"(B) the number of Hispanic-serving agricultural colleges and universities.

"(2) PAYMENTS.—For fiscal year 2008 and each fiscal year thereafter, the Secretary of the Treasury shall pay to the treasurer of each Hispanic-serving agricultural college and university an amount equal to—

"(A) the total amount made available by appropriations under paragraph (1); divided by

"(B) the number of Hispanic-serving agricultural colleges and universities.

"(3) USE OF FUNDS.—

"(A) IN GENERAL.—Amounts authorized to be appropriated under this subsection shall be used in the same manner as is prescribed for colleges under the Act of August 30, 1890 (commonly known as the 'Second Morrill Act') (7 U.S.C. 321 et seq.).

"(B) RELATIONSHIP TO OTHER LAW.—Except as otherwise provided in this subsection, the requirements of that Act shall apply to Hispanic-serving agricultural colleges and universities under this section.

"(d) INSTITUTIONAL CAPACITY-BUILDING GRANTS.—

"(1) IN GENERAL.—For fiscal year 2008 and each fiscal year thereafter, the Secretary shall make grants to assist Hispanic-serving agricultural colleges and universities in institutional capacity building (not including alteration, repair, renovation, or construction of buildings).

"(2) CRITERIA FOR INSTITUTIONAL CAPACITY-BUILDING GRANTS.—

"(A) REQUIREMENTS FOR GRANTS.—The Secretary shall make grants under this subsection on the basis of a competitive application process under which Hispanic-serving agricultural colleges and universities may submit applica-

tions to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(B) DEMONSTRATION OF NEED.—

"(i) IN GENERAL.—As part of an application for a grant under this subsection, the Secretary shall require the applicant to demonstrate need for the grant, as determined by the Secretary.

"(ii) OTHER SOURCES OF FUNDING.—The Secretary may award a grant under this subsection only to an applicant that demonstrates a failure to obtain funding for a project after making a reasonable effort to otherwise obtain the funding.

"(C) PAYMENT OF NON-FEDERAL SHARE.—A grant awarded under this subsection shall be made only if the recipient of the grant pays a non-Federal share in an amount that is specified by the Secretary and based on assessed institutional needs.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this subsection for fiscal year 2008 and each fiscal year thereafter.

"(e) COMPETITIVE GRANTS PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a competitive grants program to fund fundamental and applied research at Hispanic-serving agricultural colleges and universities in agriculture, human nutrition, food science, bioenergy, and environmental science.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this subsection for fiscal year 2008 and each fiscal year thereafter.".

(b) EXTENSION.—Section 3 of the Smith-Lever Act (7 U.S.C. 343) is amended—

(1) in subsection (b), by adding at the end the following:

"(4) ANNUAL APPROPRIATION FOR HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.—

"(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for payments to Hispanic-serving agricultural colleges and universities (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) such sums as are necessary to carry out this paragraph for fiscal year 2008 and each fiscal year thereafter, to remain available until expended.

"(B) ADDITIONAL AMOUNT.—Amounts made available under this paragraph shall be in addition to any other amounts made available under this section to States, the Commonwealth of Puerto Rico, Guam, or the United States Virgin Islands.

"(C) ADMINISTRATION.—Amounts made available under this paragraph shall be—

"(i) distributed on the basis of a competitive application process to be developed and implemented by the Secretary;

"(ii) paid by the Secretary to the State institutions established in accordance with the Act of July 2, 1862 (commonly known as the 'First Morrill Act') (7 U.S.C. 301 et seq.); and

"(iii) administered by State institutions through cooperative agreements with the Hispanic-serving agricultural colleges and universities in the State in accordance with regulations promulgated by the Secretary."; and

(2) in subsection (f)—

(A) in the subsection heading, by inserting "AND HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES" after "1994 INSTITUTIONS"; and

(B) by striking "pursuant to subsection (b)(3)" and inserting "or Hispanic-serving agricultural colleges and universities in accordance with paragraphs (3) and (4) of subsection (b)".

(c) CONFORMING AMENDMENTS.—

(1) Section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601) is amended—

(A) by redesignating paragraph (6) as paragraph (7); and

(B) by inserting after paragraph (5) the following:

"(6) HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.—The term 'Hispanic-serving agricultural colleges and universities' has the meaning given the term in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103).".

(2) Section 102(c) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7612(c)) is amended—

(A) in the subsection heading, by inserting "AND HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES" after "INSTITUTIONS"; and

(B) in paragraph (1), by striking "and 1994 Institution" and inserting "1994 Institution, and Hispanic-serving agricultural college and university".

(3) Section 103(e) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(e)) is amended by adding at the end the following:

"(3) HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.—To be eligible to obtain agricultural extension funds from the Secretary for an activity, each Hispanic-serving agricultural college and university shall—

"(A) establish a process for merit review of the activity; and

"(B) review the activity in accordance with such process.".

(4) Section 406(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626(b)) is amended by striking "and 1994 Institutions" and inserting ", 1994 Institutions, and Hispanic-serving agricultural colleges and universities".

SEC. 7130. INTERNATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.

Section 1458(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "and" after the semicolon;

(B) in subparagraph (B), by adding "and" at the end; and

(C) by adding at the end the following:

"(C) giving priority to those institutions with existing memoranda of understanding, agreements, or other formal ties to United States institutions, or Federal or State agencies;";

(2) by striking paragraph (3) and inserting the following:

"(3) enter into agreements with land-grant colleges and universities, Hispanic-serving agricultural colleges and universities, the Agency for International Development, and international organizations (such as the United Nations, the World Bank, regional development banks, international agricultural research centers), or other organizations, institutions, or individuals with comparable goals, to promote and support—

"(A) the development of a viable and sustainable global agricultural system;

"(B) antihunger and improved international nutrition efforts; and

"(C) increased quantity, quality, and availability of food;";

(3) in paragraph (7)(A), by striking "and land-grant colleges and universities" and inserting ", land-grant colleges and universities, and Hispanic-serving agricultural colleges and universities";

(4) in paragraph (9)—

(A) in subparagraph (A), by striking "or other colleges and universities" and inserting ", Hispanic-serving agricultural colleges and universities, or other colleges and universities"; and

(B) in subparagraph (D), by striking "and" at the end;

(5) in paragraph (10), by striking the period at the end and inserting "; and"; and

(6) by adding at the end the following:

"(11) establish a program for the purpose of providing fellowships to United States or foreign students to study at foreign agricultural colleges and universities working under agreements provided for under paragraph (3).".

SEC. 7131. COMPETITIVE GRANTS FOR INTERNATIONAL AGRICULTURAL SCIENCE AND EDUCATION PROGRAMS.

Section 1459A(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b(c)) is amended by striking "2007" and inserting "2012".

SEC. 7132. ADMINISTRATION.

(a) LIMITATION ON INDIRECT COSTS FOR AGRICULTURAL RESEARCH, EDUCATION, AND EXTENSION PROGRAMS.—Section 1462(a)

of the National Agriculture Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310(a)) is amended—

(1) by striking "a competitive" and inserting "any"; and

(2) by striking "19 percent" and inserting "22 percent".

(b) AUDITING, REPORTING, BOOKKEEPING, AND ADMINISTRATIVE REQUIREMENTS.—Section 1469(a)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3315(a)(3)) is amended by striking "appropriated" and inserting "made available".

SEC. 7133. RESEARCH EQUIPMENT GRANTS.

Section 1462A(e) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310a(e)) is amended by striking "2007" and inserting "2012".

SEC. 7134. UNIVERSITY RESEARCH.

Section 1463 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311) is amended by striking "2007" each place it appears in subsections (a) and (b) and inserting "2012".

SEC. 7135. EXTENSION SERVICE.

Section 1464 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3312) is amended by striking "2007" and inserting "2012".

SEC. 7136. SUPPLEMENTAL AND ALTERNATIVE CROPS.

Section 1473D(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(a)) is amended by striking "2007" and inserting "2012".

SEC. 7137. NEW ERA RURAL TECHNOLOGY PROGRAM.

Subtitle K of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310 et seq.) is amended by adding at the end the following:

"SEC. 1473E. NEW ERA RURAL TECHNOLOGY PROGRAM.

"(a) DEFINITION OF COMMUNITY COLLEGE.—In this section, the term 'community college' means an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001))—

"(1) that admits as regular students individuals who—

"(A) are beyond the age of compulsory school attendance in the State in which the institution is located; and

"(B) have the ability to benefit from the training offered by the institution;

"(2) that does not provide an educational program for which the institution awards a bachelor's degree or an equivalent degree; and

"(3) that—

"(A) provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree; or

"(B) offers a 2-year program in engineering, technology, mathematics, or the physical, chemical, or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the under-

standing and application of basic engineering, scientific, or mathematical principles of knowledge.

"(b) FUNCTIONS.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary shall establish a program to be known as the 'New Era Rural Technology Program', to make grants available for technology development, applied research, and training to aid in the development of an agriculture-based renewable energy workforce.

"(B) SUPPORT.—The initiative under this section shall support the fields of—

"(i) bioenergy;

"(ii) pulp and paper manufacturing; and

"(iii) agriculture-based renewable energy resources.

"(2) REQUIREMENTS FOR FUNDING.—To receive funding under this section, an entity shall—

"(A) be a community college or advanced technological center, located in a rural area and in existence on the date of the enactment of this section, that participates in agricultural or bioenergy research and applied research;

"(B) have a proven record of development and implementation of programs to meet the needs of students, educators, and business and industry to supply the agriculture-based, renewable energy or pulp and paper manufacturing fields with certified technicians, as determined by the Secretary; and

"(C) have the ability to leverage existing partnerships and occupational outreach and training programs for secondary schools, 4-year institutions, and relevant nonprofit organizations.

"(c) GRANT PRIORITY.—In providing grants under this section, the Secretary shall give preference to eligible entities working in partnership—

"(1) to improve information-sharing capacity; and

"(2) to maximize the ability to meet the requirements of this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.".

SEC. 7138. CAPACITY BUILDING GRANTS FOR NLGCA INSTITUTIONS.

Subtitle K of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310 et seq.) (as amended by section 7137) is amended by adding at the end the following:

"SEC. 1473F. CAPACITY BUILDING GRANTS FOR NLGCA INSTITUTIONS.

"(a) GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall make competitive grants to NLGCA Institutions to assist the NLGCA Institutions in maintaining and expanding the capacity of the NLGCA Institutions to conduct education, research, and outreach activities relating to—

"(A) agriculture;

"(B) renewable resources; and

"(C) other similar disciplines.

"(2) USE OF FUNDS.—An NLGCA Institution that receives a grant under paragraph (1) may use the funds made available through the grant to maintain and expand the capacity of the NLGCA Institution—

"(A) to successfully compete for funds from Federal grants and other sources to carry out educational, research, and outreach activities that address priority concerns of national, regional, State, and local interest;

"(B) to disseminate information relating to priority concerns to—

"(i) interested members of the agriculture, renewable resources, and other relevant communities;

"(ii) the public; and

"(iii) any other interested entity;

"(C) to encourage members of the agriculture, renewable resources, and other relevant communities to participate in priority education, research, and outreach activities by providing matching funding to leverage grant funds; and

"(D) through—

"(i) the purchase or other acquisition of equipment and other infrastructure (not including alteration, repair, renovation, or construction of buildings);

"(ii) the professional growth and development of the faculty of the NLGCA Institution; and

"(iii) the development of graduate assistantships.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.".

SEC. 7139. BORLAUG INTERNATIONAL AGRICULTURAL SCIENCE AND TECHNOLOGY FELLOWSHIP PROGRAM.

Subtitle K of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310 et seq.) (as amended by section 7138) is amended by adding at the end the following:

"SEC. 1473G. BORLAUG INTERNATIONAL AGRICULTURAL SCIENCE AND TECHNOLOGY FELLOWSHIP PROGRAM.

"(a) FELLOWSHIP PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a fellowship program, to be known as the 'Borlaug International Agricultural Science and Technology Fellowship Program,' to provide fellowships for scientific training and study in the United States to individuals from eligible countries (as described in subsection (b)) who specialize in agricultural education, research, and extension.

"(2) PROGRAMS.—The Secretary shall carry out the fellowship program by implementing 3 programs designed to assist individual fellowship recipients, including—

"(A) a graduate studies program in agriculture to assist individuals who participate in graduate agricultural degree training at a United States institution;

"(B) an individual career improvement program to assist agricultural scientists from developing countries in upgrading skills and understanding in agricultural science and technology; and

"(C) a Borlaug agricultural policy executive leadership course to assist senior agricultural policy makers from eligible countries, with an initial focus on individuals from sub-Saharan Africa and the independent states of the former Soviet Union.

"(b) ELIGIBLE COUNTRIES.—An eligible country is a developing country, as determined by the Secretary using a gross national income per capita test selected by the Secretary.

"(c) PURPOSE OF FELLOWSHIPS.—A fellowship provided under this section shall—

"(1) promote food security and economic growth in eligible countries by—

"(A) educating a new generation of agricultural scientists;

"(B) increasing scientific knowledge and collaborative research to improve agricultural productivity; and

"(C) extending that knowledge to users and intermediaries in the marketplace; and

"(2) shall support—

"(A) training and collaborative research opportunities through exchanges for entry level international agricultural research scientists, faculty, and policymakers from eligible countries;

"(B) collaborative research to improve agricultural productivity;

"(C) the transfer of new science and agricultural technologies to strengthen agricultural practice; and

"(D) the reduction of barriers to technology adoption.

"(d) FELLOWSHIP RECIPIENTS.—

"(1) ELIGIBLE CANDIDATES.—The Secretary may provide fellowships under this section to individuals from eligible countries who specialize or have experience in agricultural education, research, extension, or related fields, including—

"(A) individuals from the public and private sectors; and

"(B) private agricultural producers.

"(2) CANDIDATE IDENTIFICATION.—The Secretary shall use the expertise of United States land-grant colleges and universities and similar universities, international organizations working in agricultural research and outreach, and national agricultural research organizations to help identify program candidates for fellowships under this section from the public and private sectors of eligible countries.

"(e) USE OF FELLOWSHIPS.—A fellowship provided under this section shall be used—

"(1) to promote collaborative programs among agricultural professionals of eligible countries, agricultural professionals of the United States, the international agricultural research system, and, as appropriate, United States entities conducting research; and

"(2) to support fellowship recipients through programs described in subsection (a)(2).

"(f) PROGRAM IMPLEMENTATION.—The Secretary shall provide for the management, coordination, evaluation, and monitoring of the Borlaug International Agricultural Science and Technology Fel-

lowship Program and for the individual programs described in subsection (a)(2), except that the Secretary may contract out to 1 or more collaborating universities the management of 1 or more of the fellowship programs.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.".

SEC. 7140. AQUACULTURE ASSISTANCE PROGRAMS.

Section 1477 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3324) is amended by striking "2007" and inserting "2012".

SEC. 7141. RANGELAND RESEARCH GRANTS.

Section 1483(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3336(a)) is amended by striking "2007" and inserting "2012".

SEC. 7142. SPECIAL AUTHORIZATION FOR BIOSECURITY PLANNING AND RESPONSE.

Section 1484(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3351(a)) is amended by striking "2007" and inserting "2012".

SEC. 7143. RESIDENT INSTRUCTION AND DISTANCE EDUCATION GRANTS PROGRAM FOR INSULAR AREA INSTITUTIONS OF HIGHER EDUCATION.

(a) DISTANCE EDUCATION GRANTS FOR INSULAR AREAS.—Section 1490(f) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3362(f)) is amended by striking "2007" and inserting "2012".

(b) RESIDENT INSTRUCTION GRANTS FOR INSULAR AREAS.—Section 1491 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3363) is amended—

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

(2) in subsection (c) (as so redesignated), by striking "2007" and inserting "2012".

Subtitle B—Food, Agriculture, Conservation, and Trade Act of 1990

SEC. 7201. NATIONAL GENETICS RESOURCES PROGRAM.

Section 1635(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5844(b)) is amended by striking "2007" and inserting "2012".

SEC. 7202. NATIONAL AGRICULTURAL WEATHER INFORMATION SYSTEM.

Section 1641(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5855(c)) is amended by striking "1991 through 1997" and inserting "2008 through 2012".

SEC. 7203. PARTNERSHIPS.

Section 1672(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925(d)) is amended by striking "may" and inserting "shall".

SEC. 7204. HIGH-PRIORITY RESEARCH AND EXTENSION AREAS.

(a) IN GENERAL.—Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended—

(1) in subsection (e)—

(A) in paragraph (3), by striking "and controlling aflatoxin in the food and feed chains." and inserting ", improving, and eventually commercializing, alfatoxin controls in corn and other affected agricultural products and crops.";

(B) by striking paragraphs (1), (4), (7), (8), (15), (17), (21), (23), (26), (27), (32), (34), (41), (42), (43), and (45);

(C) by redesignating paragraphs (2), (3), (5), (6), (9) through (14), (16), (18) through (20), (22), (24), (25), (28) through (31), (33), (35) through (40), and (44) as paragraphs (1) through (29), respectively; and

(D) by adding at the end the following:

"(30) AIR EMISSIONS FROM LIVESTOCK OPERATIONS.—Research and extension grants may be made under this section for the purpose of conducting field verification tests and developing mitigation options for air emissions from animal feeding operations.

"(31) SWINE GENOME PROJECT.—Research grants may be made under this section to conduct swine genome research, including the mapping of the swine genome.

"(32) CATTLE FEVER TICK PROGRAM.—Research and extension grants may be made under this section to study cattle fever ticks to facilitate understanding of the role of wildlife in the persistence and spread of cattle fever ticks, to develop advanced methods for eradication of cattle fever ticks, and to improve management of diseases relating to cattle fever ticks that are associated with wildlife, livestock, and human health.

"(33) SYNTHETIC GYPSUM.—Research and extension grants may be made under this section to study the uses of synthetic gypsum from electric power plants to remediate soil and nutrient losses.

"(34) CRANBERRY RESEARCH PROGRAM.—Research and extension grants may be made under this section to study new technologies to assist cranberry growers in complying with Federal and State environmental regulations, increase production, develop new growing techniques, establish more efficient growing methodologies, and educate cranberry producers about sustainable growth practices.

"(35) SORGHUM RESEARCH INITIATIVE.—Research and extension grants may be made under this section to study the use of sorghum as a bioenergy feedstock, promote diversification in, and the environmental benefits of sorghum production, and promote water conservation through the use of sorghum.

"(36) MARINE SHRIMP FARMING PROGRAM.—Research and extension grants may be made under this section to establish a research program to advance and maintain a domestic shrimp farming industry in the United States.

"(37) TURFGRASS RESEARCH INITIATIVE.—Research and extension grants may be made under this section to study the production of turfgrass (including the use of water, fertilizer, pesticides, fossil fuels, and machinery for turf establishment and maintenance) and environmental protection and enhancement relating to turfgrass production.

"(38) AGRICULTURAL WORKER SAFETY RESEARCH INITIATIVE.—Research and extension grants may be made under this section—

"(A) to study and demonstrate methods to minimize exposure of farm and ranch owners and operators, pesticide handlers, and agricultural workers to pesticides, including research addressing the unique concerns of farm workers resulting from long-term exposure to pesticides; and

"(B) to develop rapid tests for on-farm use to better inform and educate farmers, ranchers, and farm and ranch workers regarding safe field re-entry intervals.

"(39) HIGH PLAINS AQUIFER REGION.—Research and extension grants may be made under this section to carry out interdisciplinary research relating to diminishing water levels and increased demand for water in the High Plains aquifer region.

"(40) DEER INITIATIVE.—Research and extension grants may be made under this section to support collaborative research focusing on the development of viable strategies for the prevention, diagnosis, and treatment of infectious, parasitic, and toxic diseases of farmed deer and the mapping of the deer genome.

"(41) PASTURE-BASED BEEF SYSTEMS RESEARCH INITIATIVE.—Research and extension grants may be made under this section to study the development of forage sequences and combinations for cow-calf, heifer development, stocker, and finishing systems, to deliver optimal nutritive value for efficient production of cattle for pasture finishing, to optimize forage systems to improve marketability of pasture-finished beef, and to assess the effect of forage quality on reproductive fitness.

"(42) AGRICULTURAL PRACTICES RELATING TO CLIMATE CHANGE.—Research and extension grants may be made under this section for field and laboratory studies that examine the ecosystem from gross to minute scales and for projects that explore the relationship of agricultural practices to climate change.

"(43) BRUCELLOSIS CONTROL AND ERADICATION.—Research and extension grants may be made under this section to conduct research relating to the development of vaccines and vaccine delivery systems to effectively control and eliminate brucellosis in wildlife, and to assist with the controlling of the spread of brucellosis from wildlife to domestic animals.

"(44) BIGHORN AND DOMESTIC SHEEP DISEASE MECHANISMS.—Research and extension grants may be made under this section to conduct research relating to the health status of (including the presence of infectious diseases in) bighorn and domestic sheep under range conditions.

"(45) AGRICULTURAL DEVELOPMENT IN THE AMERICAN-PACIFIC REGION.—Research and extension grants may be made under this section to support food and agricultural science at a consortium of land-grant institutions in the American-Pacific region.

"(46) TROPICAL AND SUBTROPICAL AGRICULTURAL RESEARCH.—Research grants may be made under this section, in equal dollar amounts to the Caribbean and Pacific Basins, to support tropical and subtropical agricultural research, includ-

ing pest and disease research, at the land-grant institutions in the Caribbean and Pacific regions.

"(47) VIRAL HEMORRHAGIC SEPTICEMIA.—Research and extension grants may be made under this section to study—

"(A) the effects of viral hemorrhagic septicemia (referred to in this paragraph as 'VHS') on freshwater fish throughout the natural and expanding range of VHS; and

"(B) methods for transmission and human-mediated transport of VHS among waterbodies.

"(48) FARM AND RANCH SAFETY.—Research and extension grants may be made under this section to carry out projects to decrease the incidence of injury and death on farms and ranches, including—

"(A) on-site farm or ranch safety reviews;

"(B) outreach and dissemination of farm safety research and interventions to agricultural employers, employees, youth, farm and ranch families, seasonal workers, or other individuals; and

"(C) agricultural safety education and training.

"(49) WOMEN AND MINORITIES IN STEM FIELDS.—Research and extension grants may be made under this section to increase participation by women and underrepresented minorities from rural areas in the fields of science, technology, engineering, and mathematics, with priority given to eligible institutions that carry out continuing programs funded by the Secretary.

"(50) ALFALFA AND FORAGE RESEARCH PROGRAM.—Research and extension grants may be made under this section for the purpose of studying improvements in alfalfa and forage yields, biomass and persistence, pest pressures, the bioenergy potential of alfalfa and other forages, and systems to reduce losses during harvest and storage.

"(51) FOOD SYSTEMS VETERINARY MEDICINE.—Research grants may be made under this section to address health issues that affect food-producing animals, food safety, and the environment, and to improve information resources, curriculum, and clinical education of students with respect to food animal veterinary medicine and food safety.

"(52) BIOCHAR RESEARCH.—Grants may be made under this section for research, extension, and integrated activities relating to the study of biochar production and use, including considerations of agronomic and economic impacts, synergies of coproduction with bioenergy, and the value of soil enhancements and soil carbon sequestration.";

(2) by redesignating subsection (h) as subsection (j);

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

"(h) POLLINATOR PROTECTION.—

"(1) RESEARCH AND EXTENSION.—

"(A) GRANTS.—Research and extension grants may be made under this section—

"(i) to survey and collect data on bee colony production and health;

"(ii) to investigate pollinator biology, immunology, ecology, genomics, and bioinformatics;

"(iii) to conduct research on various factors that may be contributing to or associated with colony collapse disorder, and other serious threats to the health of honey bees and other pollinators, including—

"(I) parasites and pathogens of pollinators; and

"(II) the sublethal effects of insecticides, herbicides, and fungicides on honey bees and native and managed pollinators;

"(iv) to develop mitigative and preventative measures to improve native and managed pollinator health; and

"(v) to promote the health of honey bees and native pollinators through habitat conservation and best management practices.

"(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $10,000,000 for each of fiscal years 2008 through 2012.

"(2) DEPARTMENT OF AGRICULTURE CAPACITY AND INFRASTRUCTURE.—

"(A) IN GENERAL.—The Secretary shall, to the maximum extent practicable, increase the capacity and infrastructure of the Department—

"(i) to address colony collapse disorder and other long-term threats to pollinator health, including the hiring of additional personnel; and

"(ii) to conduct research on colony collapse disorder and other pollinator issues at the facilities of the Department.

"(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $7,250,000 for each of fiscal years 2008 through 2012.

"(3) HONEY BEE PEST AND PATHOGEN SURVEILLANCE.—There is authorized to be appropriated to conduct a nationwide honey bee pest and pathogen surveillance program $2,750,000 for each of fiscal years 2008 through 2012.

"(4) ANNUAL REPORT ON RESPONSE TO HONEY BEE COLONY COLLAPSE DISORDER.—The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report describing the progress made by the Department of Agriculture in—

"(A) investigating the cause or causes of honey bee colony collapse; and

"(B) finding appropriate strategies to reduce colony loss.

"(i) REGIONAL CENTERS OF EXCELLENCE.—

"(1) ESTABLISHMENT.—The Secretary shall prioritize regional centers of excellence established for specific agricultural commodities for the receipt of funding under this section.

"(2) COMPOSITION.—A regional center of excellence shall be composed of 1 or more colleges and universities (including land-grant institutions, schools of forestry, schools of veterinary medicine, or NLGCA Institutions (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Pol-

icy Act of 1977 (7 U.S.C. 3103))) that provide financial support to the regional center of excellence.

"(3) CRITERIA FOR REGIONAL CENTERS OF EXCELLENCE.—The criteria for consideration to be a regional center of excellence shall include efforts—

"(A) to ensure coordination and cost-effectiveness by reducing unnecessarily duplicative efforts regarding research, teaching, and extension;

"(B) to leverage available resources by using public/private partnerships among agricultural industry groups, institutions of higher education, and the Federal Government;

"(C) to implement teaching initiatives to increase awareness and effectively disseminate solutions to target audiences through extension activities;

"(D) to increase the economic returns to rural communities by identifying, attracting, and directing funds to high-priority agricultural issues; and

"(E) to improve teaching capacity and infrastructure at colleges and universities (including land-grant institutions, schools of forestry, and schools of veterinary medicine).";

and

(4) in subsection (j) (as redesignated by paragraph (2)), by striking "2007" and inserting "2012".

(b) CONFORMING AMENDMENTS.—Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended—

(1) in the first sentence of subsection (a), by striking "(e), (f), and (g)" and inserting "(e) through (i)"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "paragraphs (1), (6), (7), and (11)" and inserting "paragraphs (4), (7), (8), and (11)(B)"; and

(B) in paragraph (2), by striking "subsection (e)" and inserting "subsections (e) through (i)".

SEC. 7205. NUTRIENT MANAGEMENT RESEARCH AND EXTENSION INITIATIVE.

Section 1672A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925a) is amended—

(1) in subsection (b), by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Paragraphs (4), (7), (8), and (11)(B) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) shall apply with respect to the making of grants under this section.";

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

"(d) PRIORITY.—Following the completion of a peer review process for grant proposals received under this section, the Secretary shall give priority to those grant proposals that involve—

"(1) the cooperation of multiple entities; and

"(2) States or regions with a high concentration of livestock, dairy, or poultry operations.";

(3) in subsection (e)—

(A) in paragraph (1)(B), by inserting "and dairy and beef cattle waste" after "swine waste"; and

(B) by striking paragraph (5) and inserting the following:

"(5) ALTERNATIVE USES AND RENEWABLE ENERGY.—Research and extension grants may be made under this section for the purpose of finding innovative methods and technologies to allow agricultural operators to make use of animal waste, such as use as fertilizer, methane digestion, composting, and other useful byproducts.";

(4) by redesignating subsection (g) as subsection (f); and

(5) in subsection (f) (as so redesignated), by striking "2007" and inserting "2012".

SEC. 7206. ORGANIC AGRICULTURE RESEARCH AND EXTENSION INITIATIVE.

(a) IN GENERAL.—Section 1672B of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925b) (commonly known as the "Organic Agriculture Research and Extension Initiative") is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking "and" after the semicolon;

(B) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(7) examining optimal conservation and environmental outcomes relating to organically produced agricultural products; and

"(8) developing new and improved seed varieties that are particularly suited for organic agriculture."; and

(2) by adding at the end the following:

"(f) FUNDING.—

"(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—

"(A) $18,000,000 for fiscal year 2009; and

"(B) $20,000,000 for each of fiscal years 2010 through 2012.

"(2) ADDITIONAL FUNDING.—In addition to amounts made available under paragraph (1), there is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2009 through 2012.".

(b) COORDINATION.—In carrying out the amendment made by this section, the Secretary shall ensure that the Division Chief of the applicable Research, Education, and Extension Office established under section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) coordinates projects and activities under this section to ensure, to the maximum extent practicable, that unnecessary duplication of effort is eliminated or minimized.

SEC. 7207. AGRICULTURAL BIOENERGY FEEDSTOCK AND ENERGY EFFICIENCY RESEARCH AND EXTENSION INITIATIVE.

Title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5801 et seq.) is amended by inserting after section 1672B (7 U.S.C. 5925b) the following:

"SEC. 1672C. AGRICULTURAL BIOENERGY FEEDSTOCK AND ENERGY EFFICIENCY RESEARCH AND EXTENSION INITIATIVE.

"(a) ESTABLISHMENT AND PURPOSE.—There is established within the Department of Agriculture an agricultural bioenergy feedstock and energy efficiency research and extension initiative (referred to in this section as the 'Initiative') for the purpose of enhancing the production of biomass energy crops and the energy efficiency of agricultural operations.

"(b) COMPETITIVE RESEARCH AND EXTENSION GRANTS AUTHORIZED.—In carrying out this section, the Secretary shall make competitive grants to support research and extension activities specified in subsections (c) and (d).

"(c) AGRICULTURAL BIOENERGY FEEDSTOCK RESEARCH AND EXTENSION AREAS.—

"(1) IN GENERAL.—Agricultural bioenergy feedstock research and extension activities funded under the Initiative shall focus on improving agricultural biomass production, biomass conversion in biorefineries, and biomass use by—

"(A) supporting on-farm research on crop species, nutrient requirements, management practices, environmental impacts, and economics;

"(B) supporting the development and operation of on-farm, integrated biomass feedstock production systems;

"(C) leveraging the broad scientific capabilities of the Department of Agriculture and other entities in—

"(i) plant genetics and breeding;

"(ii) crop production;

"(iii) soil and water science;

"(iv) use of agricultural waste; and

"(v) carbohydrate, lipid, protein, and lignin chemistry, enzyme development, and biochemistry; and

"(D) supporting the dissemination of any of the research conducted under this subsection that will assist in achieving the goals of this section.

"(2) SELECTION CRITERIA.—In selecting grant recipients for projects under paragraph (1), the Secretary shall consider—

"(A) the capabilities and experiences of the applicant, including—

"(i) research in actual field conditions; and

"(ii) engineering and research knowledge relating to biofuels or the production of inputs for biofuel production;

"(B) the range of species types and cropping practices proposed for study (including species types and practices studied using side-by-side comparisons of those types and practices);

"(C) the need for regional diversity among feedstocks;

"(D) the importance of developing multiyear data relevant to the production of biomass feedstock crops;

"(E) the extent to which the project involves direct participation of agricultural producers;

"(F) the extent to which the project proposal includes a plan or commitment to use the biomass produced as part of the project in commercial channels; and

"(G) such other factors as the Secretary may determine.

"(d) ENERGY-EFFICIENCY RESEARCH AND EXTENSION AREAS.—On-farm energy-efficiency research and extension activities funded under the Initiative shall focus on developing and demonstrating technologies and production practices relating to—

"(1) improving on-farm renewable energy production;

"(2) encouraging efficient on-farm energy use;

"(3) promoting on-farm energy conservation;

"(4) making a farm or ranch energy-neutral; and

"(5) enhancing on-farm usage of advanced technologies to promote energy efficiency.

"(e) BEST PRACTICES DATABASE.—The Secretary shall develop a best-practices database that includes information, to be available to the public, on—

"(1) the production potential of a variety of biomass crops; and

"(2) best practices for production, collection, harvesting, storage, and transportation of biomass crops to be used as a source of bioenergy.

"(f) ADMINISTRATION.—

"(1) IN GENERAL.—Paragraphs (4), (7), (8), and (11)(B) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)) shall apply with respect to making grants under this section.

"(2) CONSULTATION AND COORDINATION.—The Secretary shall—

"(A) make the grants in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board; and

"(B) coordinate projects and activities carried out under the Initiative with projects and activities under section 9008 of the Farm Security and Rural Investment Act of 2002 to ensure, to the maximum extent practicable, that—

"(i) unnecessary duplication of effort is eliminated or minimized; and

"(ii) the respective strengths of the Department of Agriculture and the Department of Energy are appropriately used.

"(3) GRANT PRIORITY.—The Secretary shall give priority to grant applications that integrate research and extension activities established under subsections (c) and (d), respectively.

"(4) MATCHING FUNDS REQUIRED.—As a condition of receiving a grant under this section, the Secretary shall require the recipient of the grant to provide funds or in-kind support from non-Federal sources in an amount that is at least equal to the amount provided by the Federal Government.

"(5) PARTNERSHIPS ENCOURAGED.—Following the completion of a peer review process for grant proposals received under this section, the Secretary may provide a priority to those grant proposals found as a result of the peer review process—

"(A) to be scientifically meritorious; and

"(B) that involve cooperation—

"(i) among multiple entities; and

"(ii) with agricultural producers.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2008 through 2012.".

SEC. 7208. FARM BUSINESS MANAGEMENT AND BENCHMARKING.

The Food, Agriculture, Conservation and Trade Act of 1990 is amended by inserting after section 1672C (as added by section 7207) the following:

"SEC. 1672D. FARM BUSINESS MANAGEMENT.

"(a) IN GENERAL.—The Secretary may make competitive research and extension grants for the purpose of—

"(1) improving the farm management knowledge and skills of agricultural producers; and

"(2) establishing and maintaining a national, publicly available farm financial management database to support improved farm management.

"(b) SELECTION CRITERIA.—In allocating funds made available to carry out this section, the Secretary may give priority to grants that—

"(1) demonstrate an ability to work directly with agricultural producers;

"(2) collaborate with farm management and producer associations;

"(3) address the farm management needs of a variety of crops and regions of the United States; and

"(4) use and support the national farm financial management database.

"(c) ADMINISTRATION.—Paragraphs (4), (7), (8), and (11)(B) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)) shall apply with respect to the making of grants under this section.

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

SEC. 7209. AGRICULTURAL TELECOMMUNICATIONS PROGRAM.

Section 1673 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5926) is repealed.

SEC. 7210. ASSISTIVE TECHNOLOGY PROGRAM FOR FARMERS WITH DISABILITIES.

Section 1680(c)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5933(c)(1)) is amended by striking "2007" and inserting "2012".

SEC. 7211. RESEARCH ON HONEY BEE DISEASES.

Section 1681 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5934) is repealed.

SEC. 7212. NATIONAL RURAL INFORMATION CENTER CLEARINGHOUSE.

Section 2381(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125b(e)) is amended by striking "2007" and inserting "2012".

Subtitle C—Agricultural Research, Extension, and Education Reform Act of 1998

SEC. 7301. PEER AND MERIT REVIEW.

Section 103(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(a)) is amended by adding at the end the following:

"(3) CONSIDERATION.—Peer and merit review procedures established under paragraphs (1) and (2) shall not take the offer or availability of matching funds into consideration.".

SEC. 7302. PARTNERSHIPS FOR HIGH-VALUE AGRICULTURAL PRODUCT QUALITY RESEARCH.

Section 402 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7622) is repealed.

SEC. 7303. PRECISION AGRICULTURE.

Section 403 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7623) is repealed.

SEC. 7304. BIOBASED PRODUCTS.

(a) PILOT PROJECT.—Section 404(e)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7624(e)(2)) is amended by striking "2007" and inserting "2012".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 404(h) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7624(h)) is amended by striking "2007" and inserting "2012".

SEC. 7305. THOMAS JEFFERSON INITIATIVE FOR CROP DIVERSIFICATION.

Section 405 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7625) is repealed.

SEC. 7306. INTEGRATED RESEARCH, EDUCATION, AND EXTENSION COMPETITIVE GRANTS PROGRAM.

Section 406(f) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626(f)) is amended by striking "2007" and inserting "2012".

SEC. 7307. FUSARIUM GRAMINEARUM GRANTS.

Section 408 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7628) is amended—

(1) in subsection (a), in the subsection heading, by striking "GRANT" and inserting "GRANTS"; and

(2) in subsection (e), by striking "2007" and inserting "2012".

SEC. 7308. BOVINE JOHNE'S DISEASE CONTROL PROGRAM.

Section 409(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7629(b)) is amended by striking "2007" and inserting "2012".

SEC. 7309. GRANTS FOR YOUTH ORGANIZATIONS.

Section 410 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7630) is amended by striking subsections (b) and (c) and inserting the following:

"(b) FLEXIBILITY.—The Secretary shall provide maximum flexibility in content delivery to each organization receiving funds under this section so as to ensure that the unique goals of each organization, as well as the local community needs, are fully met.

"(c) REDISTRIBUTION OF FUNDING WITHIN ORGANIZATIONS AUTHORIZED.—Recipients of funds under this section may redistribute all or part of the funds received to individual councils or local chapters within the councils without further need of approval from the Secretary.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.".

SEC. 7310. AGRICULTURAL BIOTECHNOLOGY RESEARCH AND DEVELOPMENT FOR DEVELOPING COUNTRIES.

Section 411(c) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7631(c)) is amended by striking "2007" and inserting "2012".

SEC. 7311. SPECIALTY CROP RESEARCH INITIATIVE.

(a) IN GENERAL.—Title IV of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621 et seq.) is amended by adding at the end the following:

"SEC. 412. SPECIALTY CROP RESEARCH INITIATIVE.

"(a) DEFINITIONS.—In this section:

"(1) INITIATIVE.—The term 'Initiative' means the specialty crop research and extension initiative established by subsection (b).

"(2) SPECIALTY CROP.—The term 'specialty crop' has the meaning given that term in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108–465).

"(b) ESTABLISHMENT.—There is established within the Department a specialty crop research and extension initiative to address the critical needs of the specialty crop industry by developing and disseminating science-based tools to address needs of specific crops and their regions, including—

"(1) research in plant breeding, genetics, and genomics to improve crop characteristics, such as—

"(A) product, taste, quality, and appearance;

"(B) environmental responses and tolerances;

"(C) nutrient management, including plant nutrient uptake efficiency;

"(D) pest and disease management, including resistance to pests and diseases resulting in reduced application management strategies; and

"(E) enhanced phytonutrient content;

"(2) efforts to identify and address threats from pests and diseases, including threats to specialty crop pollinators;

"(3) efforts to improve production efficiency, productivity, and profitability over the long term (including specialty crop policy and marketing);

"(4) new innovations and technology, including improved mechanization and technologies that delay or inhibit ripening; and

"(5) methods to prevent, detect, monitor, control, and respond to potential food safety hazards in the production and processing of specialty crops, including fresh produce.

"(c) ELIGIBLE ENTITIES.—The Secretary may carry out the Initiative through—

"(1) Federal agencies;

"(2) national laboratories;

"(3) colleges and universities;

"(4) research institutions and organizations;

"(5) private organizations or corporations;

"(6) State agricultural experiment stations;

"(7) individuals; or

"(8) groups consisting of 2 or more entities described in paragraphs (1) through (7).

"(d) RESEARCH PROJECTS.—In carrying out this section, the Secretary shall award grants on a competitive basis.

"(e) ADMINISTRATION.—

"(1) IN GENERAL.—With respect to grants awarded under subsection (d), the Secretary shall—

"(A) seek and accept proposals for grants;

"(B) determine the relevance and merit of proposals through a system of peer and merit review in accordance with section 103; and

"(C) award grants on the basis of merit, quality, and relevance.

"(2) TERM.—The term of a grant under this section may not exceed 10 years.

"(3) MATCHING FUNDS REQUIRED.—The Secretary shall require the recipient of a grant under this section to provide funds or in-kind support from non-Federal sources in an amount that is at least equal to the amount provided by the Federal Government.

"(4) OTHER CONDITIONS.—The Secretary may set such other conditions on the award of a grant under this section as the Secretary determines to be appropriate.

"(f) PRIORITIES.—In making grants under this section, the Secretary shall provide a higher priority to projects that—

"(1) are multistate, multi-institutional, or multidisciplinary; and

"(2) include explicit mechanisms to communicate results to producers and the public.

"(g) BUILDINGS AND FACILITIES.—Funds made available under this section shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement, and architect fees).

"(h) FUNDING.—

"(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section $30,000,000 for fiscal year 2008 and $50,000,000 for each of fiscal years 2009 through 2012, from which activities under each of paragraphs (1) through (5) of subsection (b) shall be allocated not less than 10 percent.

"(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under paragraph (1), there is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2008 through 2012.

"(3) TRANSFER.—Of the funds made available to the Secretary under paragraph (1) for fiscal year 2008 and authorized for use for payment of administrative expenses under section

1469(a)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3315(a)(3)), the Secretary shall transfer, upon the date of enactment of this section, $200,000 to the Office of Prevention, Pesticides, and Toxic Substances of the Environmental Protection Agency for use in conducting a meta-analysis relating to methyl bromide.

"(4) AVAILABILITY.—Funds made available pursuant to this subsection for a fiscal year shall remain available until expended to pay for obligations incurred in that fiscal year.".

(b) COORDINATION.—In carrying out the amendment made by this section, the Secretary shall ensure that the Division Chief of the applicable Research, Education, and Extension Office established under section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) coordinates projects and activities under this section to ensure, to the maximum extent practicable, that unnecessary duplication of effort is eliminated or minimized.

SEC. 7312. FOOD ANIMAL RESIDUE AVOIDANCE DATABASE PROGRAM.

Section 604 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7642) is amended by adding at the end the following:

"(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds available to carry out subsection (c), there is authorized to be appropriated to carry out this section $2,500,000 for each of fiscal years 2008 through 2012.".

SEC. 7313. OFFICE OF PEST MANAGEMENT POLICY.

Section 614(f) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7653(f)) is amended by striking "2007" and inserting "2012".

Subtitle D—Other Laws

SEC. 7401. CRITICAL AGRICULTURAL MATERIALS ACT.

Section 16(a) of the Critical Agricultural Materials Act (7 U.S.C. 178n(a)) is amended by striking "2007" and inserting "2012".

SEC. 7402. EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.

(a) DEFINITION OF 1994 INSTITUTIONS.—Section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended by adding at the end the following:

"(34) Ilisagvik College.".

(b) ENDOWMENT FOR 1994 INSTITUTIONS.—Section 533 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended—

(1) in subsection (a)(3), in the matter preceding subparagraph (A), by inserting "this section and" before "sections 534,"; and

(2) in the first sentence of subsection (b), by striking "2007" and inserting "2012".

(c) REDISTRIBUTION.—Section 534(a)(3) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended—

(1) by striking "The amounts" and inserting the following:

"(A) IN GENERAL.—Except as provided in subparagraph (B), the amounts"; and

(2) by adding at the end the following:

"(B) REDISTRIBUTION.—Funds that would be paid to a 1994 Institution under paragraph (2) shall be withheld from that 1994 Institution and redistributed among the other 1994 Institutions if that 1994 Institution—

"(i) declines to accept funds under paragraph (2); or

"(ii) fails to meet the accreditation requirements under section 533(a)(3).".

(d) INSTITUTIONAL CAPACITY BUILDING GRANTS.—Section 535 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended by striking "2007" each place it appears and inserting "2012".

(e) RESEARCH GRANTS.—Section 536(c) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended in the first sentence by striking "2007" and inserting "2012".

(f) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2008.

SEC. 7403. SMITH-LEVER ACT.

(a) PROGRAM.—Section 3(d) of the Smith-Lever Act (7 U.S.C. 343(d)) is amended in the second sentence by striking "apply for and receive" and all that follows through paragraph (2) and inserting "compete for and receive funds directly from the Secretary of Agriculture.".

(b) ELIMINATION OF THE GOVERNOR'S REPORT REQUIREMENT FOR EXTENSION ACTIVITIES.—Section 5 of the Smith-Lever Act (7 U.S.C. 345) is amended by striking the third sentence.

(c) CONFORMING AMENDMENT.—Section 1444(a)(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(a)(2)) is amended by striking "after September 30, 1995, under section 3(d) of that Act (7 U.S.C. 343(d))" and all that follows through the end of the sentence and inserting "under section 3(d) of that Act (7 U.S.C. 343(d)).".

SEC. 7404. HATCH ACT OF 1887.

(a) DISTRICT OF COLUMBIA.—Section 3(d)(4) of the Hatch Act of 1887 (7 U.S.C. 361c(d)(4)) is amended—

(1) in the paragraph heading, by inserting "AND THE DISTRICT OF COLUMBIA" after "AREAS";

(2) in subparagraph (A)—

(A) by inserting "and the District of Columbia" after "United States"; and

(B) by inserting "and the District of Columbia" after "respectively,"; and

(3) in subparagraph (B), by inserting "or the District of Columbia" after "area".

(b) ELIMINATION OF PENALTY MAIL AUTHORITIES.—

(1) IN GENERAL.—Section 6 of the Hatch Act of 1887 (7 U.S.C. 361f) is amended in the first sentence by striking "under penalty indicia:" and all that follows through the end of the sentence and inserting a period.

(2) CONFORMING AMENDMENTS IN OTHER LAWS.—

(A) NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.—

(i) Section 1444(f) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(f)) is amended by striking "under penalty indicia:" and all that follows through the end of the sentence and inserting a period.

(ii) Section 1445(e) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(e)) is amended by striking "under penalty indicia:" and all that follows through the end of the sentence and inserting a period.

(B) OTHER PROVISIONS.—Section 3202(a) of title 39, United States Code, is amended—

(i) in paragraph (1)—

(I) in subparagraph (D), by adding "and" at the end;

(II) in subparagraph (E), by striking "sections; and" and inserting "sections."; and

(III) by striking subparagraph (F);

(ii) in paragraph (2), by adding "and" at the end;

(iii) in paragraph (3) by striking "thereof; and" and inserting "thereof."; and

(iv) by striking paragraph (4).

SEC. 7405. AGRICULTURAL EXPERIMENT STATION RESEARCH FACILITIES ACT.

Section 6(a) of the Research Facilities Act (7 U.S.C. 390d(a)) is amended by striking "2007" and inserting "2012".

SEC. 7406. AGRICULTURE AND FOOD RESEARCH INITIATIVE.

(a) IN GENERAL.—Subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)) is amended to read as follows:

"(b) AGRICULTURE AND FOOD RESEARCH INITIATIVE.—

"(1) ESTABLISHMENT.—There is established in the Department of Agriculture an Agriculture and Food Research Initiative under which the Secretary of Agriculture (referred to in this subsection as 'the Secretary') may make competitive grants for fundamental and applied research, extension, and education to address food and agricultural sciences (as defined under section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)).

"(2) PRIORITY AREAS.—The competitive grants program established under this subsection shall address the following areas:

"(A) PLANT HEALTH AND PRODUCTION AND PLANT PRODUCTS.—Plant systems, including—

"(i) plant genome structure and function;

"(ii) molecular and cellular genetics and plant biotechnology;

"(iii) conventional breeding, including cultivar and breed development, selection theory, applied quantitative genetics, breeding for improved food quality, breeding for improved local adaptation to biotic stress and abiotic stress, and participatory breeding;

"(iv) plant-pest interactions and biocontrol systems;

"(v) crop plant response to environmental stresses;

"(vi) unproved nutrient qualities of plant products; and

"(vii) new food and industrial uses of plant products.

"(B) ANIMAL HEALTH AND PRODUCTION AND ANIMAL PRODUCTS.—Animal systems, including—

"(i) aquaculture;

"(ii) cellular and molecular basis of animal reproduction, growth, disease, and health;

"(iii) animal biotechnology;

"(iv) conventional breeding, including breed development, selection theory, applied quantitative genetics, breeding for improved food quality, breeding for improved local adaptation to biotic stress and abiotic stress, and participatory breeding;

"(v) identification of genes responsible for improved production traits and resistance to disease;

"(vi) improved nutritional performance of animals;

"(vii) improved nutrient qualities of animal products and uses; and

"(viii) the development of new and improved animal husbandry and production systems that take into account production efficiency, animal well-being, and animal systems applicable to aquaculture.

"(C) FOOD SAFETY, NUTRITION, AND HEALTH.—Nutrition, food safety and quality, and health, including—

"(i) microbial contaminants and pesticides residue relating to human health;

"(ii) links between diet and health;

"(iii) bioavailability of nutrients;

"(iv) postharvest physiology and practices; and

"(v) improved processing technologies.

"(D) RENEWABLE ENERGY, NATURAL RESOURCES, AND ENVIRONMENT.—Natural resources and the environment, including—

"(i) fundamental structures and functions of ecosystems;

"(ii) biological and physical bases of sustainable production systems;

"(iii) minimizing soil and water losses and sustaining surface water and ground water quality;

"(iv) global climate effects on agriculture;

"(v) forestry; and

"(vi) biological diversity.

"(E) AGRICULTURE SYSTEMS AND TECHNOLOGY.—Engineering, products, and processes, including—

"(i) new uses and new products from traditional and nontraditional crops, animals, byproducts, and natural resources;

"(ii) robotics, energy efficiency, computing, and expert systems;

"(iii) new hazard and risk assessment and mitigation measures; and

"(iv) water quality and management.

"(F) AGRICULTURE ECONOMICS AND RURAL COMMUNITIES.—Markets, trade, and policy, including—

"(i) strategies for entering into and being competitive in domestic and overseas markets;

"(ii) farm efficiency and profitability, including the viability and competitiveness of small and medium-sized dairy, livestock, crop and other commodity operations;

"(iii) new decision tools for farm and market systems;

"(iv) choices and applications of technology;

"(v) technology assessment; and

"(vi) new approaches to rural development, including rural entrepreneurship.

"(3) TERM.—The term of a competitive grant made under this subsection may not exceed 10 years.

"(4) GENERAL ADMINISTRATION.—In making grants under this subsection, the Secretary shall—

"(A) seek and accept proposals for grants;

"(B) determine the relevance and merit of proposals through a system of peer and merit review in accordance with section 103 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613);

"(C) award grants on the basis of merit, quality, and relevance;

"(D) solicit and consider input from persons who conduct or use agricultural research, extension, or education in accordance with section 102(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7612(b)); and

"(E) in seeking proposals for grants under this subsection and in performing peer review evaluations of such proposals, seek the widest participation of qualified individuals in the Federal Government, colleges and universities, State agricultural experiment stations, and the private sector.

"(5) ALLOCATION OF FUNDS.—In making grants under this subsection, the Secretary shall allocate funds to the Agriculture and Food Research Initiative to ensure that, of funds allocated for research activities—

"(A) not less than 60 percent is made available to make grants for fundamental research (as defined in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971)), of which—

"(i) not less than 30 percent is made available to make grants for research to be conducted by multidisciplinary teams; and

"(ii) not more than 2 percent is used for equipment grants under paragraph (6)(A); and

"(B) not less than 40 percent is made available to make grants for applied research (as defined in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971)).

"(6) SPECIAL CONSIDERATIONS.—In making grants under this subsection, the Secretary may assist in the development of

capabilities in the agricultural, food, and environmental sciences by providing grants—

"(A) to an institution to allow for the improvement of the research, development, technology transfer, and education capacity of the institution through the acquisition of special research equipment and the improvement of agricultural education and teaching, except that the Secretary shall use not less than 25 percent of the funds made available for grants under this subparagraph to provide fellowships to outstanding pre- and post-doctoral students for research in the agricultural sciences;

"(B) to a single investigator or coinvestigators who are beginning research careers and do not have an extensive research publication record, except that, to be eligible for a grant under this subparagraph, an individual shall be within 5 years of the beginning of the initial career track position of the individual;

"(C) to ensure that the faculty of small, mid-sized, and minority-serving institutions who have not previously been successful in obtaining competitive grants under this subsection receive a portion of the grants; and

"(D) to improve research, extension, and education capabilities in States (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) in which institutions have been less successful in receiving funding under this subsection, based on a 3-year rolling average of funding levels.

"(7) ELIGIBLE ENTITIES.—The Secretary may make grants to carry out research, extension, and education under this subsection to—

"(A) State agricultural experiment stations;

"(B) colleges and universities;

"(C) university research foundations;

"(D) other research institutions and organizations;

"(E) Federal agencies;

"(F) national laboratories;

"(G) private organizations or corporations;

"(H) individuals; or

"(I) any group consisting of 2 or more of the entities described in subparagraphs (A) through (H).

"(8) CONSTRUCTION PROHIBITED.—Funds made available for grants under this subsection shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement, and architect fees).

"(9) MATCHING FUNDS.—

"(A) EQUIPMENT GRANTS.—

"(i) IN GENERAL.—Except as provided in clause (ii), in the case of a grant made under paragraph (6)(A), the amount provided under this subsection may not exceed 50 percent of the cost of the special research equipment or other equipment acquired using funds from the grant.

"(ii) WAIVER.—The Secretary may waive all or part of the matching requirement under clause (i) in the

case of a college, university, or research foundation maintained by a college or university that ranks in the lowest 1/3 of such colleges, universities, and research foundations on the basis of Federal research funds received, if the equipment to be acquired using funds from the grant costs not more than $25,000 and has multiple uses within a single research project or is usable in more than 1 research project.

"(B) APPLIED RESEARCH.—As a condition of making a grant under paragraph (5)(B), the Secretary shall require the funding of the grant to be matched with equal matching funds from a non-Federal source if the grant is for applied research that is—

"(i) commodity-specific; and

"(ii) not of national scope.

"(10) PROGRAM ADMINISTRATION.—To the maximum extent practicable, the Director of the National Institute of Food and Agriculture, in coordination with the Under Secretary for Research, Education, and Economics, shall allocate grants under this subsection to high-priority research, taking into consideration, when available, the determinations made by the National Agricultural Research, Extension, Education, and Economics Advisory Board (as established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123)).

"(11) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There is authorized to be appropriated to carry out this subsection $700,000,000 for each of fiscal years 2008 through 2012, of which—

"(i) not less than 30 percent shall be made available for integrated research pursuant to section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626); and

"(ii) not more than 4 percent may be retained by the Secretary to pay administrative costs incurred by the Secretary in carrying out this subsection.

"(B) AVAILABILITY.—Funds made available under this paragraph shall—

"(i) be available for obligation for a 2-year period beginning on October 1 of the fiscal year for which the funds are first made available; and

"(ii) remain available until expended to pay for obligations incurred during that 2-year period.".

(b) REPEALS.—

(1) Section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621) is repealed.

(2) Subsection (d) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(d)) is repealed.

(c) EFFECT ON CURRENT SOLICITATIONS.—The amendments made by this section shall not apply to any solicitation for grant applications issued by the Cooperative State Research, Education, and Extension Service before the date of enactment of this Act.

(d) CONFORMING AMENDMENTS.—

(1) Section 1473 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319) is amended in the first sentence by striking "and subsection (d)".

(2) Section 1671(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5924(d)) is amended by striking "Paragraphs (1), (6), (7), and (11)" and inserting "Paragraphs (4), (7), (8), and (11)(B)".

(3) Section 1672B(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925b(b)) is amended by striking "Paragraphs (1), (6), (7), and (11)" and inserting "Paragraphs (4), (7), (8), and (11)(B)".

SEC. 7407. AGRICULTURAL RISK PROTECTION ACT OF 2000.

Section 221 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 6711(g)) is amended by striking subsection (g) and inserting the following:

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2007 through 2012.".

SEC. 7408. EXCHANGE OR SALE AUTHORITY.

Title III of the Department of Agriculture Reorganization Act of 1994 (Public Law 103–354; 108 Stat. 3238) is amended by adding at the end the following:

"SEC. 307. EXCHANGE OR SALE AUTHORITY.

"(a) DEFINITION OF QUALIFIED ITEM OF PERSONAL PROPERTY.—In this section, the term 'qualified item of personal property' means—

"(1) an animal;

"(2) an animal product;

"(3) a plant; or

"(4) a plant product.

"(b) GENERAL AUTHORITY.—Except as provided in subsection (c), notwithstanding chapter 5 of subtitle I of title 40, United States Code, the Secretary, acting through the Under Secretary for Research, Education, and Economics, in managing personal property for the purpose of carrying out the research functions of the Department, may exchange, sell, or otherwise dispose of any qualified item of personal property, including by way of public auction, and may retain and apply the sale or other proceeds, without further appropriation and without fiscal year limitation, in whole or in partial payment—

"(1) to acquire any qualified item of personal property; or

"(2) to offset costs related to the maintenance, care, or feeding of any qualified item of personal property.

"(c) EXCEPTION.—Subsection (b) does not apply to the free dissemination of new varieties of seeds and germplasm in accordance with section 520 of the Revised Statutes (commonly known as the 'Department of Agriculture Organic Act') (7 U.S.C. 2201).".

SEC. 7409. ENHANCED USE LEASE AUTHORITY PILOT PROGRAM.

Title III of the Department of Agriculture Reorganization Act of 1994 (Public Law 103–354; 108 Stat. 3238) (as amended by section 7408) is amended by adding at the end the following:

"SEC. 308. ENHANCED USE LEASE AUTHORITY PILOT PROGRAM.

"(a) ESTABLISHMENT.—To enhance the use of real property administered by agencies of the Department, the Secretary may establish a pilot program, in accordance with this section, at the Beltsville Agricultural Research Center of the Agricultural Research Service and the National Agricultural Library to lease nonexcess property of the Center or the Library to any individual or entity, including agencies or instrumentalities of State or local governments.

"(b) REQUIREMENTS.—

"(1) IN GENERAL.—Notwithstanding chapter 5 of subtitle I of title 40, United States Code, the Secretary may lease real property at the Beltsville Agricultural Research Center or the National Agricultural Library in accordance with such terms and conditions as the Secretary may prescribe, if the Secretary determines that the lease—

"(A) is consistent with, and will not adversely affect, the mission of the Department agency administering the property;

"(B) will enhance the use of the property;

"(C) will not permit any portion of Department agency property or any facility of the Department to be used for the public retail or wholesale sale of merchandise or residential development;

"(D) will not permit the construction or modification of facilities financed by non-Federal sources to be used by an agency, except for incidental use; and

"(E) will not include any property or facility required for any Department agency purpose without prior consideration of the needs of the agency.

"(2) TERM.—The term of a lease under this section shall not exceed 30 years.

"(3) CONSIDERATION.—

"(A) IN GENERAL.—Consideration provided for a lease under this section shall be—

"(i) in an amount equal to fair market value, as determined by the Secretary; and

"(ii) in the form of cash.

"(B) USE OF FUNDS.—

"(i) IN GENERAL.—Consideration provided for a lease under this section shall be—

"(I) deposited in a capital asset account to be established by the Secretary; and

"(II) available until expended, without further appropriation, for maintenance, capital revitalization, and improvements of the Department properties and facilities at the Beltsville Agricultural Research Center and National Agricultural Library.

"(ii) BUDGETARY TREATMENT.—For purposes of the budget, the amounts described in clause (i) shall not be treated as a receipt of any Department agency or any other agency leasing property under this section.

"(4) COSTS.—The lessee shall cover all costs associated with a lease under this section, including the cost of—

"(A) the project to be carried out on property or at a facility covered by the lease;

"(B) provision and administration of the lease;

"(C) construction of any needed facilities;

"(D) provision of applicable utilities; and

"(E) any other facility cost normally associated with the operation of a leased facility.

"(5) PROHIBITION OF USE OF APPROPRIATIONS.—The Secretary shall not use any funds made available to the Secretary in an appropriations Act for the construction or operating costs of any space covered by a lease under this section.

"(6) TERMINATION OF AUTHORITY.—This section and the authority provided by this section terminate—

"(A) on the date that is 5 years after the date of enactment of this section; or

"(B) with respect to any particular leased property, on the date of termination of the lease.

"(c) EFFECT OF OTHER LAWS.—

"(1) UTILIZATION.—Property that is leased pursuant to this section shall not be considered to be unutilized or underutilized for purposes of section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411).

"(2) DISPOSAL.—Property at the Beltsville Agricultural Research Center or the National Agricultural Library that is leased pursuant to this section shall not be considered to be disposed of by sale, lease, rental, excessing, or surplusing for purposes of section 523 of Public Law 100–202 (101 Stat. 1329–417).

"(d) ADMINISTRATION.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes detailed management objectives and performance measurements by which the Secretary intends to evaluate the success of the program under this section.

"(2) REPORTS.—Not later than 1, 3, and 5 years after the date of enactment of this section, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the implementation of the program under this section, including—

"(A) a copy of each lease entered into pursuant to this section; and

"(B) an assessment by the Secretary of the success of the program using the management objectives and performance measurements developed by the Secretary.".

SEC. 7410. BEGINNING FARMER AND RANCHER DEVELOPMENT PROGRAM.

(a) GRANTS.—Section 7405(c) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3319f(c)) is amended—

(1) by striking paragraph (3) and inserting the following:

"(3) MAXIMUM TERM AND SIZE OF GRANT.—

"(A) IN GENERAL.—A grant under this subsection shall—

"(i) have a term that is not more than 3 years; and

"(ii) be in an amount that is not more than $250,000 for each year.

"(B) CONSECUTIVE GRANTS.—An eligible recipient may receive consecutive grants under this subsection.";

(2) by redesignating paragraphs (5) through (7) as paragraphs (8) through (10), respectively;

(3) by inserting after paragraph (4) the following:

"(5) EVALUATION CRITERIA.—In making grants under this subsection, the Secretary shall evaluate—

"(A) relevancy;

"(B) technical merit;

"(C) achievability;

"(D) the expertise and track record of 1 or more applicants;

"(E) the adequacy of plans for the participatory evaluation process, outcome-based reporting, and the communication of findings and results beyond the immediate target audience; and

"(F) other appropriate factors, as determined by the Secretary.

"(6) REGIONAL BALANCE.—In making grants under this subsection, the Secretary shall, to the maximum extent practicable, ensure geographical diversity.

"(7) PRIORITY.—In making grants under this subsection, the Secretary shall give priority to partnerships and collaborations that are led by or include nongovernmental and community-based organizations with expertise in new agricultural producer training and outreach.".

(b) FUNDING.—Section 7405 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3319f) is amended by striking subsection (h) and inserting the following:

"(h) FUNDING.—

"(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—

"(A) $18,000,000 for fiscal year 2009; and

"(B) $19,000,000 for each of fiscal years 2010 through 2012.

"(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds provided under paragraph (1), there is authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 2008 through 2012.".

SEC. 7411. PUBLIC EDUCATION REGARDING USE OF BIOTECHNOLOGY IN PRODUCING FOOD FOR HUMAN CONSUMPTION.

Section 10802 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 5921a) is repealed.

SEC. 7412. MCINTIRE-STENNIS COOPERATIVE FORESTRY ACT.

(a) IN GENERAL.—Section 2 of Public Law 87–788 (commonly known as the "McIntire-Stennis Cooperative Forestry Act") (16 U.S.C. 582a–1) is amended by inserting "and 1890 Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601))," before "and (b)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2008.

SEC. 7413. RENEWABLE RESOURCES EXTENSION ACT OF 1978.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 6 of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1675) is amended in the first sentence by striking "2007" and inserting "2012".

(b) TERMINATION DATE.—Section 8 of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 note; Public Law 95–306) is amended by striking "2007" and inserting "2012".

SEC. 7414. NATIONAL AQUACULTURE ACT OF 1980.

Section 10 of the National Aquaculture Act of 1980 (16 U.S.C. 2809) is amended by striking "2007" each place it appears and inserting "2012".

SEC. 7415. CONSTRUCTION OF CHINESE GARDEN AT THE NATIONAL ARBORETUM.

The Act of March 4, 1927 (20 U.S.C. 191 et seq.), is amended by adding at the end the following:

"SEC. 7. CONSTRUCTION OF CHINESE GARDEN AT THE NATIONAL ARBORETUM.

"A Chinese Garden may be constructed at the National Arboretum established under this Act with—

"(1) funds accepted under section 5;

"(2) authorities provided to the Secretary of Agriculture under section 6; and

"(3) appropriations provided for this purpose.".

SEC. 7416. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT AMENDMENTS OF 1985.

Section 1431 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 99 Stat. 1556) is amended by striking "2007" and inserting "2012".

SEC. 7417. ELIGIBILITY OF UNIVERSITY OF THE DISTRICT OF COLUMBIA FOR CERTAIN LAND-GRANT UNIVERSITY ASSISTANCE.

(a) IN GENERAL.—Section 208 of the District of Columbia Public Postsecondary Education Reorganization Act (Public Law 93–471; 88 Stat. 1428) is amended—

(1) in subsection (b)(2), by striking ", except" and all that follows through the period and inserting a period; and

(2) in subsection (c)—

(A) by striking "section 3" each place it appears and inserting "section 3(c)"; and

(B) by striking "Such sums may be used to pay" and all that follows through "work.".

(b) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2008.

Subtitle E—Miscellaneous

PART I—GENERAL PROVISIONS

SEC. 7501. DEFINITIONS.

Except as otherwise provided in this subtitle, in this subtitle:

(1) CAPACITY AND INFRASTRUCTURE PROGRAM.—The term "capacity and infrastructure program" has the meaning given the term in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) (as added by section 7511(a)(4)).

(2) CAPACITY AND INFRASTRUCTURE PROGRAM CRITICAL BASE FUNDING.—The term "capacity and infrastructure program critical base funding" means the aggregate amount of Federal funds made available for capacity and infrastructure programs for fiscal year 2006, as appropriate.

(3) COMPETITIVE PROGRAM.—The term "competitive program" has the meaning given the term in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) (as added by section 7511(a)(4)).

(4) COMPETITIVE PROGRAM CRITICAL BASE FUNDING.—The term "competitive program critical base funding" means the aggregate amount of Federal funds made available for competitive programs for fiscal year 2006, as appropriate.

(5) HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES.—The term "Hispanic-serving agricultural colleges and universities" has the meaning given the term in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103).

(6) NLGCA INSTITUTION.—The term "NLGCA Institution" has the meaning given the term in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103).

(7) 1862 INSTITUTION; 1890 INSTITUTION; 1994 INSTITUTION.—The terms "1862 Institution", "1890 Institution", and "1994 Institution" have the meanings given the terms in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601).

SEC. 7502. GRAZINGLANDS RESEARCH LABORATORY.

Except as otherwise specifically authorized by law and notwithstanding any other provision of law, the Federal land and facilities at El Reno, Oklahoma, administered by the Secretary (as of the date of enactment of this Act) as the Grazinglands Research Laboratory, shall not at any time, in whole or in part, be declared to be excess or surplus Federal property under chapter 5 of subtitle I of title 40, United States Code, or otherwise be conveyed or transferred in whole or in part, for the 5-year period beginning on the date of enactment of this Act.

SEC. 7503. FORT RENO SCIENCE PARK RESEARCH FACILITY.

The Secretary may lease land to the University of Oklahoma at the Grazinglands Research Laboratory at El Reno, Oklahoma, on such terms and conditions as the University and the Secretary may agree in furtherance of cooperative research and existing easement arrangements.

SEC. 7504. ROADMAP.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary, acting through the Under Secretary of Research, Education, and Economics (referred to in this section as the "Under Secretary"), shall commence preparation of a roadmap for agricultural research, education, and extension that—

(1) identifies current trends and constraints;

(2) identifies major opportunities and gaps that no single entity within the Department of Agriculture would be able to address individually;

(3) involves—

(A) interested parties from the Federal Government and nongovernmental entities; and

(B) the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123);

(4) incorporates roadmaps for agricultural research, education, and extension made publicly available by other Federal entities, agencies, or offices; and

(5) describes recommended funding levels for areas of agricultural research, education, and extension, including—

(A) competitive programs;

(B) capacity and infrastructure programs, with attention to the future growth needs of—

(i) small 1862 Institutions, 1890 Institutions, and 1994 Institutions;

(ii) Hispanic-serving agricultural colleges and universities;

(iii) NLGCA Institutions; and

(iv) colleges of veterinary medicine; and

(C) intramural programs at agencies within the research, education, and economics mission area; and

(6) describes how organizational changes enacted by this Act have impacted agricultural research, extension, and education across the Department of Agriculture, including minimization of unnecessary programmatic and administrative duplication.

(b) REVIEWABILITY.—The roadmap described in this section shall not be subject to review by any officer or employee of the Federal Government other than the Secretary (or a designee of the Secretary).

(c) ROADMAP IMPLEMENTATION AND REPORT.—Not later than 1 year after the date on which the Secretary commences preparation of the roadmap under this section, the Secretary shall—

(1) implement and use the roadmap to set the research, education, and extension agenda of the Department of Agriculture; and

(2) make the roadmap available to the public.

SEC. 7505. REVIEW OF PLAN OF WORK REQUIREMENTS.

(a) REVIEW.—The Secretary shall work with university partners in extension and research to review and identify measures to streamline the submission, reporting under, and implementation of plan of work requirements, including those requirements under—

(1) sections 1444(d) and 1445(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(d) and 3222(c), respectively);

(2) section 7 of the Hatch Act of 1887 (7 U.S.C. 361g); and

(3) section 4 of the Smith-Lever Act (7 U.S.C. 344).

(b) CONSULTATION.—In carrying out the review and formulating and compiling the recommendations, the Secretary shall consult with the land-grant institutions.

SEC. 7506. BUDGET SUBMISSION AND FUNDING.

(a) DEFINITION OF COMPETITIVE PROGRAMS.—In this section, the term "competitive programs" includes only competitive programs for which annual appropriations are requested in the annual budget submission of the President.

(b) BUDGET REQUEST.—The President shall submit to Congress, together with the annual budget submission of the President, a single budget line item reflecting the total amount requested by the President for funding for research, education, and extension activities of the Research, Education, and Economics mission area of the Department for that fiscal year and for the preceding 5 fiscal years.

(c) CAPACITY AND INFRASTRUCTURE PROGRAM REQUEST.—Of the funds requested for capacity and infrastructure programs in excess of the capacity and infrastructure program critical base funding level, budgetary emphasis should be placed on enhancing funding for—

(1) 1890 Institutions;

(2) 1994 Institutions;

(3) NLGCA Institutions;

(4) Hispanic-serving agricultural colleges and universities; and

(5) small 1862 Institutions.

(d) COMPETITIVE PROGRAM REQUEST.—Of the funds requested for competitive programs in excess of the competitive program critical base funding level, budgetary emphasis should be placed on—

(1) enhancing funding for emerging problems; and

(2) finding solutions for those problems.

PART II—RESEARCH, EDUCATION, AND ECONOMICS

SEC. 7511. RESEARCH, EDUCATION, AND ECONOMICS.

(a) IN GENERAL.—Section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) is amended—

(1) in subsection (a), by inserting "(referred to in this section as the 'Under Secretary')" before the period at the end;

(2) by striking subsections (b) through (d);

(3) by redesignating subsection (e) as subsection (g); and

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

"(b) CONFIRMATION REQUIRED.—The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate, from among distinguished scientists with specialized training or significant experience in agricultural research, education, and economics.

"(c) CHIEF SCIENTIST.—The Under Secretary shall—

"(1) hold the title of Chief Scientist of the Department; and

"(2) be responsible for the coordination of the research, education, and extension activities of the Department.

"(d) FUNCTIONS OF UNDER SECRETARY.—

"(1) PRINCIPAL FUNCTION.—The Secretary shall delegate to the Under Secretary those functions and duties under the juris-

diction of the Department that relate to research, education, and economics.

"(2) SPECIFIC FUNCTIONS AND DUTIES.—The Under Secretary shall—

"(A) identify, address, and prioritize current and emerging agricultural research, education, and extension needs (including funding);

"(B) ensure that agricultural research, education, and extension programs are effectively coordinated and integrated—

"(i) across disciplines, agencies, and institutions; and

"(ii) among applicable participants, grantees, and beneficiaries;

"(C) promote the collaborative use of all agricultural research, education, and extension resources from the local, State, tribal, regional, national, and international levels to address priority needs; and

"(D) foster communication among agricultural research, education, and extension beneficiaries, including the public, to ensure the delivery of agricultural research, education, and extension knowledge.

"(3) ADDITIONAL FUNCTIONS.—The Under Secretary shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

"(e) RESEARCH, EDUCATION, AND EXTENSION OFFICE.—

"(1) ESTABLISHMENT.—The Under Secretary shall organize within the office of the Under Secretary 6 Divisions, to be known collectively as the 'Research, Education, and Extension Office', which shall coordinate the research programs and activities of the Department.

"(2) DIVISION DESIGNATIONS.—The Divisions within the Research, Education, and Extension Office shall be as follows:

"(A) Renewable energy, natural resources, and environment.

"(B) Food safety, nutrition, and health.

"(C) Plant health and production and plant products.

"(D) Animal health and production and animal products.

"(E) Agricultural systems and technology.

"(F) Agricultural economics and rural communities.

"(3) DIVISION CHIEFS.—

"(A) SELECTION.—The Under Secretary shall select a Division Chief for each Division using available personnel authority under title 5, United States Code, including—

"(i) by term, temporary, or other appointment, without regard to—

"(I) the provisions of title 5, United States Code, governing appointments in the competitive service;

"(II) the provisions of subchapter I of chapter 35 of title 5, United States Code, relating to retention preference; and

"(III) the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States

Code, relating to classification and General Schedule pay rates;

"(ii) by detail, notwithstanding any Act making appropriations for the Department of Agriculture, whether enacted before, on, or after the date of enactment of this paragraph, requiring reimbursement for those details unless the appropriation Act specifically refers to this subsection and specifically includes these details;

"(iii) by reassignment or transfer from any other civil service position; and

"(iv) by an assignment under subchapter VI of chapter 33 of title 5, United States Code.

"(B) SELECTION GUIDELINES.—To the maximum extent practicable, the Under Secretary shall select Division Chiefs under subparagraph (A) in a manner that—

"(i) promotes leadership and professional development;

"(ii) enables personnel to interact with other agencies of the Department; and

"(iii) maximizes the ability of the Under Secretary to allow for rotations of Department personnel into the position of Division Chief.

"(C) TERM OF SERVICE.—Notwithstanding title 5, United States Code, the maximum length of service for an individual selected as a Division Chief under subparagraph (A) shall not exceed 4 years.

"(D) QUALIFICATIONS.—To be eligible for selection as a Division Chief, an individual shall have—

"(i) conducted exemplary research, education, or extension in the field of agriculture or forestry; and

"(ii) earned an advanced degree at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).

"(E) DUTIES OF DIVISION CHIEFS.—Except as otherwise provided in this Act, each Division Chief shall—

"(i) assist the Under Secretary in identifying and addressing emerging agricultural research, education, and extension needs;

"(ii) assist the Under Secretary in identifying and prioritizing Department-wide agricultural research, education, and extension needs, including funding;

"(iii) assess the strategic workforce needs of the research, education, and extension functions of the Department, and develop strategic workforce plans to ensure that existing and future workforce needs are met;

"(iv) communicate with research, education, and extension beneficiaries, including the public, and representatives of the research, education, and extension system, including the National Agricultural Research, Extension, Education, and Economics Advisory Board, to promote the benefits of agricultural research, education, and extension;

"(v) assist the Under Secretary in preparing and implementing the roadmap for agricultural research,

education, and extension, as described in section 7504 of the Food, Conservation, and Energy Act of 2008; and

"(vi) perform such other duties as the Under Secretary may determine.

"(4) GENERAL ADMINISTRATION.—

"(A) FUNDING.—Notwithstanding any Act making appropriations for the Department of Agriculture, whether enacted before, on, or after the date of enactment of this paragraph unless the appropriation Act specifically refers to this subsection and specifically includes the administration of funds under this section, the Secretary may transfer funds made available to an agency in the research, education, and economics mission area to fund the costs of Division personnel.

"(B) LIMITATION.—To the maximum extent practicable—

"(i) the Under Secretary shall minimize the number of full-time equivalent positions in the Divisions; and

"(ii) at no time shall the aggregate number of staff for all Divisions exceed 30 full-time equivalent positions.

"(C) ROTATION OF PERSONNEL.—To the maximum extent practicable, and using the authority described in paragraph (3)(A), the Under Secretary shall rotate personnel among the Divisions, and between the Divisions and agencies of the Department, in a manner that—

"(i) promotes leadership and professional development; and

"(ii) enables personnel to interact with other agencies of the Department.

"(5) ORGANIZATION.—The Under Secretary shall integrate leadership functions of the national program staff of the research agencies into the Research, Education and Extension Office in such form as is required to ensure that administrative duplication does not occur.

"(f) NATIONAL INSTITUTE OF FOOD AND AGRICULTURE.—

"(1) DEFINITIONS.—In this subsection:

"(A) ADVISORY BOARD.—The term 'Advisory Board' means the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123).

"(B) APPLIED RESEARCH.—The term 'applied research' means research that includes expansion of the findings of fundamental research to uncover practical ways in which new knowledge can be advanced to benefit individuals and society.

"(C) CAPACITY AND INFRASTRUCTURE PROGRAM.—The term 'capacity and infrastructure program' means each of the following agricultural research, extension, education, and related programs for which the Secretary has administrative or other authority as of the day before the date of enactment of the Food, Conservation, and Energy Act of 2008:

"(i) Each program providing funding to any of the 1994 Institutions under sections 533, 534(a), and 535 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382).

"(ii) The program established under section 536 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) providing research grants for 1994 Institutions.

"(iii) Each program established under subsections (b) and (c) of section 3 of the Smith-Lever Act (7 U.S.C. 343).

"(iv) Each program established under the Hatch Act of 1887 (7 U.S.C. 361a et seq.).

"(v) Each program established under section 1417(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(b)).

"(vi) The animal health and disease research program established under subtitle E of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3191 et seq.).

"(vii) Each extension program available to 1890 Institutions established under section 1444 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221).

"(viii) The program established under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222).

"(ix) The program providing grants to upgrade agricultural and food sciences facilities at 1890 Institutions established under section 1447 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222b).

"(x) The program providing distance education grants for insular areas established under section 1490 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3362).

"(xi) The program providing resident instruction grants for insular areas established under section 1491 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3363).

"(xii) Each research and development and related program established under Public Law 87–788 (commonly known as the 'McIntire-Stennis Cooperative Forestry Act') (16 U.S.C. 582a et seq.).

"(xiii) Each program established under the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 et seq.).

"(xiv) Each program providing funding to Hispanic-serving agricultural colleges and universities under section 1456 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977.

"(xv) The program providing capacity grants to NLGCA Institutions under section 1473F of the Na-

tional Agricultural Research, Extension, and Teaching Policy Act of 1977.

"(xvi) Other programs that are capacity and infrastructure programs, as determined by the Secretary.

"(D) COMPETITIVE PROGRAM.—The term 'competitive program' means each of the following agricultural research, extension, education, and related programs for which the Secretary has administrative or other authority as of the day before the date of enactment of the Food, Conservation, and Energy Act of 2008:

"(i) The Agriculture and Food Research Initiative established under section 2(b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)).

"(ii) The program providing competitive grants for risk management education established under section 524(a)(3) of the Federal Crop Insurance Act (7 U.S.C. 1524(a)(3)).

"(iii) The program providing community food project competitive grants established under section 25 of the Food and Nutrition Act of 2008 (7 U.S.C. 2034).

"(iv) The program providing grants for beginning farmer and rancher development established under section 7405 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3319f).

"(v) The program providing grants under section 1417(j) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(j)).

"(vi) The program providing grants for Hispanic-serving institutions established under section 1455 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3241).

"(vii) The program providing competitive grants for international agricultural science and education programs under section 1459A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b).

"(viii) The research and extension projects carried out under section 1621 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5811).

"(ix) The organic agriculture research and extension initiative established under section 1672B of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925b).

"(x) The specialty crop research initiative under section 412 of the Agricultural Research, Extension, and Education Reform Act of 1998.

"(xi) The administration and management of the Agricultural Bioenergy Feedstock and Energy Efficiency Research and Extension Initiative carried out under section 1672C of the Food, Agriculture, Conservation, and Trade Act of 1990.

"(xii) The research, extension, and education programs authorized by section 407 of the Agricultural Re-

search, Extension, and Education Reform Act of 1998 (7 U.S.C. 7627) relating to the competitiveness, viability and sustainability of small- and medium-sized dairy, livestock, and poultry operations.

"(xiii) Other programs that are competitive programs, as determined by the Secretary.

"(E) DIRECTOR.—The term 'Director' means the Director of the Institute.

"(F) FUNDAMENTAL RESEARCH.—The term 'fundamental research' means research that—

"(i) increases knowledge or understanding of the fundamental aspects of phenomena and has the potential for broad application; and

"(ii) has an effect on agriculture, food, nutrition, or the environment.

"(G) INSTITUTE.—The term 'Institute' means the National Institute of Food and Agriculture established by paragraph (2)(A).

"(2) ESTABLISHMENT OF NATIONAL INSTITUTE OF FOOD AND AGRICULTURE.—

"(A) ESTABLISHMENT.—The Secretary shall establish within the Department an agency to be known as the 'National Institute of Food and Agriculture'.

"(B) TRANSFER OF AUTHORITIES.—The Secretary shall transfer to the Institute, effective not later than October 1, 2009, the authorities (including all budget authorities, available appropriations, and personnel), duties, obligations, and related legal and administrative functions prescribed by law or otherwise granted to the Secretary, the Department, or any other agency or official of the Department under—

"(i) the capacity and infrastructure programs;

"(ii) the competitive programs;

"(iii) the research, education, economic, cooperative State research programs, cooperative extension and education programs, international programs, and other functions and authorities delegated by the Under Secretary to the Administrator of the Cooperative State Research, Education, and Extension Service pursuant to section 2.66 of title 7, Code of Federal Regulations (or successor regulations); and

"(iv) any and all other authorities administered by the Administrator of the Cooperative State Research, Education, and Extension Service.

"(3) DIRECTOR.—

"(A) IN GENERAL.—The Institute shall be headed by a Director, who shall be an individual who is—

"(i) a distinguished scientist; and

"(ii) appointed by the President.

"(B) SUPERVISION.—The Director shall report directly to the Secretary, or the designee of the Secretary.

"(C) FUNCTIONS OF THE DIRECTOR.—The Director shall—

"(i) serve for a 6-year term, subject to reappointment for an additional 6-year term;

"(ii) periodically report to the Secretary, or the designee of the Secretary, with respect to activities carried out by the Institute; and

"(iii) consult regularly with the Secretary, or the designee of the Secretary, to ensure, to the maximum extent practicable, that—

"(I) research of the Institute is relevant to agriculture in the United States and otherwise serves the national interest; and

"(II) the research of the Institute supplements and enhances, and does not supplant, research conducted or funded by other Federal agencies.

"(D) COMPENSATION.—The Director shall receive basic pay at a rate not to exceed the maximum amount of compensation payable to a member of the Senior Executive Service under subsection (b) of section 5382 of title 5, United States Code, except that the certification requirement in that subsection shall not apply to the compensation of the Director.

"(E) AUTHORITY AND RESPONSIBILITIES OF DIRECTOR.—Except as otherwise specifically provided in this subsection, the Director shall—

"(i) exercise all of the authority provided to the Institute by this subsection;

"(ii) formulate and administer programs in accordance with policies adopted by the Institute, in coordination with the Under Secretary;

"(iii) establish offices within the Institute;

"(iv) establish procedures for the provision and administration of grants by the Institute; and

"(v) consult regularly with the Advisory Board.

"(4) REGULATIONS.—The Institute shall have such authority as is necessary to carry out this subsection, including the authority to promulgate such regulations as the Institute considers to be necessary for governance of operations, organization, and personnel.

"(5) ADMINISTRATION.—

"(A) IN GENERAL.—The Director shall organize offices and functions within the Institute to administer fundamental and applied research and extension and education programs.

"(B) RESEARCH PRIORITIES.—The Director shall ensure the research priorities established by the Under Secretary through the Research, Education and Extension Office are carried out by the offices and functions of the Institute, where applicable.

"(C) FUNDAMENTAL AND APPLIED RESEARCH.—The Director shall—

"(i) determine an appropriate balance between fundamental and applied research programs and functions to ensure future research needs are met; and

"(ii) designate staff, as appropriate, to assist in carrying out this subparagraph.

"(D) COMPETITIVELY FUNDED AWARDS.—The Director shall—

"(i) promote the use and growth of grants awarded through a competitive process; and

"(ii) designate staff, as appropriate, to assist in carrying out this subparagraph.

"(E) COORDINATION.—The Director shall ensure that the offices and functions established under subparagraph (A) are effectively coordinated for maximum efficiency.

"(6) FUNDING.—

"(A) IN GENERAL.—In addition to funds otherwise appropriated to carry out each program administered by the Institute, there are authorized to be appropriated such sums as are necessary to carry out this subsection for each fiscal year.

"(B) ALLOCATION.—Funding made available under subparagraph (A) shall be allocated according to recommendations contained in the roadmap described in section 7504 of the Food, Conservation, and Energy Act of 2008.".

(b) FUNCTIONS.—Section 296(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7014(b)) is amended—

(1) in paragraph (4), by striking "or" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(6) the authority of the Secretary to establish in the Department, under section 251—

"(A) the position of Under Secretary of Agriculture for Research, Education, and Economics;

"(B) the Research, Education, and Extension Office; and

"(C) the National Institute of Food and Agriculture.".

(c) CONFORMING AMENDMENTS.—The following conforming amendments shall take effect on October 1, 2009:

(1) Section 522(d)(2) of the Federal Crop Insurance Act (7 U.S.C. 1522(d)(2)) is amended by striking "the Cooperative State Research, Education, and Extension Service" and inserting "the National Institute of Food and Agriculture".

(2) Section 524(a) of the Federal Crop Insurance Act (7 U.S.C. 1524(a)) is amended in each of paragraphs (1)(B) and (3)(A) by striking "the Cooperative State Research, Education, and Extension Service" each place it appears and inserting "the National Institute of Food and Agriculture".

(3) Section 306(a)(11)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)(C)) is amended by striking "the Cooperative State Research, Education, and Extension Service" and inserting "the National Institute of Food and Agriculture".

(4) Section 5(b)(2)(E) of the Agricultural Credit Improvement Act of 1992 (7 U.S.C. 1929 note; Public Law 102–554) is amended by striking "Cooperative Extension Service" and inserting "National Institute of Food and Agriculture".

(5) Section 11(f)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(f)(1)) is amended by striking "Cooperative Extension Service" and inserting "National Institute of Food and Agriculture".

(6) Section 502(h) of the Rural Development Act of 1972 (7 U.S.C. 2662(h)) is amended—

(A) in paragraph (1), by striking "Extension Service" and inserting "National Institute of Food and Agriculture"; and

(B) in paragraph (4), by striking "Extension Service staff" and inserting "National Institute of Food and Agriculture staff".

(7) Section 7404(b)(1)(B) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3101 note; Public Law 107–171) is amended by striking clause (vi) and inserting the following:

"(vi) the National Institute of Food and Agriculture.".

(8) Section 1408(b)(4) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123(b)(4)) is amended by striking "the Administrator of the Cooperative State Research, Education, and Extension Service" and inserting "the Director of the National Institute of Food and Agriculture".

(9) Section 2381(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125b(a)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(10) The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended—

(A) in section 1424A(b) (7 U.S.C. 3174a(b)), by striking "the Cooperative State Research, Education, and Extension Service" and inserting "the National Institute of Food and Agriculture"; and

(B) in section 1458(a)(10) (7 U.S.C. 3291(a)(10)), by striking "the Cooperative State Research, Education, and Extension Service" and inserting "the National Institute of Food and Agriculture".

(11) Section 1587(a) of the Food Security Act of 1985 (7 U.S.C. 3175d(a)) is amended by striking "Extension Service" each place it appears and inserting "National Institute of Food and Agriculture".

(12) Section 1444(b)(2)(A) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(b)(2)(A)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(13) Section 1473D(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(d)) is amended by striking "the Cooperative State Research Service, the Extension Service" and inserting "the National Institute of Food and Agriculture".

(14) Section 1499(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5506(c)) is amended by striking "the Cooperative State Research Service" and all that follows through "extension services;" and inserting "the National Institute of Food and Agriculture, in conjunction with the system of State agricultural experiment stations and State and county cooperative extension services; the Economic Research Service;".

(15) Section 1622 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5812) is amended—

(A) in subsection (a)(1), by striking "the Cooperative State Research Service in close cooperation with the Extension Service" and inserting "the National Institute of Food and Agriculture";

(B) in subsection (b)(1)—

(i) by striking subparagraphs (B) and (C) and inserting the following:

"(B) the National Institute of Food and Agriculture;"; and

(ii) by redesignating subparagraphs (D) through (L) as subparagraphs (C) through (K), respectively.

(16) Section 1627(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5821(d)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(17) Section 1629 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5832) is amended—

(A) in subsection (b), in the first sentence, by striking "the Extension Service" and inserting "the National Institute of Food and Agriculture"; and

(B) in subsection (h), by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(18) Section 1638(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5852(b)) is amended—

(A) in paragraph (3), by striking "Cooperative State Research Service" and inserting "National Institute of Food and Agriculture"; and

(B) in paragraph (5), by striking "Cooperative State Research Service" and inserting "National Institute of Food and Agriculture".

(19) Section 1640(a)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5854(a)(2)) is amended by striking "the Administrator of the Extension Service, the Administrator of the Cooperative State Research Service" and inserting "the Director of the National Institute of Food and Agriculture".

(20) Section 1641(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5855(a)) is amended—

(A) in paragraph (2), by striking "Cooperative State Research Service" and inserting "National Institute of Food and Agriculture"; and

(B) in paragraph (4,) by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(21) Section 1668(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5921(b)) is amended by striking "Cooperative State Research, Education, and Extension Service" and inserting "National Institute of Food and Agriculture".

(22) Section 1670(a)(4) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5923(a)(4)) is amended by striking "the Administrator of the Cooperative State Research, Education, and Extension Service" and inserting "the Director of the National Institute of Food and Agriculture".

(23) Section 1677(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5930(a)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(24) Section 2122(b)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6521(b)(1)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(25) Section 2371 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6601) is amended—

(A) in subsection (a), by striking "Extension Service" and inserting "National Institute of Food and Agriculture"; and

(B) in subsection (c)(3), by striking "Service" and inserting "System".

(26) Section 2377(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6615(a)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(27) Section 212(a)(2)(A) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(a)(2)(A)) is amended by striking "251(d)," and inserting "251(f),".

(28) Section 537 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7446) is amended in each of subsections (a)(2) and (b)(3)(B)(i) by striking "Cooperative State Research, Education, and Extension Service" and inserting "cooperative extension".

(29) Section 101(b)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7611(b)(2)) is amended by striking "Cooperative State Research, Education, and Extension Service" and inserting "National Institute of Food and Agriculture".

(30) Section 103(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(a)) is amended—

(A) in the subsection heading, by striking "Cooperative State Research, Education, and Extension Service" and inserting "National Institute of Food and Agriculture"; and

(B) in each of paragraphs (1) and (2)(A), by striking "the Cooperative State Research, Education, and Extension Service" and inserting "the National Institute of Food and Agriculture".

(31) Section 407(c) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7627(c)) is amended by striking "the Cooperative State Research, Education, and Extension Service" and inserting "the National Institute of Food and Agriculture".

(32) Section 410(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7630(a)) is amended by striking "the Administrator of the Cooperative State Research, Education, and Extension Service" and inserting "the Director of the National Institute of Food and Agriculture".

(33) Section 307(g)(5) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 8606(g)(5)) is amended by striking "Administrator of the Cooperative State Research, Education, and

Extension Service" and inserting "Director of the National Institute of Food and Agriculture".

(34) Section 5(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1674a(a)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(35) Section 6(b) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103b(b)) is amended by striking "the Cooperative State Research, Education, and Extension Service, may provide technical, financial, and related assistance to State foresters, equivalent State officials, or Cooperative Extension officials" and inserting "the National Institute of Food and Agriculture, may provide technical, financial, and related assistance to State foresters, equivalent State officials, or cooperative extension officials".

(36) Section 9(g)(2)(A)(viii) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105(g)(2)(A)(viii)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(37) Section 19(b)(1)(B)(i) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2113(b)(1)(B)(i)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(38) Section 1261(c)(4) of the Food Security Act of 1985 (16 U.S.C. 3861(c)(4)) is amended by striking "Extension Service" and inserting "National Institute of Food and Agriculture".

(39) Section 105(a) of the Africa: Seeds of Hope Act of 1998 (22 U.S.C. 2293 note; Public Law 105–385) is amended by striking "the Cooperative State, Research, Education, and Extension Service (CSREES)" and inserting "the National Institute of Food and Agriculture".

(40) Section 307(a)(4) of the National Aeronautic and Space Administration Authorization Act of 2005 (42 U.S.C. 16657(a)(4)) is amended by striking subparagraph (B) and inserting the following:

> *"(B) the program and structure of, peer review process of, management of conflicts of interest by, compensation of reviewers of, and the effects of compensation on reviewer efficiency and quality within, the National Institute of Food and Agriculture of the Department of Agriculture;".*

PART III—NEW GRANT AND RESEARCH PROGRAMS

SEC. 7521. RESEARCH AND EDUCATION GRANTS FOR THE STUDY OF ANTIBIOTIC-RESISTANT BACTERIA.

(a) IN GENERAL.—The Secretary shall provide research and education grants, on a competitive basis—

(1) to study the development of antibiotic-resistant bacteria, including—

> *(A) movement of antibiotic-resistant bacteria into groundwater and surface water; and*
>
> *(B) the effect on antibiotic resistance from various drug use regimens; and*

(2) to study and ensure the judicious use of antibiotics in veterinary and human medicine, including—

(A) methods and practices of animal husbandry;

(B) safe and effective alternatives to antibiotics;

(C) the development of better veterinary diagnostics to improve decisionmaking; and

(D) the identification of conditions or factors that affect antibiotic use on farms.

(b) ADMINISTRATION.—Paragraphs (4), (7), (8), and (11)(B) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) shall apply with respect to the making of grants under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

SEC. 7522. FARM AND RANCH STRESS ASSISTANCE NETWORK.

(a) IN GENERAL.—The Secretary, in coordination with the Secretary of Health and Human Services, shall make competitive grants to support cooperative programs between State cooperative extension services and nonprofit organizations to establish a Farm and Ranch Stress Assistance Network that provides stress assistance programs to individuals who are engaged in farming, ranching, and other agriculture-related occupations.

(b) ELIGIBLE PROGRAMS.—Grants awarded under subsection (a) may be used to initiate, expand, or sustain programs that provide professional agricultural behavioral health counseling and referral for other forms of assistance as necessary through—

(1) farm telephone helplines and websites;

(2) community education;

(3) support groups;

(4) outreach services and activities; and

(5) home delivery of assistance, in a case in which a farm resident is homebound.

(c) EXTENSION SERVICES.—Grants shall be awarded under this subsection directly to State cooperative extension services to enable the State cooperative extension services to enter into contracts, on a multiyear basis, with nonprofit, community-based, direct-service organizations to initiate, expand, or sustain cooperative programs described in subsections (a) and (b).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

SEC. 7523. SEED DISTRIBUTION.

(a) IN GENERAL.—The Secretary shall make competitive grants to eligible entities to carry out a seed distribution program to administer and maintain the distribution of vegetable seeds donated by commercial seed companies.

(b) PURPOSES.—The purposes of this program include—

(1) the distribution of seeds donated by commercial seed companies free-of-charge to appropriate—

(A) individuals;

(B) groups;

(C) institutions;

(D) governmental and nongovernmental organizations; and

(E) such other entities as the Secretary may designate;

(2) distribution of seeds to underserved communities, such as communities that experience—

(A) limited access to affordable fresh vegetables;

(B) a high rate of hunger or food insecurity; or

(C) severe or persistent poverty.

(c) ADMINISTRATION.—Paragraphs (4), (7), (8), and (11)(B) of subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) shall apply with respect to the making of grants under this section.

(d) SELECTION.—An eligible entity selected to receive a grant under subsection (a) shall have—

(1) expertise regarding the distribution of vegetable seeds donated by commercial seed companies; and

(2) the ability to achieve the purpose of the seed distribution program.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

SEC. 7524. LIVE VIRUS FOOT AND MOUTH DISEASE RESEARCH.

(a) IN GENERAL.—The Secretary shall issue a permit required under section 12 of the Act of May 29, 1884 (21 U.S.C. 113a), to the Secretary of Homeland Security for work on the live virus of foot and mouth disease at any facility that is a successor to the Plum Island Animal Disease Center and charged with researching high-consequence biological threats involving zoonotic and foreign animal diseases (referred to in this section as the "successor facility").

(b) LIMITATION TO SINGLE FACILITY.—Not more than 1 facility shall be issued a permit under subsection (a).

(c) LIMITATION ON VALIDITY.—The permit issued under this section shall be valid unless the Secretary determines that the study of live foot and mouth disease virus at the successor facility is not being carried out in accordance with the regulations promulgated by the Secretary pursuant to the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401 et seq.).

(d) AUTHORITY.—The suspension, revocation, or other impairment of the permit issued under this section—

(1) shall be made by the Secretary; and

(2) is a nondelegable function.

SEC. 7525. NATURAL PRODUCTS RESEARCH PROGRAM.

(a) IN GENERAL.—The Secretary shall establish within the Department a natural products research program.

(b) DUTIES.—In carrying out the program established under subsection (a), the Secretary shall coordinate research relating to natural products, including—

(1) research to improve human health and agricultural productivity through the discovery, development, and commercialization of products and agrichemicals from bioactive natural products, including products from plant, marine, and microbial sources;

(2) research to characterize the botanical sources, production, chemistry, and biological properties of plant-derived natural products; and

(3) other research priorities identified by the Secretary.

(c) PEER AND MERIT REVIEW.—The Secretary shall—

(1) determine the relevance and merit of research under this section through a system of peer review established by the Secretary pursuant to section 103 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613); and

(2) approve funding for research on the basis of merit, quality, and relevance to advancing the purposes of this section.

(d) BUILDINGS AND FACILITIES.—Funds made available under this section shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement and architect fees).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.

SEC. 7526. SUN GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish and carry out a program to provide grants to the sun grant centers and subcenter specified in subsection (b)—

(1) to enhance national energy security through the development, distribution, and implementation of biobased energy technologies;

(2) to promote diversification in, and the environmental sustainability of, agricultural production in the United States through biobased energy and product technologies;

(3) to promote economic diversification in rural areas of the United States through biobased energy and product technologies; and

(4) to enhance the efficiency of bioenergy and biomass research and development programs through improved coordination and collaboration among—

(A) the Department of Agriculture;

(B) the Department of Energy; and

(C) land-grant colleges and universities.

(b) GRANTS.—

(1) IN GENERAL.—The Secretary shall use amounts made available under subsection (g) to provide grants to each of the following:

(A) NORTH-CENTRAL CENTER.—A north-central sun grant center at South Dakota State University for the region composed of the States of Illinois, Indiana, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

(B) SOUTHEASTERN CENTER.—A southeastern sun grant center at the University of Tennessee at Knoxville for the region composed of—

(i) the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia;

(ii) the Commonwealth of Puerto Rico; and

(iii) the United States Virgin Islands.

(C) SOUTH-CENTRAL CENTER.—A south-central sun grant center at Oklahoma State University for the region composed of the States of Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

(D) WESTERN CENTER.—A western sun grant center at Oregon State University for the region composed of—

(i) the States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington; and

(ii) insular areas (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103 (other than the insular areas referred to in clauses (ii) and (iii) of subparagraph (B))).

(E) NORTHEASTERN CENTER.—A northeastern sun grant center at Cornell University for the region composed of the States of Connecticut, Delaware, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia.

(F) WESTERN INSULAR PACIFIC SUBCENTER.—A western insular Pacific sun grant subcenter at the University of Hawaii for the region of Alaska, Hawaii, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

(2) MANNER OF DISTRIBUTION.—

(A) CENTERS.—In providing any funds made available under subsection (g), the Secretary shall distribute the grants in equal amounts to the sun grant centers described in subparagraphs (A) through (E) of paragraph (1).

(B) SUBCENTER.—The sun grant center described in paragraph (1)(D) shall allocate a portion of the funds received under paragraph (1) to the subcenter described in paragraph (1)(F) pursuant to guidance issued by the Secretary.

(3) FAILURE TO COMPLY WITH REQUIREMENTS.—If the Secretary finds on the basis of a review of the annual report required under subsection (f) or on the basis of an audit of a sun grant center or subcenter conducted by the Secretary that the center or subcenter has not complied with the requirements of this section, the sun grant center or subcenter shall be ineligible to receive further grants under this section for such period of time as may be prescribed by the Secretary.

(c) USE OF FUNDS.—

(1) COMPETITIVE GRANTS.—

(A) IN GENERAL.—A sun grant center or subcenter shall use 75 percent of the funds described in subsection (b) to provide competitive grants to entities that are—

(i) eligible to receive grants under subsection (b)(7) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)(7)); and

(ii) located in the region covered by the sun grant center or subcenter.

(B) ACTIVITIES.—Grants described in subparagraph (A) shall be used by the grant recipient to conduct, in a manner consistent with the purposes described in subsection (a), multi-institutional and multistate—

(i) research, extension, and education programs on technology development; and

(ii) integrated research, extension, and education programs on technology implementation.

(C) FUNDING ALLOCATION.—Of the amount of funds that is used to provide grants under subparagraph (A), the sun grant center or subcenter shall use—

(i) not less than 30 percent of the funds to carry out the programs described in subparagraph (B)(i); and

(ii) not less than 30 percent of the funds to carry out the programs described in subparagraph (B)(ii).

(D) ADMINISTRATION.—

(i) PEER AND MERIT REVIEW.—In making grants under this paragraph, a sun grant center or subcenter shall—

(I) seek and accept proposals for grants;

(II) determine the relevance and merit of proposals through a system of peer review similar to that established by the Secretary pursuant to section 103 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613); and

(III) award grants on the basis of merit, quality, and relevance to advancing the purposes of this section.

(ii) PRIORITY.—A sun grant center or subcenter shall give a higher priority to programs that are consistent with the plan approved by the Secretary under subsection (d).

(iii) TERM.—A grant awarded by a sun grant center or subcenter shall have a term that does not exceed 5 years.

(iv) MATCHING FUNDS REQUIRED.—

(I) IN GENERAL.—Except as provided in subclauses (II) and (III), as a condition of receiving a grant under this paragraph, the sun grant center or subcenter shall require that not less than 20 percent of the cost of an activity described in subparagraph (B) be matched with funds, including in-kind contributions, from a non-Federal source.

(II) EXCLUSION.—Subclause (I) shall not apply to fundamental research (as defined in subsection (f)(1) of section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) (as added by section 7511(a)(4)).

(III) REDUCTION.—The sun grant center or subcenter may reduce or eliminate the requirement for non-Federal funds under subclause (I) for applied research (as defined in subsection (f)(1) of section 251 of the Department of Agriculture Reor-

ganization Act of 1994 (7 U.S.C. 6971) (as added by section 7511(a)(4)) if the sun grant center or subcenter determines that the reduction is necessary and appropriate pursuant to guidance issued by the Secretary.

(v) BUILDINGS AND FACILITIES.—Funds made available for grants shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement and architect fees).

(vi) LIMITATION ON INDIRECT COSTS.—A sun grant center or subcenter may not recover the indirect costs of making grants under subparagraph (A).

(2) ADMINISTRATIVE EXPENSES.—A sun grant center or subcenter may use up to 4 percent of the funds described in subsection (b) to pay administrative expenses incurred in carrying out paragraph (1).

(3) RESEARCH, EXTENSION AND EDUCATIONAL ACTIVITIES.—The sun grant centers and subcenter shall use the remainder of the funds described in subsection (b) to conduct, in a manner consistent with the purposes described in subsection (a), multi-institutional and multistate—

(A) research, extension, and educational programs on technology development; and

(B) integrated research, extension, and educational programs on technology implementation.

(d) PLAN FOR RESEARCH ACTIVITIES TO BE FUNDED.—

(1) IN GENERAL.—Subject to the availability of funds under subsection (g), and in cooperation with land-grant colleges and universities and private industry in accordance with paragraph (2), the sun grant centers and subcenter shall jointly develop and submit to the Secretary for approval a plan for addressing the bioenergy, biomass, and gasification research priorities of the Department of Agriculture and the Department of Energy at the State and regional levels.

(2) GASIFICATION COORDINATION.—With respect to gasification research activity, the sun grant centers and subcenter shall coordinate planning with land-grant colleges and universities in their respective regions that have ongoing research activities in that area.

(3) FUNDING.—Funds described in subsection (c)(2) shall be available to carry out planning coordination under paragraph (1).

(4) USE OF PLAN.—The sun grant centers and subcenter shall use the plan described in paragraph (1) in making grants under subsection (c)(1).

(e) GRANT INFORMATION ANALYSIS CENTER.—The sun grant centers and subcenter shall maintain a Sun Grant Information Analysis Center at the sun grant center specified in subsection (b)(1)(A) to provide the sun grant centers and subcenter with analysis and data management support.

(f) ANNUAL REPORTS.—Not later than 90 days after the end of each fiscal year, a sun grant center or subcenter receiving a grant under this section shall submit to the Secretary a report that de-

scribes the policies, priorities, and operations of the program carried out by the center or subcenter during the fiscal year, including—

(1) the results of all peer and merit review procedures conducted pursuant to subsection (c)(1)(D)(i); and

(2) a description of progress made in facilitating the priorities described in subsection (d)(1).

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $75,000,000 for each of fiscal years 2008 through 2012, of which not more than $4,000,000 for each fiscal year shall be made available to carry out subsection (e).

SEC. 7527. STUDY AND REPORT ON FOOD DESERTS.

(a) DEFINITION OF FOOD DESERT.—In this section, the term "food desert" means an area in the United States with limited access to affordable and nutritious food, particularly such an area composed of predominantly lower-income neighborhoods and communities.

(b) STUDY AND REPORT.—The Secretary shall carry out a study of, and prepare a report on, food deserts.

(c) CONTENTS.—The study and report shall—

(1) assess the incidence and prevalence of food deserts;

(2) identify—

(A) characteristics and factors causing and influencing food deserts; and

(B) the effect on local populations of limited access to affordable and nutritious food; and

(3) provide recommendations for addressing the causes and effects of food deserts through measures that include—

(A) community and economic development initiatives;

(B) incentives for retail food market development, including supermarkets, small grocery stores, and farmers' markets; and

(C) improvements to Federal food assistance and nutrition education programs.

(d) COORDINATION WITH OTHER AGENCIES AND ORGANIZATIONS.—The Secretary shall conduct the study under this section in coordination and consultation with—

(1) the Secretary of Health and Human Services;

(2) the Administrator of the Small Business Administration;

(3) the Institute of Medicine; and

(4) representatives of appropriate businesses, academic institutions, and nonprofit and faith-based organizations.

(e) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate the report prepared under this section, including the findings and recommendations described in subsection (c).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000.

SEC. 7528. DEMONSTRATION PROJECT AUTHORITY FOR TEMPORARY POSITIONS.

Notwithstanding section 4703(d)(1) of title 5, United States Code, the amendment to the personnel management demonstration project established in the Department of Agriculture (67 Fed. Reg. 70776 (2002)), shall become effective upon the date of enactment of this Act and shall remain in effect unless modified by law.

SEC. 7529. AGRICULTURAL AND RURAL TRANSPORTATION RESEARCH AND EDUCATION.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation, shall make competitive grants to institutions of higher education to carry out agricultural and rural transportation research and education activities.

(b) ACTIVITIES.—Research and education grants made under this section shall be used to address rural transportation and logistics needs of agricultural producers and related rural businesses, including—

(1) the transportation of biofuels; and

(2) the export of agricultural products.

(c) SELECTION CRITERIA.—

(1) IN GENERAL.—The Secretary shall award grants under this section on the basis of the transportation research, education, and outreach expertise of the applicant, as determined by the Secretary.

(2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to institutions of higher education for use in coordinating research and education activities with other institutions of higher education with similar agricultural and rural transportation research and education programs.

(d) DIVERSIFICATION OF RESEARCH.—The Secretary shall award grants under this section in areas that are regionally diverse and broadly representative of the diversity of agricultural production and related transportation needs in the rural areas of the United States.

(e) MATCHING FUNDS REQUIREMENT.—The Secretary shall require each recipient of a grant under this section to provide, from non-Federal sources, in cash or in kind, 50 percent of the cost of carrying out activities under the grant.

(f) GRANT REVIEW.—A grant shall be awarded under this section on a competitive, peer- and merit-reviewed basis in accordance with section 103(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(a)).

(g) NO DUPLICATION.—In awarding grants under this section, the Secretary shall ensure that activities funded under this section do not duplicate the efforts of the University Transportation Centers described in sections 5505 and 5506 of title 49, United States Code.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2008 through 2012.

TITLE VIII—FORESTRY

Subtitle A—Amendments to Cooperative Forestry Assistance Act of 1978

SEC. 8001. NATIONAL PRIORITIES FOR PRIVATE FOREST CONSERVATION.

Section 2 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101) is amended—

(1) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively; and

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

"(c) PRIORITIES.—In allocating funds appropriated or otherwise made available under this Act, the Secretary shall focus on the following national private forest conservation priorities, notwithstanding other priorities specified elsewhere in this Act:

"(1) Conserving and managing working forest landscapes for multiple values and uses.

"(2) Protecting forests from threats, including catastrophic wildfires, hurricanes, tornados, windstorms, snow or ice storms, flooding, drought, invasive species, insect or disease outbreak, or development, and restoring appropriate forest types in response to such threats.

"(3) Enhancing public benefits from private forests, including air and water quality, soil conservation, biological diversity, carbon storage, forest products, forestry-related jobs, production of renewable energy, wildlife, wildlife corridors and wildlife habitat, and recreation.

"(d) REPORTING REQUIREMENT.—Not later than September 30, 2011, the Secretary shall submit to Congress a report describing how funds were used under this Act, and through other programs administered by the Secretary, to address the national priorities specified in subsection (c) and the outcomes achieved in meeting the national priorities.".

SEC. 8002. LONG-TERM STATE-WIDE ASSESSMENTS AND STRATEGIES FOR FOREST RESOURCES.

The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 2 (16 U.S.C. 2101) the following new section:

"SEC. 2A. STATE-WIDE ASSESSMENT AND STRATEGIES FOR FOREST RESOURCES.

"(a) ASSESSMENT AND STRATEGIES FOR FOREST RESOURCES.—For a State to be eligible to receive funds under the authorities of this Act, the State forester of that State or equivalent State official shall develop and submit to the Secretary, not later than two years after the date of enactment of the Food, Conservation, and Energy Act of 2008, the following:

"(1) A State-wide assessment of forest resource conditions, including—

"(A) the conditions and trends of forest resources in that State;

"(B) the threats to forest lands and resources in that State consistent with the national priorities specified in section 2(c);

"(C) any areas or regions of that State that are a priority; and

"(D) any multi-State areas that are a regional priority.

"(2) A long-term State-wide forest resource strategy, including—

"(A) strategies for addressing threats to forest resources in the State outlined in the assessment required by paragraph (1); and

"(B) a description of the resources necessary for the State forester or equivalent State official from all sources to address the State-wide strategy.

"(b) UPDATING.—At such times as the Secretary determines to be necessary, the State forester or equivalent State official shall update and resubmit to the Secretary the State-wide assessment and State-wide strategy required by subsection (a).

"(c) COORDINATION.—In developing or updating the State-wide assessment and State-wide strategy required by subsection (a), the State Forester or equivalent State official shall coordinate with—

"(1) the State Forest Stewardship Coordinating Committee established for the State under section 19(b);

"(2) the State wildlife agency, with respect to strategies contained in the State wildlife action plans;

"(3) the State Technical Committee;

"(4) applicable Federal land management agencies; and

"(5) for purposes of the Forest Legacy Program under section 7, the State lead agency designated by the Governor.

"(d) INCORPORATION OF OTHER PLANS.—In developing or updating the State-wide assessment and State-wide strategy required by subsection (a), the State forester or equivalent State official shall incorporate any forest management plan of the State, including community wildfire protection plans and State wildlife action plans.

"(e) SUFFICIENCY.—Once approved by the Secretary, a State-wide assessment and State-wide strategy developed under subsection (a) shall be deemed to be sufficient to satisfy all relevant State planning and assessment requirements under this Act.

"(f) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section up to $10,000,000 for each of fiscal years 2008 through 2012.

"(2) ADDITIONAL FUNDING SOURCES.—In addition to the funds appropriated for a fiscal year pursuant to the authorization of appropriations in paragraph (1) to carry out this section, the Secretary may use any other funds made available for planning under this Act to carry out this section, except that the total amount of combined funding used to carry out this section may not exceed $10,000,000 in any fiscal year.

"(g) ANNUAL REPORT ON USE OF FUNDS.—The State forester or equivalent State official shall submit to the Secretary an annual report detailing how funds made available to the State under this Act are being used.".

SEC. 8003. COMMUNITY FOREST AND OPEN SPACE CONSERVATION PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) the Forest Service projects that, by calendar year 2030, approximately 44,000,000 acres of privately-owned forest land will be developed throughout the United States;

(2) public access to parcels of privately-owned forest land for outdoor recreational activities, including hunting, fishing, and trapping, has declined and, as a result, participation in those activities has also declined in cases in which public access is not secured;

(3) rising rates of obesity and other public health problems relating to the inactivity of the citizens of the United States have been shown to be ameliorated by improving public access to safe and attractive areas for outdoor recreation;

(4) in rapidly-growing communities of all sizes throughout the United States, remaining parcels of forest land play an essential role in protecting public water supplies;

(5) forest parcels owned by local governmental entities and nonprofit organizations are providing important demonstration sites for private landowners to learn forest management techniques;

(6) throughout the United States, communities of diverse types and sizes are deriving significant financial and community benefits from managing forest land owned by local governmental entities for timber and other forest products; and

(7) there is an urgent need for local governmental entities to be able to leverage financial resources in order to purchase important parcels of privately-owned forest land as the parcels are offered for sale.

(b) COMMUNITY FOREST AND OPEN SPACE CONSERVATION PROGRAM.—The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 7 (16 U.S.C. 2103c) the following new section:

"SEC. 7A. COMMUNITY FOREST AND OPEN SPACE CONSERVATION PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a local governmental entity, Indian tribe, or nonprofit organization that owns or acquires a parcel under the program.

"(2) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(3) LOCAL GOVERNMENTAL ENTITY.—The term 'local governmental entity' includes any municipal government, county government, or other local government body with jurisdiction over local land use decisions.

"(4) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means any organization that—

"(A) is described in section 170(h)(3) of the Internal Revenue Code of 1986; and

"(B) operates in accordance with 1 or more of the purposes specified in section 170(h)(4)(A) of that Code.

"(5) PROGRAM.—The term 'Program' means the community forest and open space conservation program established under subsection (b).

"(6) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

"(b) ESTABLISHMENT.—The Secretary shall establish a program, to be known as the 'community forest and open space conservation program'.

"(c) GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary may award grants to eligible entities to acquire private forest land, to be owned in fee simple, that—

"(A) are threatened by conversion to nonforest uses; and

"(B) provide public benefits to communities, including—

"(i) economic benefits through sustainable forest management;

"(ii) environmental benefits, including clean water and wildlife habitat;

"(iii) benefits from forest-based educational programs, including vocational education programs in forestry;

"(iv) benefits from serving as models of effective forest stewardship for private landowners; and

"(v) recreational benefits, including hunting and fishing.

"(2) FEDERAL COST SHARE.—An eligible entity may receive a grant under the Program in an amount equal to not more than 50 percent of the cost of acquiring 1 or more parcels, as determined by the Secretary.

"(3) NON-FEDERAL SHARE.—As a condition of receipt of the grant, an eligible entity that receives a grant under the Program shall provide, in cash, donation, or in kind, a non-Federal matching share in an amount that is at least equal to the amount of the grant received.

"(4) APPRAISAL OF PARCELS.—To determine the non-Federal share of the cost of a parcel of privately-owned forest land under paragraph (2), an eligible entity shall require appraisals of the land that comply with the Uniform Appraisal Standards for Federal Land Acquisitions developed by the Interagency Land Acquisition Conference.

"(5) APPLICATION.—An eligible entity that seeks to receive a grant under the Program shall submit to the State forester or equivalent official (or in the case of an Indian tribe, an equivalent official of the Indian tribe) an application that includes—

"(A) a description of the land to be acquired;

"(B) a forest plan that provides—

"(i) a description of community benefits to be achieved from the acquisition of the private forest land; and

"(ii) an explanation of the manner in which any private forest land to be acquired using funds from the grant will be managed; and

"(C) such other relevant information as the Secretary may require.

"(6) EFFECT ON TRUST LAND.—

"(A) INELIGIBILITY.—The Secretary shall not provide a grant under the Program for any project on land held in trust by the United States (including Indian reservations and allotment land).

"(B) ACQUIRED LAND.—No land acquired using a grant provided under the Program shall be converted to land held in trust by the United States on behalf of any Indian tribe.

"(7) APPLICATIONS TO SECRETARY.—The State forester or equivalent official (or in the case of an Indian tribe, an equivalent official of the Indian tribe) shall submit to the Secretary a list that includes a description of each project submitted by an eligible entity at such times and in such form as the Secretary shall prescribe.

"(d) DUTIES OF ELIGIBLE ENTITY.—An eligible entity shall provide public access to, and manage, forest land acquired with a grant under this section in a manner that is consistent with the purposes for which the land was acquired under the Program.

"(e) PROHIBITED USES.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), an eligible entity that acquires a parcel under the Program shall not sell the parcel or convert the parcel to nonforest use.

"(2) REIMBURSEMENT OF FUNDS.—An eligible entity that sells or converts to nonforest use a parcel acquired under the Program shall pay to the Federal Government an amount equal to the greater of the current sale price, or current appraised value, of the parcel.

"(3) LOSS OF ELIGIBILITY.—An eligible entity that sells or converts a parcel acquired under the Program shall not be eligible for additional grants under the Program.

"(f) STATE ADMINISTRATION AND TECHNICAL ASSISTANCE.—The Secretary may allocate not more than 10 percent of all funds made available to carry out the Program for each fiscal year to State foresters or equivalent officials (including equivalent officials of Indian tribes) for Program administration and technical assistance.

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

SEC. 8004. ASSISTANCE TO THE FEDERATED STATES OF MICRONESIA, THE REPUBLIC OF THE MARSHALL ISLANDS, AND THE REPUBLIC OF PALAU.

Section 13(d)(1) of the Cooperative Forestry Act of 1978 (16 U.S.C. 2109(d)(1)) is amended by striking "the Trust Territory of the Pacific Islands," and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau,".

SEC. 8005. CHANGES TO FOREST RESOURCE COORDINATING COMMITTEE.

Section 19 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2113) is amended by striking subsection (a) and inserting the following new subsection:

"(a) FOREST RESOURCE COORDINATING COMMITTEE.—

"(1) ESTABLISHMENT.—The Secretary shall establish a committee, to be known as the 'Forest Resource Coordinating Committee' (in this section referred to as the 'Coordinating Committee'), to coordinate nonindustrial private forestry activities within the Department of Agriculture and with the private sector.

"(2) COMPOSITION.—The Coordinating Committee shall be composed of the following:

"(A) The Chief of the Forest Service.

"(B) The Chief of the Natural Resources Conservation Service.

"(C) The Director of the Farm Service Agency.

"(D) The Director of the National Institute of Food and Agriculture.

"(E) Non-Federal representatives appointed by the Secretary to 3 year terms, although initial appointees shall have staggered terms, including the following persons:

"(i) At least three State foresters or equivalent State officials from geographically diverse regions of the United States.

"(ii) A representative of a State fish and wildlife agency.

"(iii) An owner of nonindustrial private forest land.

"(iv) A forest industry representative.

"(v) A conservation organization representative.

"(vi) A land-grant university or college representative.

"(vii) A private forestry consultant.

"(viii) A representative from a State Technical Committee established under section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861).

"(F) Such other persons as determined by the Secretary to be appropriate.

"(3) CHAIRPERSON.—The Chief of the Forest Service shall serve as chairperson of the Coordinating Committee.

"(4) DUTIES.—The Coordinating Committee shall—

"(A) provide direction and coordination of actions within the Department of Agriculture, and coordination with State agencies and the private sector, to effectively address the national priorities specified in section 2(c), with specific focus owners of nonindustrial private forest land;

"(B) clarify individual agency responsibilities of each agency represented on the Coordinating Committee concerning the national priorities specified in section 2(c), with specific focus on nonindustrial private forest land;

"(C) provide advice on the allocation of funds, including the competitive funds set-aside by sections 13A and 13B; and

"(D) assist the Secretary in developing and reviewing the report required by section 2(d).

"(5) MEETING.—The Coordinating Committee shall meet annually to discuss progress in addressing the national priorities specified in section 2(c) and issues regarding nonindustrial private forest land.

"(6) COMPENSATION.—

"(A) FEDERAL MEMBERS.—Members of the Coordinating Committee who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Coordinating Committee.

"(B) NON-FEDERAL MEMBERS.—Non-federal members of the Coordinating Committee shall serve without pay, but

may be reimbursed for reasonable costs incurred while performing their duties on behalf of the Coordinating Committee.".

SEC. 8006. CHANGES TO STATE FOREST STEWARDSHIP COORDINATING COMMITTEES.

Section 19(b) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2113(b)) is amended—

(1) in paragraph (1)(B)(ii)—

(A) by striking "and" at the end of subclause (VII); and

(B) by adding at the end the following new subclause: "(IX) the State Technical Committee.".

(2) in paragraph (2)(C), by striking "a Forest Stewardship Plan under paragraph (3)" and inserting "the State-wide assessment and strategy regarding forest resource conditions under section 2A";

(3) by striking paragraphs (3) and (4); and

(4) by redesignating paragraphs (5) and (6) as paragraphs (3) and (4), respectively.

SEC. 8007. COMPETITION IN PROGRAMS UNDER COOPERATIVE FORESTRY ASSISTANCE ACT OF 1978.

The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 13 (16 U.S.C. 2109) the following new section:

"SEC. 13A. COMPETITIVE ALLOCATION OF FUNDS TO STATE FORESTERS OR EQUIVALENT STATE OFFICIALS.

"(a) COMPETITION.—Beginning not later than 3 years after the date of the enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall competitively allocate a portion, to be determined by the Secretary, of the funds available under this Act to State foresters or equivalent State officials.

"(b) DETERMINATION.—In determining the competitive allocation of funds under subsection (a), the Secretary shall consult with the Forest Resource Coordinating Committee established by section 19(a).

"(c) PRIORITY.—The Secretary shall give priority for funding to States for which the long-term State-wide forest resource strategies submitted under section 2A(a)(2) will best promote the national priorities specified in section 2(c).".

SEC. 8008. COMPETITIVE ALLOCATION OF FUNDS FOR COOPERATIVE FOREST INNOVATION PARTNERSHIP PROJECTS.

The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 13A, as added by section 8006, the following new section:

"SEC. 13B. COMPETITIVE ALLOCATION OF FUNDS FOR COOPERATIVE FOREST INNOVATION PARTNERSHIP PROJECTS.

"(a) COOPERATIVE FOREST INNOVATION PARTNERSHIP PROJECTS.—The Secretary may competitively allocate not more than 5 percent of the funds made available under this Act to support innovative national, regional, or local education, outreach, or technology transfer projects that the Secretary determines would substantially increase the ability of the Department of Agriculture to address the national priorities specified in section 2(c).

"(b) ELIGIBILITY.—Notwithstanding the eligibility limitations contained in this Act, any State or local government, Indian tribe,

land-grant college or university, or private entity shall be eligible to compete for funds to be competitively allocated under subsection (a).

"(c) COST-SHARE REQUIREMENT.—In carrying out subsection (a), the Secretary shall not cover more than 50 percent of the total cost of a project under such subsection. In calculating the total cost of a project and contributions made with regard to the project, the Secretary shall include in-kind contributions.".

Subtitle B—Cultural and Heritage Cooperation Authority

SEC. 8101. PURPOSES.

The purposes of this subtitle are—

(1) to authorize the reburial of human remains and cultural items on National Forest System land, including human remains and cultural items repatriated under the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(2) to prevent the unauthorized disclosure of information regarding reburial sites, including the quantity and identity of human remains and cultural items on sites and the location of sites;

(3) to authorize the Secretary of Agriculture to ensure access to National Forest System land, to the maximum extent practicable, by Indians and Indian tribes for traditional and cultural purposes;

(4) to authorize the Secretary to provide forest products, without consideration, to Indian tribes for traditional and cultural purposes;

(5) to authorize the Secretary to protect the confidentiality of certain information, including information that is culturally sensitive to Indian tribes;

(6) to increase the availability of Forest Service programs and resources to Indian tribes in support of the policy of the United States to promote tribal sovereignty and self-determination; and

(7) to strengthen support for the policy of the United States of protecting and preserving the traditional, cultural, and ceremonial rites and practices of Indian tribes, in accordance with Public Law 95–341 (commonly known as the American Indian Religious Freedom Act; 42 U.S.C. 1996).

SEC. 8102. DEFINITIONS.

In this subtitle:

(1) ADJACENT SITE.—The term "adjacent site" means a site that borders a boundary line of National Forest System land.

(2) CULTURAL ITEMS.—The term "cultural items" has the meaning given the term in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001), except that the term does not include human remains.

(3) HUMAN REMAINS.—The term "human remains" means the physical remains of the body of a person of Indian ancestry.

(4) INDIAN.—The term "Indian" means an individual who is a member of an Indian tribe.

(5) INDIAN TRIBE.—The term "Indian tribe" means any Indian or Alaska Native tribe, band, nation, pueblo, village, or other community the name of which is included on a list pub-

lished by the Secretary of the Interior pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1).

(6) LINEAL DESCENDANT.—The term "lineal descendant" means an individual that can trace, directly and without interruption, the ancestry of the individual through the traditional kinship system of an Indian tribe, or through the common law system of descent, to a known Indian, the human remains, funerary objects, or other sacred objects of whom are claimed by the individual.

(7) NATIONAL FOREST SYSTEM.—The term "National Forest System" has the meaning given the term in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(8) REBURIAL SITE.—The term "reburial site" means a specific physical location at which cultural items or human remains are reburied.

(9) TRADITIONAL AND CULTURAL PURPOSE.—The term "traditional and cultural purpose", with respect to a definable use, area, or practice, means that the use, area, or practice is identified by an Indian tribe as traditional or cultural because of the long-established significance or ceremonial nature of the use, area, or practice to the Indian tribe.

SEC. 8103. REBURIAL OF HUMAN REMAINS AND CULTURAL ITEMS.

(a) REBURIAL SITES.—In consultation with an affected Indian tribe or lineal descendant, the Secretary may authorize the use of National Forest System land by the Indian tribe or lineal descendant for the reburial of human remains or cultural items in the possession of the Indian tribe or lineal descendant that have been disinterred from National Forest System land or an adjacent site.

(b) REBURIAL.—With the consent of the affected Indian tribe or lineal descendent, the Secretary may recover and rebury, at Federal expense or using other available funds, human remains and cultural items described in subsection (a) at the National Forest System land identified under that subsection.

(c) AUTHORIZATION OF USE.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may authorize such uses of reburial sites on National Forest System land, or on the National Forest System land immediately surrounding a reburial site, as the Secretary determines to be necessary for management of the National Forest System.

(2) AVOIDANCE OF ADVERSE IMPACTS.—In carrying out paragraph (1), the Secretary shall avoid adverse impacts to cultural items and human remains, to the maximum extent practicable.

SEC. 8104. TEMPORARY CLOSURE FOR TRADITIONAL AND CULTURAL PURPOSES.

(a) RECOGNITION OF HISTORIC USE.—To the maximum extent practicable, the Secretary shall ensure access to National Forest System land by Indians for traditional and cultural purposes, in accordance with subsection (b), in recognition of the historic use by Indians of National Forest System land.

(b) CLOSING LAND FROM PUBLIC ACCESS.—

(1) AUTHORITY TO CLOSE.—Upon the approval by the Secretary of a request from an Indian tribe, the Secretary may temporarily close from public access specifically identified National Forest System land to protect the privacy of tribal activities for traditional and cultural purposes.

(2) LIMITATION.—A closure of National Forest System land under paragraph (1) shall affect the smallest practicable area for the minimum period necessary for activities of the applicable Indian tribe.

(3) CONSISTENCY.—Access by Indian tribes to National Forest System land under this subsection shall be consistent with the purposes of Public Law 95–341 (commonly known as the American Indian Religious Freedom Act; 42 U.S.C. 1996).

SEC. 8105. FOREST PRODUCTS FOR TRADITIONAL AND CULTURAL PURPOSES.

(a) IN GENERAL.—Notwithstanding section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a), the Secretary may provide free of charge to Indian tribes any trees, portions of trees, or forest products from National Forest System land for traditional and cultural purposes.

(b) PROHIBITION.—Trees, portions of trees, or forest products provided under subsection (a) may not be used for commercial purposes.

SEC. 8106. PROHIBITION ON DISCLOSURE.

(a) NONDISCLOSURE OF INFORMATION.—

(1) IN GENERAL.—The Secretary shall not disclose under section 552 of title 5, United States Code (commonly known as the "Freedom of Information Act"), information relating to—

(A) subject to subsection (b)(l), human remains or cultural items reburied on National Forest System land under section 8103; or

(B) subject to subsection (b)(2), resources, cultural items, uses, or activities that—

(i) have a traditional and cultural purpose; and

(ii) are provided to the Secretary by an Indian or Indian tribe under an express expectation of confidentiality in the context of forest and rangeland research activities carried out under the authority of the Forest Service.

(2) LIMITATIONS ON DISCLOSURE.—Subject to subsection (b)(2), the Secretary shall not be required to disclose information under section 552 of title 5, United States Code (commonly known as the "Freedom of Information Act"), concerning the identity, use, or specific location in the National Forest System of—

(A) a site or resource used for traditional and cultural purposes by an Indian tribe; or

(B) any cultural items not covered under section 8103.

(b) LIMITED RELEASE OF INFORMATION.—

(1) REBURIAL.—The Secretary may disclose information described in subsection (a)(l)(A) if, before the disclosure, the Secretary—

(A) consults with an affected Indian tribe or lineal descendent;

(B) determines that disclosure of the information—

(i) would advance the purposes of this subtitle; and

(ii) is necessary to protect the human remains or cultural items from harm, theft, or destruction; and

(C) attempts to mitigate any adverse impacts identified by an Indian tribe or lineal descendant that reasonably could be expected to result from disclosure of the information.

(2) OTHER INFORMATION.—The Secretary, in consultation with appropriate Indian tribes, may disclose information described under paragraph (1)(B) or (2) of subsection (a) if the Secretary determines that disclosure of the information to the public—

(A) would advance the purposes of this subtitle;

(B) would not create an unreasonable risk of harm, theft, or destruction of the resource, site, or object, including individual organic or inorganic specimens; and

(C) would be consistent with other applicable laws.

SEC. 8107. SEVERABILITY AND SAVINGS PROVISIONS.

(a) SEVERABILITY.—If any provision of this subtitle, or the application of any provision of this subtitle to any person or circumstance is held invalid, the application of such provision or circumstance and the remainder of this subtitle shall not be affected thereby.

(b) SAVINGS.—Nothing in this subtitle—

(1) diminishes or expands the trust responsibility of the United States to Indian tribes, or any legal obligation or remedy resulting from that responsibility;

(2) alters, abridges, repeals, or affects any valid agreement between the Forest Service and an Indian tribe;

(3) alters, abridges, diminishes, repeals, or affects any reserved or other right of an Indian tribe; or

(4) alters, abridges, diminishes, repeals, or affects any other valid existing right relating to National Forest System land or other public land.

Subtitle C—Amendments to Other Forestry-Related Laws

SEC. 8201. RURAL REVITALIZATION TECHNOLOGIES.

Section 2371(d)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6601(d)(2)) is amended by striking "2004 through 2008" and inserting "2008 through 2012".

SEC. 8202. OFFICE OF INTERNATIONAL FORESTRY.

Section 2405(d) of the Global Climate Change Prevention Act of 1990 (7 U.S.C. 6704(d)) is amended by striking "2007" and inserting "2012".

SEC. 8203. EMERGENCY FOREST RESTORATION PROGRAM.

(a) ESTABLISHMENT.—Title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 et seq.) is amended by adding at the end the following new section:

"SEC. 407. EMERGENCY FOREST RESTORATION PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) EMERGENCY MEASURES.—The term 'emergency measures' means those measures that—

"(A) are necessary to address damage caused by a natural disaster to natural resources on nonindustrial private forest land, and the damage, if not treated—

"(i) would impair or endanger the natural resources on the land; and

"(ii) would materially affect future use of the land; and

"(B) would restore forest health and forest-related resources on the land.

"(2) NATURAL DISASTER.—The term 'natural disaster' includes wildfires, hurricanes or excessive winds, drought, ice storms or blizzards, floods, or other resource-impacting events, as determined by the Secretary.

"(3) NONINDUSTRIAL PRIVATE FOREST LAND.—The term 'nonindustrial private forest land' means rural land, as determined by the Secretary, that—

"(A) has existing tree cover (or had tree cover immediately before the natural disaster and is suitable for growing trees); and

"(B) is owned by any nonindustrial private individual, group, association, corporation, or other private legal entity, that has definitive decision-making authority over the land.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(b) AVAILABILITY OF ASSISTANCE.—The Secretary may make payments to an owner of nonindustrial private forest land who carries out emergency measures to restore the land after the land is damaged by a natural disaster.

"(c) ELIGIBILITY.—To be eligible to receive a payment under subsection (b), an owner must demonstrate to the satisfaction of the Secretary that the nonindustrial private forest land on which the emergency measures are carried out had tree cover immediately before the natural disaster.

"(d) COST SHARE REQUIREMENT.—Payments made under subsection (b) shall not exceed 75 percent of the total cost of the emergency measures carried out by an owner of nonindustrial private forest land.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such funds as may be necessary to carry out this section. Amounts so appropriated shall remain available until expended.".

(b) REGULATIONS.—Not later than one year after the date of the enactment of this Act, the Secretary of Agriculture shall issue regulations to carry out section 407 of the Agricultural Credit Act of 1978, as added by subsection (a).

SEC. 8204. PREVENTION OF ILLEGAL LOGGING PRACTICES.

(a) DEFINITIONS.—

(1) PLANT.—Subsection (f) of section 2 of the Lacey Act Amendments of 1981 (16 U.S.C. 3371) is amended to read as follows:

"(f) PLANT.—

"(1) IN GENERAL.—The terms 'plant' and 'plants' mean any wild member of the plant kingdom, including roots, seeds,

parts, or products thereof, and including trees from either natural or planted forest stands.

"(2) EXCLUSIONS.—The terms 'plant' and 'plants' exclude—

"(A) common cultivars, except trees, and common food crops (including roots, seeds, parts, or products thereof);

"(B) a scientific specimen of plant genetic material (including roots, seeds, germplasm, parts, or products thereof) that is to be used only for laboratory or field research; and

"(C) any plant that is to remain planted or to be planted or replanted.

"(3) EXCEPTIONS TO APPLICATION OF EXCLUSIONS.—The exclusions made by subparagraphs (B) and (C) of paragraph (2) do not apply if the plant is listed—

"(A) in an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249);

"(B) as an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or

"(C) pursuant to any State law that provides for the conservation of species that are indigenous to the State and are threatened with extinction.".

(2) INCLUSION OF SECRETARY OF AGRICULTURE.—Section 2(h) of the Lacey Act Amendments of 1981 (16 U.S.C. 3371(h)) is amended by striking "plants the term means" and inserting "plants, the term also means".

(3) TAKEN AND TAKING.—Subsection (j) of section 2 of the Lacey Act Amendments of 1981 (16 U.S.C. 3371) is amended to read as follows:

"(j) TAKEN AND TAKING.—

"(1) TAKEN.—The term 'taken' means captured, killed, or collected and, with respect to a plant, also means harvested, cut, logged, or removed.

"(2) TAKING.—The term 'taking' means the act by which fish, wildlife, or plants are taken.".

(b) PROHIBITED ACTS.—

(1) OFFENSES OTHER THAN MARKING.—Section 3(a) of the Lacey Act Amendments of 1981 (16 U.S.C. 3372(a)) is amended—

(A) in paragraph (2), by striking subparagraph (B) and inserting the following new subparagraph:

"(B) any plant—

"(i) taken, possessed, transported, or sold in violation of any law or regulation of any State, or any foreign law, that protects plants or that regulates—

"(I) the theft of plants;

"(II) the taking of plants from a park, forest reserve, or other officially protected area;

"(III) the taking of plants from an officially designated area; or

"(IV) the taking of plants without, or contrary to, required authorization;

"(ii) taken, possessed, transported, or sold without the payment of appropriate royalties, taxes, or stumpage fees required for the plant by any law or regulation of any State or any foreign law; or

"(iii) taken, possessed, transported, or sold in violation of any limitation under any law or regulation of any State, or under any foreign law, governing the export or transshipment of plants; or"; and

(B) in paragraph (3), by striking subparagraph (B) and inserting the following subparagraph:

"(B) to possess any plant—

"(i) taken, possessed, transported, or sold in violation of any law or regulation of any State, or any foreign law, that protects plants or that regulates—

"(I) the theft of plants;

"(II) the taking of plants from a park, forest reserve, or other officially protected area;

"(III) the taking of plants from an officially designated area; or

"(IV) the taking of plants without, or contrary to, required authorization;

"(ii) taken, possessed, transported, or sold without the payment of appropriate royalties, taxes, or stumpage fees required for the plant by any law or regulation of any State or any foreign law; or

"(iii) taken, possessed, transported, or sold in violation of any limitation under any law or regulation of any State, or under any foreign law, governing the export or transshipment of plants; or".

(2) PLANT DECLARATIONS.—Section 3 of the Lacey Act Amendments of 1981 (16 U.S.C. 3372) is amended by adding at the end the following new subsection:

"(f) PLANT DECLARATIONS.—

"(1) IMPORT DECLARATION.—Effective 180 days from the date of enactment of this subsection, and except as provided in paragraph (3), it shall be unlawful for any person to import any plant unless the person files upon importation a declaration that contains—

"(A) the scientific name of any plant (including the genus and species of the plant) contained in the importation;

"(B) a description of—

"(i) the value of the importation; and

"(ii) the quantity, including the unit of measure, of the plant; and

"(C) the name of the country from which the plant was taken.

"(2) DECLARATION RELATING TO PLANT PRODUCTS.—Until the date on which the Secretary promulgates a regulation under paragraph (6), a declaration relating to a plant product shall—

"(A) in the case in which the species of plant used to produce the plant product that is the subject of the importation varies, and the species used to produce the plant product is unknown, contain the name of each species of plant that may have been used to produce the plant product;

"(B) in the case in which the species of plant used to produce the plant product that is the subject of the importation is commonly taken from more than one country, and the country from which the plant was taken and used to

produce the plant product is unknown, contain the name of each country from which the plant may have been taken; and

"(C) in the case in which a paper or paperboard plant product includes recycled plant product, contain the average percent recycled content without regard for the species or country of origin of the recycled plant product, in addition to the information for the non-recycled plant content otherwise required by this subsection.

"(3) EXCLUSIONS.—Paragraphs (1) and (2) shall not apply to plants used exclusively as packaging material to support, protect, or carry another item, unless the packaging material itself is the item being imported.

"(4) REVIEW.—Not later than two years after the date of enactment of this subsection, the Secretary shall review the implementation of each requirement imposed by paragraphs (1) and (2) and the effect of the exclusion provided by paragraph (3). In conducting the review, the Secretary shall provide public notice and an opportunity for comment.

"(5) REPORT.—Not later than 180 days after the date on which the Secretary completes the review under paragraph (4), the Secretary shall submit to the appropriate committees of Congress a report containing—

"(A) an evaluation of—

"(i) the effectiveness of each type of information required under paragraphs (1) and (2) in assisting enforcement of this section; and

"(ii) the potential to harmonize each requirement imposed by paragraphs (1) and (2) with other applicable import regulations in existence as of the date of the report;

"(B) recommendations for such legislation as the Secretary determines to be appropriate to assist in the identification of plants that are imported into the United States in violation of this section; and

"(C) an analysis of the effect of subsection (a) and this subsection on—

"(i) the cost of legal plant imports; and

"(ii) the extent and methodology of illegal logging practices and trafficking.

"(6) PROMULGATION OF REGULATIONS.—Not later than 180 days after the date on which the Secretary completes the review under paragraph (4), the Secretary may promulgate regulations—

"(A) to limit the applicability of any requirement imposed by paragraph (2) to specific plant products;

"(B) to make any other necessary modification to any requirement imposed by paragraph (2), as determined by the Secretary based on the review; and

"(C) to limit the scope of the exclusion provided by paragraph (3), if the limitations in scope are warranted as a result of the review.".

(c) CROSS-REFERENCES TO NEW REQUIREMENT.—Section 4 of the Lacey Act Amendments of 1981 (16 U.S.C. 3373) is amended—

(1) by striking "subsections (b) and (d)" each place it appears and inserting "subsections (b), (d), and (f)";

(2) by striking "section 3(d)" each place it appears and inserting "subsection (d) or (f) of section 3"; and

(3) in subsection (a)(2), by striking "subsection 3(b)" and inserting "subsection (b) or (f) of section 3, except as provided in paragraph (1),".

(d) CIVIL FORFEITURES.—Section 5 of the Lacey Act Amendments of 1981 (16 U.S.C. 3374) is amended by adding at the end the following new subsection:

"(d) CIVIL FORFEITURES.—Civil forfeitures under this section shall be governed by the provisions of chapter 46 of title 18, United States Code.".

(e) ADMINISTRATION.—Section 7 of the Lacey Act Amendments of 1981 (16 U.S.C. 3376) is amended—

(1) in subsection (a)(1), by striking "section 4 and section" and inserting "sections 3(f), 4, and"; and

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

"(c) CLARIFICATION OF EXCLUSIONS FROM DEFINITION OF PLANT.—The Secretary of Agriculture and the Secretary of the Interior, after consultation with the appropriate agencies, shall jointly promulgate regulations to define the terms used in section 2(f)(2)(A) for the purposes of enforcement under this Act.".

(f) TECHNICAL CORRECTION.—Effective as of November 14, 1988, and as if included therein as enacted, section 102(c) of Public Law 100–653 (102 Stat. 3825) is amended—

(1) by inserting "of the Lacey Act Amendments of 1981" after "Section 4"; and

(2) by striking "(other than section 3(b))" and inserting "(other than subsection 3(b))".

SEC. 8205. HEALTHY FORESTS RESERVE PROGRAM.

(a) ENROLLMENT.—Section 502 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6572(f)(1)) is amended—

(1) by striking subsections (e) and (f);

(2) by redesignating subsection (g) as subsection (f); and

(3) by inserting after subsection (d) the following new subsection:

"(e) METHODS OF ENROLLMENT.—

"(1) AUTHORIZED METHODS.—Land may be enrolled in the healthy forests reserve program in accordance with—

"(A) a 10-year cost-share agreement;

"(B) a 30-year easement; or

"(C)(i) a permanent easement; or

"(ii) in a State that imposes a maximum duration for easements, an easement for the maximum duration allowed under State law.

"(2) LIMITATION ON USE OF COST-SHARE AGREEMENTS AND EASEMENTS.—

"(A) IN GENERAL.—Of the total amount of funds expended under the program for a fiscal year to acquire easements and enter into cost-share agreements described in paragraph (1)—

"(i) not more than 40 percent shall be used for cost-share agreements described in paragraph (1)(A); and

"(ii) not more than 60 percent shall be used for easements described in subparagraphs (B) and (C) of paragraph (1).

"(B) REPOOLING.—The Secretary may use any funds allocated under clause (i) or (ii) of subparagraph (A) that are not obligated by April 1 of the fiscal year for which the funds are made available to carry out a different method of enrollment during that fiscal year.

"(3) ACREAGE OWNED BY INDIAN TRIBES.—In the case of acreage owned by an Indian tribe, the Secretary may enroll acreage into the healthy forests reserve program through the use of—

"(A) a 30-year contract (the value of which shall be equivalent to the value of a 30-year easement);

"(B) a 10-year cost-share agreement; or

"(C) any combination of the options described in subparagraphs (A) and (B).".

(b) FINANCIAL ASSISTANCE.—Section 504(a) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6574(a)) is amended by striking "(a) EASEMENTS OF NOT MORE THAN 99 YEARS" and all that follows through "502(f)(1)(C)" and inserting the following:

"(a) PERMANENT EASEMENTS.—In the case of land enrolled in the healthy forests reserve program using a permanent easement (or an easement described in section 502(f)(1)(C)(ii))".

(c) FUNDING.—Section 508 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6578) is amended to read as follows:

"SEC. 508. FUNDING.

"(a) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall make available $9,750,000 for each of fiscal years 2009 through 2012 to carry out this title.

"(b) DURATION OF AVAILABILITY.—The funds made available under subsection (a) shall remain available until expended.".

Subtitle D—Boundary Adjustments and Land Conveyance Provisions

SEC. 8301. GREEN MOUNTAIN NATIONAL FOREST BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—The boundary of the Green Mountain National Forest is modified to include the 13 designated expansion units as generally depicted on the forest maps entitled "Green Mountain Expansion Area Map I" and "Green Mountain Expansion Area Map II" and dated February 20, 2002 (copies of which shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia), and more particularly described according to the site specific maps and legal descriptions on file in the office of the Forest Supervisor, Green Mountain National Forest.

(b) MANAGEMENT.—Federally owned land delineated on the maps acquired for National Forest purposes shall continue to be managed in accordance with the laws (including regulations) applicable to the National Forest System.

(c) LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965

(16 U.S.C. 460 l–9), the boundaries of the Green Mountain National Forest, as adjusted by this section, shall be considered to be the boundaries of the national forest as of January 1, 1965.

SEC. 8302. LAND CONVEYANCES, CHIHUAHUAN DESERT NATURE PARK, NEW MEXICO, AND GEORGE WASHINGTON NATIONAL FOREST, VIRGINIA.

(a) CHIHUAHUAN DESERT NATURE PARK CONVEYANCE.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, subject to valid existing rights and subsection (b), the Secretary of Agriculture shall convey to the Chihuahuan Desert Nature Park, Inc., a nonprofit corporation in the State of New Mexico (in this section referred to as the "Nature Park"), by quitclaim deed and for no consideration, all right, title, and interest of the United States in and to the land described in paragraph (2)

(2) DESCRIPTION OF LAND.—

(A) IN GENERAL.—The parcel of land referred to in paragraph (1) consists of the approximately 935.62 acres of land in Dona Ana County, New Mexico, which is more particularly described—

(i) as sections 17, 20, and 21 of T. 21 S., R. 2 E., N.M.P.M.; and

(ii) in an easement deed dated May 14, 1998, from the Department of Agriculture to the Nature Park.

(B) MODIFICATIONS.—The Secretary may modify the description of the land under subparagraph (A) to—

(i) correct errors in the description; or

(ii) facilitate management of the land.

(b) CONDITIONS.—The conveyance of land under subsection (a) shall be subject to—

(1) the reservation by the United States of all mineral and subsurface rights to the land, including any geothermal resources;

(2) the condition that the Chihuahuan Desert Nature Park Board pay any costs relating to the conveyance;

(3) any rights-of-way reserved by the Secretary;

(4) a covenant or restriction in the deed to the land requiring that—

(A) the land may be used only for educational or scientific purposes; and

(B) if the land is no longer used for the purposes described in subparagraph (A), the land may, at the discretion of the Secretary, revert to the United States in accordance with subsection (c); and

(5) any other terms and conditions that the Secretary determines to be appropriate.

(c) REVERSION.—If the land conveyed under subsection (a) is no longer used for the purposes described in subsection (b)(4)(A), the land may, at the discretion of the Secretary, revert to the United States. If the Secretary chooses to have the land revert to the United States, the Secretary shall—

(1) determine whether the land is environmentally contaminated, including contamination from hazardous wastes, hazardous substances, pollutants, contaminants, petroleum, or petroleum by-products; and

(2) if the Secretary determines that the land is environmentally contaminated, the Nature Park, the successor to the Nature Park, or any other person responsible for the contamination shall be required to remediate the contamination.

(d) WITHDRAWAL.—All federally owned mineral and subsurface rights to the land to be conveyed under subsection (a) are withdrawn from—

(1) location, entry, and patent under the mining laws; and

(2) the operation of the mineral leasing laws, including the geothermal leasing laws.

(e) WATER RIGHTS.—Nothing in subsection (a) authorizes the conveyance of water rights to the Nature Park.

(f) GEORGE WASHINGTON NATIONAL FOREST CONVEYANCE, VIRGINIA.—

(1) CONVEYANCE REQUIRED.—The Secretary of Agriculture shall convey, without consideration, to the Central Advent Christian Church of Alleghany County, Virginia (in this subsection referred to as the "recipient"), all right, title, and interest of the United States in and to a parcel of real property in the George Washington National Forest, Alleghany County, Virginia, consisting of not more than 8 acres, including a cemetery encompassing approximately 6 acres designated as an area of special use for the recipient, and depicted on the Forest Service map showing tract G–2032c and dated August 20, 2002, and the Forest Service map showing the area of special use and dated March 14, 2001.

(2) CONDITION OF CONVEYANCE.—The conveyance under this subsection shall be subject to the condition that the recipient accept the real property described in paragraph (1) in its condition at the time of the conveyance, commonly known as conveyance "as is".

(3) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under this subsection shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the recipient.

(4) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this subsection as the Secretary considers appropriate to protect the interests of the United States.

SEC. 8303. SALE AND EXCHANGE OF NATIONAL FOREST SYSTEM LAND, VERMONT.

(a) DEFINITIONS.—In this section:

(1) BROMLEY.—The term "Bromley" means Bromley Mountain Ski Resort, Inc.

(2) MAP.—The term "map" means the map entitled "Proposed Bromley Land Sale or Exchange" and dated April 7, 2004.

(3) STATE.—The term "State" means the State of Vermont.

(b) SALE OR EXCHANGE OF GREEN MOUNTAIN NATIONAL FOREST LAND.—

(1) IN GENERAL.—The Secretary of Agriculture may, under any terms and conditions that the Secretary may prescribe, sell or exchange any right, title, and interest of the United States in and to the parcels of National Forest System land described in paragraph (2).

(2) DESCRIPTION OF LAND.—The parcels of National Forest System land referred to in paragraph (1) are the 5 parcels of land in Bennington County in the State, as generally depicted on the map.

(3) MAP AND LEGAL DESCRIPTIONS.—

(A) IN GENERAL.—The map shall be on file and available for public inspection in—

(i) the office of the Chief of the Forest Service; and

(ii) the office of the Supervisor of the Green Mountain National Forest.

(B) MODIFICATIONS.—The Secretary may modify the map and legal descriptions to—

(i) correct technical errors; or

(ii) facilitate the conveyance under paragraph (1).

(4) CONSIDERATION.—Consideration for the sale or exchange of land described in paragraph (2)—

(A) shall be equal to an amount that is not less than the fair market value of the land sold or exchanged; and

(B) may be in the form of cash, land, or a combination of cash and land.

(5) APPRAISALS.—Any appraisal carried out to facilitate the sale or exchange of land under paragraph (1) shall conform with the Uniform Appraisal Standards for Federal Land Acquisitions.

(6) METHODS OF SALE.—

(A) CONVEYANCE TO BROMLEY.—

(i) IN GENERAL.—Before soliciting offers under subparagraph (B), the Secretary shall offer to convey to Bromley the land described in paragraph (2).

(ii) CONTRACT DEADLINE.—If Bromley accepts the offer under clause (i), the Secretary and Bromley shall have not more than 180 days after the date on which any environmental analyses with respect to the land are completed to enter into a contract for the sale or exchange of the land.

(B) PUBLIC OR PRIVATE SALE.—If the Secretary and Bromley do not enter into a contract for the sale or exchange of the land by the date specified in subparagraph (A)(ii), the Secretary may sell or exchange the land at public or private sale (including auction), in accordance with such terms, conditions, and procedures as the Secretary determines to be in the public interest.

(C) REJECTION OF OFFERS.—The Secretary may reject any offer received under this paragraph if the Secretary determines that the offer is not adequate or is not in the public interest.

(D) BROKERS.—In any sale or exchange of land under this subsection, the Secretary may—

(i) use a real estate broker or other third party; and

(ii) pay the real estate broker or third party a commission in an amount comparable to the amounts of commission generally paid for real estate transactions in the area.

(7) CASH EQUALIZATION.—Notwithstanding section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)), the Secretary may accept a cash equalization payment in excess of 25 percent of the value of any Federal land exchanged under this section.

(c) DISPOSITION OF PROCEEDS.—

(1) IN GENERAL.—The Secretary shall deposit the net proceeds from a sale or exchange under this section in the fund established under Public Law 90–171 (16 U.S.C. 484a) (commonly known as the "Sisk Act").

(2) USE.—Amounts deposited under paragraph (1) shall be available to the Secretary until expended, without further appropriation, for—

(A) the location and relocation of the Appalachian National Scenic Trail and the Long National Recreation Trail in the State;

(B) the acquisition of land and interests in land by the Secretary for National Forest System purposes within the boundary of the Green Mountain National Forest, including land for and adjacent to the Appalachian National Scenic Trail and the Long National Recreation Trail;

(C) the acquisition of wetland or an interest in wetland within the boundary of the Green Mountain National Forest to offset the loss of wetland from the parcels sold or exchanged; and

(D) the payment of direct administrative costs incurred in carrying out this section.

(3) LIMITATION.—Amounts deposited under paragraph (1) shall not—

(A) be paid or distributed to the State or counties or towns in the State under any provision of law; or

(B) be considered to be money received from units of the National Forest System for purposes of—

(i) the Act of May 23, 1908 (16 U.S.C. 500); or

(ii) the Act of March 4, 1913 (16 U.S.C. 501).

(4) PROHIBITION OF TRANSFER OR REPROGRAMMING.—Amounts deposited under paragraph (1) shall not be subject to transfer or reprogramming for wildfire management or any other emergency purposes.

(d) ACQUISITION OF LAND.—The Secretary may acquire, using funds made available under subsection (c) or otherwise made available for acquisition, land or an interest in land for National Forest System purposes within the boundary of the Green Mountain National Forest.

(e) EXEMPTION FROM CERTAIN LAWS.—Subtitle I of title 40, United States Code, shall not apply to any sale or exchange of National Forest System land under this section.

Subtitle E—Miscellaneous Provisions

SEC. 8401. QUALIFYING TIMBER CONTRACT OPTIONS.

(a) DEFINITIONS.—In this section:

(1) AUTHORIZED PRODUCER PRICE INDEX.—The term "authorized Producer Price Index" includes—

(A) the softwood commodity index (code number WPU 0811);

(B) the hardwood commodity index (code number WPU 0812);

(C) the wood chip index (code number PCU 3211133211135); and

(D) any other subsequent comparable index, as established by the Bureau of Labor Statistics of the Department of Labor and utilized by the Secretary of Agriculture.

(2) QUALIFYING CONTRACT.—The term "qualifying contract" means a contract for the sale of timber on National Forest System land—

(A) that was awarded during the period beginning on July 1, 2004, and ending on December 31, 2006;

(B) for which there is unharvested volume remaining;

(C) for which, not later than 90 days after the date of enactment of this Act, the timber purchaser makes a written request to the Secretary for one or more of the options described in subsection (b);

(D) that is not a salvage sale;

(E) for which the Secretary determines there is not an urgent need to harvest due to deteriorating timber conditions that developed after the award of the contract; and

(F) that is not in breach or in default.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(b) OPTIONS FOR QUALIFYING CONTRACTS.—

(1) CANCELLATION OR RATE REDETERMINATION.—Notwithstanding any other provision of law, if the rate at which a qualifying contract would be advertised as of the date of enactment of this Act is at least 50 percent less than the sum of the original bid rates for all of the species of timber that are the subject of the qualifying contract, the Secretary may, at the sole discretion of the Secretary—

(A) cancel the qualifying contract if the timber purchaser—

(i) pays 30 percent of the total value of the timber remaining in the qualifying contract based on bid rates;

(ii) completes each contractual obligation (including the removal of downed timber, the completion of road work, and the completion of erosion control work) of the timber purchaser with respect to each unit on which harvest has begun to a logical stopping point, as determined by the Secretary after consultation with the timber purchaser; and

(iii) terminates its rights under the qualifying contract; or

(B) modify the qualifying contract to redetermine the current contract rate of the qualifying contract to equal the sum obtained by adding—

(i) 25 percent of the bid premium on the qualifying contract; and

(ii) the rate at which the qualifying contract would be advertised as of the date of enactment of this Act.

(2) SUBSTITUTION OF INDEX.—

(A) SUBSTITUTION.—Notwithstanding any other provision of law, the Secretary may, at the sole discretion of the Secretary, substitute the Producer Price Index specified in the qualifying contract of a timber purchaser if the timber purchaser identifies—

(i) the products the timber purchaser intends to produce from the timber harvested under the qualifying contract; and

(ii) a substitute index from an authorized Producer Price Index that more accurately represents the predominant product identified in clause (i) for which there is an index.

(B) RATE REDETERMINATION FOLLOWING SUBSTITUTION OF INDEX.—If the Secretary substitutes the Producer Price Index of a qualifying contract under subparagraph (A), the Secretary may, at the sole discretion of the Secretary, modify the qualifying contract to provide for—

(i) an emergency rate redetermination under the terms of the contract; or

(ii) a rate redetermination under paragraph (1)(B).

(C) LIMITATION ON MARKET-RELATED CONTRACT TERM ADDITION; PERIODIC PAYMENTS.—Notwithstanding any other provision of law, if the Secretary substitutes the Producer Price Index of a qualifying contract under subparagraph (A), the Secretary may, at the sole discretion of the Secretary, modify the qualifying contract—

(i) to adjust the term in accordance with the market-related contract term addition provision in the qualifying contract and section 223.52 of title 36, Code of Federal Regulations, as in effect on the date of the adjustment, but only if the drastic reduction criteria in such section are met for 2 or more consecutive calendar year quarters beginning with the calendar quarter in which the Secretary substitutes the Producer Price Index under subparagraph (A); and

(ii) to adjust the periodic payments required under the contract in accordance with applicable law and policies.

(3) CONTRACTS USING HARDWOOD LUMBER INDEX.—With respect to a qualifying contract using the hardwood commodity index referred to in subsection (a)(1)(B) for which the Secretary does not substitute the Producer Price Index under paragraph (2), the Secretary may, at the sole discretion of the Secretary—

(A) extend the contract term for a 1-year period beginning on the current contract termination date; and

(B) adjust the periodic payments required under the contract in accordance with applicable law and policies.

(c) EXTENSION OF MARKET-RELATED CONTRACT TERM ADDITION TIME LIMIT FOR CERTAIN CONTRACTS.—Notwithstanding any other provision of law, upon the written request of a timber purchaser, the Secretary may, at the sole discretion of the Secretary, modify a timber sale contract (including a qualifying contract) awarded to the purchaser before January 1, 2007, to adjust the term of the contract in accordance with the market-related contract term addition provision in the contract and section 223.52 of title 36, Code of Federal

Regulations, as in effect on the date of the modification, except that the Secretary may add no more than 4 years to the original contract length.

(d) EFFECT OF OPTIONS.—

(1) NO SURRENDER OF CLAIMS.—Operation of this section shall not have the effect of surrendering any claim by the United States against any timber purchaser that arose—

(A) under a qualifying contract before the date on which the Secretary cancels the contract or redetermines the rate under subsection (b)(1), substitutes a Producer Price Index under subsection (b)(2), or modifies the contract under subsection (b)(3); or

(B) under a timber sale contract, including a qualifying contract, before the date on which the Secretary adjusts the contract term under subsection (c).

(2) RELEASE OF LIABILITY.—In the written request for any option provided under subsections (b) and (c), a timber purchaser shall release the United States from all liability, including further consideration or compensation, resulting from—

(A) the cancellation of a qualifying contract of the purchaser or rate redetermination under subsection (b)(1), the substitution of a Producer Price Index under subsection (b)(2), the modification of the contract under subsection (b)(3) or a determination by the Secretary not to provide the cancellation, redetermination, substitution, or modification; or

(B) the modification of the term of a timber sale contract (including a qualifying contract) of the purchaser under subsection (c) or a determination by the Secretary not to provide the modification.

(3) LIMITATION.—Subject to subsection (b)(1)(A), the cancellation of a qualifying contract by the Secretary under subsection (b)(1) shall release the timber purchaser from further obligation under the canceled contract.

SEC. 8402. HISPANIC-SERVING INSTITUTION AGRICULTURAL LAND NATIONAL RESOURCES LEADERSHIP PROGRAM.

(a) DEFINITION OF HISPANIC-SERVING INSTITUTION.—In this section, the term "Hispanic-serving institution" has the meaning given that term in section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5)).

(b) GRANT AUTHORITY.—The Secretary of Agriculture may make grants, on a competitive basis, to Hispanic-serving institutions for the purpose of establishing an undergraduate scholarship program to assist in the recruitment, retention, and training of Hispanics and other under-represented groups in forestry and related fields.

(c) USE OF GRANT FUNDS.—Grants made under this section shall be used to recruit, retain, train, and develop professionals to work in forestry and related fields with Federal agencies, such as the Forest Service, State agencies, and private-sector entities.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of fiscal years 2008 through 2012 such sums as may be necessary to carry out this section.

TITLE IX—ENERGY

SEC. 9001. ENERGY.

(a) IN GENERAL.—Title IX of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101 et seq.) is amended to read as follows:

"TITLE IX—ENERGY

"SEC. 9001. DEFINITIONS.

"Except as otherwise provided, in this title:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) ADVISORY COMMITTEE.—The term 'Advisory Committee' means the Biomass Research and Development Technical Advisory Committee established by section 9008(d)(1).

"(3) ADVANCED BIOFUEL.—

"(A) IN GENERAL.—The term 'advanced biofuel' means fuel derived from renewable biomass other than corn kernel starch.

"(B) INCLUSIONS.—Subject to subparagraph (A), the term 'advanced biofuel' includes—

"(i) biofuel derived from cellulose, hemicellulose, or lignin;

"(ii) biofuel derived from sugar and starch (other than ethanol derived from corn kernel starch);

"(iii) biofuel derived from waste material, including crop residue, other vegetative waste material, animal waste, food waste, and yard waste;

"(iv) diesel-equivalent fuel derived from renewable biomass, including vegetable oil and animal fat;

"(v) biogas (including landfill gas and sewage waste treatment gas) produced through the conversion of organic matter from renewable biomass;

"(vi) butanol or other alcohols produced through the conversion of organic matter from renewable biomass; and

"(vii) other fuel derived from cellulosic biomass.

"(4) BIOBASED PRODUCT.—The term 'biobased product' means a product determined by the Secretary to be a commercial or industrial product (other than food or feed) that is—

"(A) composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials; or

"(B) an intermediate ingredient or feedstock.

"(5) BIOFUEL.—The term 'biofuel' means a fuel derived from renewable biomass.

"(6) BIOMASS CONVERSION FACILITY.—The term 'biomass conversion facility' means a facility that converts or proposes to convert renewable biomass into—

"(A) heat;

"(B) power;

"(C) biobased products; or

"(D) advanced biofuels.

"(7) BIOREFINERY.—The term 'biorefinery' means a facility (including equipment and processes) that—

"(A) converts renewable biomass into biofuels and biobased products; and

"(B) may produce electricity.

"(8) BOARD.—The term 'Board' means the Biomass Research and Development Board established by section 9008(c).

"(9) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(10) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 102(a) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)).

"(11) INTERMEDIATE INGREDIENT OR FEEDSTOCK.—The term 'intermediate ingredient or feedstock' means a material or compound made in whole or in significant part from biological products, including renewable agricultural materials (including plant, animal, and marine materials) or forestry materials, that are subsequently used to make a more complex compound or product.

"(12) RENEWABLE BIOMASS.—The term 'renewable biomass' means—

"(A) materials, pre-commercial thinnings, or invasive species from National Forest System land and public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)) that—

"(i) are byproducts of preventive treatments that are removed—

"(I) to reduce hazardous fuels;

"(II) to reduce or contain disease or insect infestation; or

"(III) to restore ecosystem health;

"(ii) would not otherwise be used for higher-value products; and

"(iii) are harvested in accordance with—

"(I) applicable law and land management plans; and

"(II) the requirements for—

"(aa) old-growth maintenance, restoration, and management direction of paragraphs (2), (3), and (4) of subsection (e) of section 102 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512); and

"(bb) large-tree retention of subsection (f) of that section; or

"(B) any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including—

"(i) renewable plant material, including—

"(I) feed grains;

"(II) other agricultural commodities;

"(III) other plants and trees; and

"(IV) algae; and

"(ii) waste material, including—

"(I) crop residue;

"(II) other vegetative waste material (including wood waste and wood residues);

"(III) animal waste and byproducts (including fats, oils, greases, and manure); and

"(IV) food waste and yard waste.

"(13) RENEWABLE ENERGY.—The term 'renewable energy' means energy derived from—

"(A) a wind, solar, renewable biomass, ocean (including tidal, wave, current, and thermal), geothermal, or hydroelectric source; or

"(B) hydrogen derived from renewable biomass or water using an energy source described in subparagraph (A).

"(14) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"SEC. 9002. BIOBASED MARKETS PROGRAM.

"(a) FEDERAL PROCUREMENT OF BIOBASED PRODUCTS.—

"(1) DEFINITION OF PROCURING AGENCY.—In this subsection, the term 'procuring agency' means—

"(A) any Federal agency that is using Federal funds for procurement; or

"(B) a person that is a party to a contract with any Federal agency, with respect to work performed under such a contract.

"(2) PROCUREMENT PREFERENCE.—

"(A) IN GENERAL.—

"(i) PROCURING AGENCY DUTIES.—Except as provided in clause (ii) and subparagraph (B), after the date specified in applicable guidelines prepared pursuant to paragraph (3), each procuring agency shall—

"(I) establish a procurement program, develop procurement specifications, and procure biobased products identified under the guidelines described in paragraph (3) in accordance with this section; and

"(II) with respect to items described in the guidelines, give a procurement preference to those items that—

"(aa) are composed of the highest percentage of biobased products practicable; or

"(bb) comply with the regulations issued under section 103 of Public Law 100–556 (42 U.S.C. 6914b–1).

"(ii) EXCEPTION.—The requirements of clause (i)(I) to establish a procurement program and develop procurement specifications shall not apply to a person described in paragraph (1)(B).

"(B) FLEXIBILITY.—Notwithstanding subparagraph (A), a procuring agency may decide not to procure items described in that subparagraph if the procuring agency determines that the items—

"(i) are not reasonably available within a reasonable period of time;

"(ii) fail to meet—

"(I) the performance standards set forth in the applicable specifications; or

"(II) the reasonable performance standards of the procuring agencies; or

"(iii) are available only at an unreasonable price.

"(C) MINIMUM REQUIREMENTS.—Each procurement program required under this subsection shall, at a minimum—

"(i) be consistent with applicable provisions of Federal procurement law;

"(ii) ensure that items composed of biobased products will be purchased to the maximum extent practicable;

"(iii) include a component to promote the procurement program;

"(iv) provide for an annual review and monitoring of the effectiveness of the procurement program; and

"(v) adopt 1 of the 2 polices described in subparagraph (D) or (E), or a policy substantially equivalent to either of those policies.

"(D) CASE-BY-CASE POLICY.—

"(i) IN GENERAL.—Subject to subparagraph (B) and except as provided in clause (ii), a procuring agency adopting the case-by-case policy shall award a contract to the vendor offering an item composed of the highest percentage of biobased products practicable.

"(ii) EXCEPTION.—Subject to subparagraph (B), an agency adopting the policy described in clause (i) may make an award to a vendor offering items with less than the maximum biobased products content.

"(E) MINIMUM CONTENT STANDARDS.—Subject to subparagraph (B), a procuring agency adopting the minimum content standards policy shall establish minimum biobased products content specifications for awarding contracts in a manner that ensures that the biobased products content required is consistent with this subsection.

"(F) CERTIFICATION.—After the date specified in any applicable guidelines prepared pursuant to paragraph (3), contracting offices shall require that vendors certify that the biobased products to be used in the performance of the contract will comply with the applicable specifications or other contractual requirements.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary, after consultation with the Administrator, the Administrator of General Services, and the Secretary of Commerce (acting through the Director of the National Institute of Standards and Technology), shall prepare, and from time to time revise, guidelines for the use of procuring agencies in complying with the requirements of this subsection.

"(B) REQUIREMENTS.—The guidelines under this paragraph shall—

"(i) designate those items (including finished products) that are or can be produced with biobased products (including biobased products for which there is only a single product or manufacturer in the category)

that will be subject to the preference described in paragraph (2);

"(ii) designate those intermediate ingredients and feedstocks that are or can be used to produce items that will be subject to the preference described in paragraph (2);

"(iii) automatically designate items composed of intermediate ingredients and feedstocks designated under clause (ii), if the content of the designated intermediate ingredients and feedstocks exceeds 50 percent of the item (unless the Secretary determines a different composition percentage is appropriate);

"(iv) set forth recommended practices with respect to the procurement of biobased products and items containing such materials;

"(v) provide information as to the availability, relative price, performance, and environmental and public health benefits of such materials and items; and

"(vi) take effect on the date established in the guidelines, which may not exceed 1 year after publication.

"(C) INFORMATION PROVIDED.—Information provided pursuant to subparagraph (B)(v) with respect to a material or item shall be considered to be provided for another item made with the same material or item.

"(D) PROHIBITION.—Guidelines issued under this paragraph may not require a manufacturer or vendor of biobased products, as a condition of the purchase of biobased products from the manufacturer or vendor, to provide to procuring agencies more data than would be required to be provided by other manufacturers or vendors offering products for sale to a procuring agency, other than data confirming the biobased content of a product.

"(E) QUALIFYING PURCHASES.—The guidelines shall apply with respect to any purchase or acquisition of a procurement item for which—

"(i) the purchase price of the item exceeds $10,000; or

"(ii) the quantity of the items or of functionally-equivalent items purchased or acquired during the preceding fiscal year was at least $10,000.

"(4) ADMINISTRATION.—

"(A) OFFICE OF FEDERAL PROCUREMENT POLICY.—The Office of Federal Procurement Policy, in cooperation with the Secretary, shall—

"(i) coordinate the implementation of this subsection with other policies for Federal procurement;

"(ii) annually collect the information required to be reported under subparagraph (B) and make the information publicly available;

"(iii) take a leading role in informing Federal agencies concerning, and promoting the adoption of and compliance with, procurement requirements for biobased products by Federal agencies; and

"(iv) not less than once every 2 years, submit to Congress a report that—

"(I) describes the progress made in carrying out this subsection; and

"(II) contains a summary of the information reported pursuant to subparagraph (B).

"(B) OTHER AGENCIES.—To assist the Office of Federal Procurement Policy in carrying out subparagraph (A)—

"(i) each procuring agency shall submit each year to the Office of Federal Procurement Policy, to the maximum extent practicable, information concerning—

"(I) actions taken to implement paragraph (2);

"(II) the results of the annual review and monitoring program established under paragraph (2)(C)(iv);

"(III) the number and dollar value of contracts entered into during the year that include the direct procurement of biobased products;

"(IV) the number of service and construction (including renovations) contracts entered into during the year that include language on the use of biobased products; and

"(V) the types and dollar value of biobased products actually used by contractors in carrying out service and construction (including renovations) contracts during the previous year; and

"(ii) the General Services Administration and the Defense Logistics Agency shall submit each year to the Office of Federal Procurement Policy information concerning, to the maximum extent practicable, the types and dollar value of biobased products purchased by procuring agencies.

"(C) PROCUREMENT SUBJECT TO OTHER LAW.—Any procurement by any Federal agency that is subject to regulations of the Administrator under section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962) shall not be subject to the requirements of this section to the extent that the requirements are inconsistent with the regulations.

"(b) LABELING.—

"(1) IN GENERAL.—The Secretary, in consultation with the Administrator, shall establish a voluntary program under which the Secretary authorizes producers of biobased products to use the label 'USDA Certified Biobased Product'.

"(2) ELIGIBILITY CRITERIA.—

"(A) CRITERIA.—

"(i) IN GENERAL.—Not later than 90 days after the date of the enactment of the Food, Conservation, and Energy Act of 2008 and except as provided in clause (ii), the Secretary, in consultation with the Administrator and representatives from small and large businesses, academia, other Federal agencies, and such other persons as the Secretary considers appropriate, shall issue criteria (as of the date of enactment of that Act) for determining which products may qualify to receive the label under paragraph (1).

"(ii) EXCEPTION.—Clause (i) shall not apply to final criteria that have been issued (as of the date of enactment of that Act) by the Secretary.

"(B) REQUIREMENTS.—Criteria issued under subparagraph (A) shall—

"(i) encourage the purchase of products with the maximum biobased content;

"(ii) provide that the Secretary may designate as biobased for the purposes of the voluntary program established under this subsection finished products that contain significant portions of biobased materials or components; and

"(iii) to the maximum extent practicable, be consistent with the guidelines issued under subsection (a)(3).

"(3) USE OF LABEL.—The Secretary shall ensure that the label referred to in paragraph (1) is used only on products that meet the criteria issued pursuant to paragraph (2).

"(c) RECOGNITION.—The Secretary shall—

"(1) establish a program to recognize Federal agencies and private entities that use a substantial amount of biobased products; and

"(2) encourage Federal agencies to establish incentives programs to recognize Federal employees or contractors that make exceptional contributions to the expanded use of biobased products.

"(d) LIMITATION.—Nothing in this section shall apply to the procurement of motor vehicle fuels, heating oil, or electricity.

"(e) INCLUSION.—Effective beginning on the date that is 90 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Architect of the Capitol, the Sergeant at Arms of the Senate, and the Chief Administrative Officer of the House of Representatives shall consider the biobased product designations made under this section in making procurement decisions for the Capitol Complex.

"(f) NATIONAL TESTING CENTER REGISTRY.—The Secretary shall establish a national registry of testing centers for biobased products that will serve biobased product manufacturers.

"(g) REPORTS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008 and each year thereafter, the Secretary shall submit to Congress a report on the implementation of this section.

"(2) CONTENTS.—The report shall include—

"(A) a comprehensive management plan that establishes tasks, milestones, and timelines, organizational roles and responsibilities, and funding allocations for fully implementing this section; and

"(B) information on the status of implementation of—

"(i) item designations (including designation of intermediate ingredients and feedstocks); and

"(ii) the voluntary labeling program established under subsection (b).

"(h) FUNDING.—

"(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to provide mandatory funding for biobased products testing and labeling as required to carry out this section—

"(A) $1,000,000 for fiscal year 2008; and

"(B) $2,000,000 for each of fiscal years 2009 through 2012.

"(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $2,000,000 for each of fiscal years 2009 through 2012.

"SEC. 9003. BIOREFINERY ASSISTANCE.

"(a) PURPOSE.—The purpose of this section is to assist in the development of new and emerging technologies for the development of advanced biofuels, so as to—

"(1) increase the energy independence of the United States;

"(2) promote resource conservation, public health, and the environment;

"(3) diversify markets for agricultural and forestry products and agriculture waste material; and

"(4) create jobs and enhance the economic development of the rural economy.

"(b) DEFINITIONS.—In this section:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means an individual, entity, Indian tribe, or unit of State or local government, including a corporation, farm cooperative, farmer cooperative organization, association of agricultural producers, National Laboratory, institution of higher education, rural electric cooperative, public power entity, or consortium of any of those entities.

"(2) ELIGIBLE TECHNOLOGY.—The term 'eligible technology' means, as determined by the Secretary—

"(A) a technology that is being adopted in a viable commercial-scale operation of a biorefinery that produces an advanced biofuel; and

"(B) a technology not described in subparagraph (A) that has been demonstrated to have technical and economic potential for commercial application in a biorefinery that produces an advanced biofuel.

"(c) ASSISTANCE.—The Secretary shall make available to eligible entities—

"(1) grants to assist in paying the costs of the development and construction of demonstration-scale biorefineries to demonstrate the commercial viability of 1 or more processes for converting renewable biomass to advanced biofuels; and

"(2) guarantees for loans made to fund the development, construction, and retrofitting of commercial-scale biorefineries using eligible technology.

"(d) GRANTS.—

"(1) COMPETITIVE BASIS.—The Secretary shall award grants under subsection (c)(1) on a competitive basis.

"(2) SELECTION CRITERIA.—

"(A) IN GENERAL.—In approving grant applications, the Secretary shall establish a priority scoring system that assigns priority scores to each application and only approve

applications that exceed a specified minimum, as determined by the Secretary.

"(B) FEASIBILITY.—In approving a grant application, the Secretary shall determine the technical and economic feasibility of the project based on a feasibility study of the project described in the application conducted by an independent third party.

"(C) SCORING SYSTEM.—In determining the priority scoring system, the Secretary shall consider—

"(i) the potential market for the advanced biofuel and the byproducts produced;

"(ii) the level of financial participation by the applicant, including support from non-Federal and private sources;

"(iii) whether the applicant is proposing to use a feedstock not previously used in the production of advanced biofuels;

"(iv) whether the applicant is proposing to work with producer associations or cooperatives;

"(v) whether the applicant has established that the adoption of the process proposed in the application will have a positive impact on resource conservation, public health, and the environment;

"(vi) the potential for rural economic development;

"(vii) whether the area in which the applicant proposes to locate the biorefinery has other similar facilities;

"(viii) whether the project can be replicated; and

"(ix) scalability for commercial use.

"(3) COST SHARING.—

"(A) LIMITS.—The amount of a grant awarded for development and construction of a biorefinery under subsection (c)(1) shall not exceed an amount equal to 30 percent of the cost of the project.

"(B) FORM OF GRANTEE SHARE.—

"(i) IN GENERAL.—The grantee share of the cost of a project may be made in the form of cash or material.

"(ii) LIMITATION.—The amount of the grantee share that is made in the form of material shall not exceed 15 percent of the amount of the grantee share determined under subparagraph (A).

"(e) LOAN GUARANTEES.—

"(1) SELECTION CRITERIA.—

"(A) IN GENERAL.—In approving loan guarantee applications, the Secretary shall establish a priority scoring system that assigns priority scores to each application and only approve applications that exceed a specified minimum, as determined by the Secretary.

"(B) FEASIBILITY.—In approving a loan guarantee application, the Secretary shall determine the technical and economic feasibility of the project based on a feasibility study of the project described in the application conducted by an independent third party.

"(C) SCORING SYSTEM.—In determining the priority scoring system for loan guarantees under subsection (c)(2), the Secretary shall consider—

"(i) whether the applicant has established a market for the advanced biofuel and the byproducts produced;

"(ii) whether the area in which the applicant proposes to place the biorefinery has other similar facilities;

"(iii) whether the applicant is proposing to use a feedstock not previously used in the production of advanced biofuels;

"(iv) whether the applicant is proposing to work with producer associations or cooperatives;

"(v) the level of financial participation by the applicant, including support from non-Federal and private sources;

"(vi) whether the applicant has established that the adoption of the process proposed in the application will have a positive impact on resource conservation, public health, and the environment;

"(vii) whether the applicant can establish that if adopted, the biofuels production technology proposed in the application will not have any significant negative impacts on existing manufacturing plants or other facilities that use similar feedstocks;

"(viii) the potential for rural economic development;

"(ix) the level of local ownership proposed in the application; and

"(x) whether the project can be replicated.

"(2) LIMITATIONS.—

"(A) MAXIMUM AMOUNT OF LOAN GUARANTEED.—The principal amount of a loan guaranteed under subsection (c)(2) may not exceed $250,000,000.

"(B) MAXIMUM PERCENTAGE OF LOAN GUARANTEED.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, a loan guaranteed under subsection (c)(2) shall be in an amount not to exceed 80 percent of the project costs, as determined by the Secretary.

"(ii) OTHER DIRECT FEDERAL FUNDING.—The amount of a loan guaranteed for a project under subsection (c)(2) shall be reduced by the amount of other direct Federal funding that the eligible entity receives for the same project.

"(iii) AUTHORITY TO GUARANTEE THE LOAN.—The Secretary may guarantee up to 90 percent of the principal and interest due on a loan guaranteed under subsection (c)(2).

"(C) LOAN GUARANTEE FUND DISTRIBUTION.—Of the funds made available for loan guarantees for a fiscal year under subsection (h), 50 percent of the funds shall be reserved for obligation during the second half of the fiscal year.

"(f) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Secretary of Energy.

"(g) CONDITION ON PROVISION OF ASSISTANCE.—

"(1) IN GENERAL.—As a condition of receiving a grant or loan guarantee under this section, an eligible entity shall ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed, in whole or in part, with the grant or loan guarantee, as the case may be, shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141 through 3144, 3146, and 3147 of title 40, United States Code.

"(2) AUTHORITY AND FUNCTIONS.—The Secretary of Labor shall have, with respect to the labor standards described in paragraph (1), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App) and section 3145 of title 40, United States Code.

"(h) FUNDING.—

"(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use for the cost of loan guarantees under this section, to remain available until expended—

"(A) $75,000,000 for fiscal year 2009; and

"(B) $245,000,000 for fiscal year 2010.

"(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $150,000,000 for each of fiscal years 2009 through 2012.

"SEC. 9004. REPOWERING ASSISTANCE.

"(a) IN GENERAL.—The Secretary shall carry out a program to encourage biorefineries in existence on the date of enactment of the Food, Conservation, and Energy Act of 2008 to replace fossil fuels used to produce heat or power to operate the biorefineries by making payments for—

"(1) the installation of new systems that use renewable biomass; or

"(2) the new production of energy from renewable biomass.

"(b) PAYMENTS.—

"(1) IN GENERAL.—The Secretary may make payments under this section to any biorefinery that meets the requirements of this section for a period determined by the Secretary.

"(2) AMOUNT.—The Secretary shall determine the amount of payments to be made under this section to a biorefinery after considering—

"(A) the quantity of fossil fuels a renewable biomass system is replacing;

"(B) the percentage reduction in fossil fuel used by the biorefinery that will result from the installation of the renewable biomass system; and

"(C) the cost and cost effectiveness of the renewable biomass system.

"(c) ELIGIBILITY.—To be eligible to receive a payment under this section, a biorefinery shall demonstrate to the Secretary that the renewable biomass system of the biorefinery is feasible based on an independent feasibility study that takes into account the economic, technical and environmental aspects of the system.

"(d) FUNDING.—

"(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to make payments under this section $35,000,000 for fiscal year 2009, to remain available until expended.

"(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2009 through 2012.

"SEC. 9005. BIOENERGY PROGRAM FOR ADVANCED BIOFUELS.

"(a) DEFINITION OF ELIGIBLE PRODUCER.—In this section, the term 'eligible producer' means a producer of advanced biofuels.

"(b) PAYMENTS.—The Secretary shall make payments to eligible producers to support and ensure an expanding production of advanced biofuels.

"(c) CONTRACTS.—To receive a payment, an eligible producer shall—

"(1) enter into a contract with the Secretary for production of advanced biofuels; and

"(2) submit to the Secretary such records as the Secretary may require as evidence of the production of advanced biofuels.

"(d) BASIS FOR PAYMENTS.—The Secretary shall make payments under this section to eligible producers based on—

"(1) the quantity and duration of production by the eligible producer of an advanced biofuel;

"(2) the net nonrenewable energy content of the advanced biofuel, if sufficient data is available, as determined by the Secretary; and

"(3) other appropriate factors, as determined by the Secretary.

"(e) EQUITABLE DISTRIBUTION.—The Secretary may limit the amount of payments that may be received by a single eligible producer under this section in order to distribute the total amount of funding available in an equitable manner.

"(f) OTHER REQUIREMENTS.—To receive a payment under this section, an eligible producer shall meet any other requirements of Federal and State law (including regulations) applicable to the production of advanced biofuels.

"(g) FUNDING.—

"(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section, to remain available until expended—

"(A) $55,000,000 for fiscal year 2009;

"(B) $55,000,000 for fiscal year 2010;

"(C) $85,000,000 for fiscal year 2011; and

"(D) $105,000,000 for fiscal year 2012.

"(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2009 through 2012.

"(3) LIMITATION.—Of the funds provided for each fiscal year, not more than 5 percent of the funds shall be made available to eligible producers for production at facilities with a total refining capacity exceeding 150,000,000 gallons per year.

"SEC. 9006. BIODIESEL FUEL EDUCATION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall, under such terms and conditions as the Secretary determines to be appropriate, make competitive grants to eligible entities to educate governmental and private entities that operate vehicle fleets, other interested entities (as determined by the Secretary), and the public about the benefits of biodiesel fuel use.

"(b) ELIGIBLE ENTITIES.—To receive a grant under subsection (b), an entity shall—

"(1) be a nonprofit organization or institution of higher education;

"(2) have demonstrated knowledge of biodiesel fuel production, use, or distribution; and

"(3) have demonstrated the ability to conduct educational and technical support programs.

"(c) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Secretary of Energy.

"(d) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section $1,000,000 for each of fiscal years 2008 through 2012.

"SEC. 9007. RURAL ENERGY FOR AMERICA PROGRAM.

"(a) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Energy, shall establish a Rural Energy for America Program to promote energy efficiency and renewable energy development for agricultural producers and rural small businesses through—

"(1) grants for energy audits and renewable energy development assistance; and

"(2) financial assistance for energy efficiency improvements and renewable energy systems.

"(b) ENERGY AUDITS AND RENEWABLE ENERGY DEVELOPMENT ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make competitive grants to eligible entities to provide assistance to agricultural producers and rural small businesses—

"(A) to become more energy efficient; and

"(B) to use renewable energy technologies and resources.

"(2) ELIGIBLE ENTITIES.—An eligible entity under this subsection is—

"(A) a unit of State, tribal, or local government;

"(B) a land-grant college or university or other institution of higher education;

"(C) a rural electric cooperative or public power entity; and

"(D) any other similar entity, as determined by the Secretary.

"(3) SELECTION CRITERIA.—In reviewing applications of eligible entities to receive grants under paragraph (1), the Secretary shall consider—

"(A) the ability and expertise of the eligible entity in providing professional energy audits and renewable energy assessments;

"(B) the geographic scope of the program proposed by the eligible entity in relation to the identified need;

"(C) the number of agricultural producers and rural small businesses to be assisted by the program;

"(D) the potential of the proposed program to produce energy savings and environmental benefits;

"(E) the plan of the eligible entity for performing outreach and providing information and assistance to agricultural producers and rural small businesses on the benefits of energy efficiency and renewable energy development; and

"(F) the ability of the eligible entity to leverage other sources of funding.

"(4) USE OF GRANT FUNDS.—A recipient of a grant under paragraph (1) shall use the grant funds to assist agricultural producers and rural small businesses by—

"(A) conducting and promoting energy audits; and

"(B) providing recommendations and information on how—

"(i) to improve the energy efficiency of the operations of the agricultural producers and rural small businesses; and

"(ii) to use renewable energy technologies and resources in the operations.

"(5) LIMITATION.—Grant recipients may not use more than 5 percent of a grant for administrative expenses.

"(6) COST SHARING.—A recipient of a grant under paragraph (1) that conducts an energy audit for an agricultural producer or rural small business under paragraph (4) shall require that, as a condition of the energy audit, the agricultural producer or rural small business pay at least 25 percent of the cost of the energy audit, which shall be retained by the eligible entity for the cost of the energy audit.

"(c) FINANCIAL ASSISTANCE FOR ENERGY EFFICIENCY IMPROVEMENTS AND RENEWABLE ENERGY SYSTEMS.—

"(1) IN GENERAL.—In addition to any similar authority, the Secretary shall provide loan guarantees and grants to agricultural producers and rural small businesses—

"(A) to purchase renewable energy systems, including systems that may be used to produce and sell electricity; and

"(B) to make energy efficiency improvements.

"(2) AWARD CONSIDERATIONS.—In determining the amount of a loan guarantee or grant provided under this section, the Secretary shall take into consideration, as applicable—

"(A) the type of renewable energy system to be purchased;

"(B) the estimated quantity of energy to be generated by the renewable energy system;

"(C) the expected environmental benefits of the renewable energy system;

"(D) the quantity of energy savings expected to be derived from the activity, as demonstrated by an energy audit;

"(E) the estimated period of time for the energy savings generated by the activity to equal the cost of the activity;

"(F) the expected energy efficiency of the renewable energy system; and

"(G) other appropriate factors.

"(3) FEASIBILITY STUDIES.—

"(A) IN GENERAL.—The Secretary may provide assistance in the form of grants to an agricultural producer or rural small business to conduct a feasibility study for a project for which assistance may be provided under this subsection.

"(B) LIMITATION.—The Secretary shall use not more than 10 percent of the funds made available to carry out this subsection to provide assistance described in subparagraph (A).

"(C) AVOIDANCE OF DUPLICATIVE ASSISTANCE.—An entity shall be ineligible to receive assistance to carry out a feasibility study for a project under this paragraph if the entity has received other Federal or State assistance for a feasibility study for the project.

"(4) LIMITS.—

"(A) GRANTS.—The amount of a grant under this subsection shall not exceed 25 percent of the cost of the activity carried out using funds from the grant.

"(B) MAXIMUM AMOUNT OF LOAN GUARANTEES.—The amount of a loan guaranteed under this subsection shall not exceed $25,000,000.

"(C) MAXIMUM AMOUNT OF COMBINED GRANT AND LOAN GUARANTEE.—The combined amount of a grant and loan guaranteed under this subsection shall not exceed 75 percent of the cost of the activity funded under this subsection.

"(d) OUTREACH.—The Secretary shall ensure, to the maximum extent practicable, that adequate outreach relating to this section is being conducted at the State and local levels.

"(e) LOWER-COST ACTIVITIES.—

"(1) LIMITATION ON USE OF FUNDS.—Except as provided in paragraph (2), the Secretary shall use not less than 20 percent of the funds made available under subsection (g) to provide grants of $20,000 or less.

"(2) EXCEPTION.—Effective beginning on June 30 of each fiscal year, paragraph (1) shall not apply to funds made available under subsection (g) for the fiscal year.

"(f) REPORT.—Not later than 4 years after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall submit to Congress a report on the implementation of this section, including the outcomes achieved by projects funded under this section.

"(g) FUNDING.—

"(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section, to remain available until expended—

"(A) $55,000,000 for fiscal year 2009;

"(B) $60,000,000 for fiscal year 2010;

"(C) $70,000,000 for fiscal year 2011; and

"(D) $70,000,000 for fiscal year 2012.

"(2) AUDIT AND TECHNICAL ASSISTANCE FUNDING.—

"(A) IN GENERAL.—Subject to subparagraph (B), of the funds made available for each fiscal year under paragraph (1), 4 percent shall be available to carry out subsection (b).

"(B) OTHER USE.—Funds not obligated under subparagraph (A) by April 1 of each fiscal year to carry out subsection (b) shall become available to carry out subsection (c).

"(3) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2009 through 2012.

"SEC. 9008. BIOMASS RESEARCH AND DEVELOPMENT.

"(a) DEFINITIONS.—In this section:

"(1) BIOBASED PRODUCT.—The term 'biobased product' means—

"(A) an industrial product (including chemicals, materials, and polymers) produced from biomass; or

"(B) a commercial or industrial product (including animal feed and electric power) derived in connection with the conversion of biomass to fuel.

"(2) DEMONSTRATION.—The term 'demonstration' means demonstration of technology in a pilot plant or semi-works scale facility, including a plant or facility located on a farm.

"(3) INITIATIVE.—The term 'Initiative' means the Biomass Research and Development Initiative established under subsection (e).

"(b) COOPERATION AND COORDINATION IN BIOMASS RESEARCH AND DEVELOPMENT.—

"(1) IN GENERAL.—The Secretary of Agriculture and the Secretary of Energy shall coordinate policies and procedures that promote research and development regarding the production of biofuels and biobased products.

"(2) POINTS OF CONTACT.—To coordinate research and development programs and activities relating to biofuels and biobased products that are carried out by their respective departments—

"(A) the Secretary of Agriculture shall designate, as the point of contact for the Department of Agriculture, an officer of the Department of Agriculture appointed by the President to a position in the Department before the date of the designation, by and with the advice and consent of the Senate; and

"(B) the Secretary of Energy shall designate, as the point of contact for the Department of Energy, an officer of the Department of Energy appointed by the President to a position in the Department before the date of the designation, by and with the advice and consent of the Senate.

"(c) BIOMASS RESEARCH AND DEVELOPMENT BOARD.—

"(1) ESTABLISHMENT.—There is established the Biomass Research and Development Board to carry out the duties described in paragraph (3).

"(2) MEMBERSHIP.—The Board shall consist of—

"(A) the point of contacts of the Department of Energy and the Department of Agriculture, who shall serve as co-chairpersons of the Board;

"(B) a senior officer of each of the Department of the Interior, the Environmental Protection Agency, the National Science Foundation, and the Office of Science and Tech-

nology Policy, each of whom shall have a rank that is equivalent to the rank of the points of contact; and

"(C) at the option of the Secretary of Agriculture and the Secretary of Energy, other members appointed by the Secretaries (after consultation with the Board).

"(3) DUTIES.—The Board shall—

"(A) coordinate research and development activities relating to biofuels and biobased products—

"(i) between the Department of Agriculture and the Department of Energy; and

"(ii) with other departments and agencies of the Federal Government;

"(B) provide recommendations to the points of contact concerning administration of this title;

"(C) ensure that—

"(i) solicitations are open and competitive with awards made annually; and

"(ii) objectives and evaluation criteria of the solicitations are clearly stated and minimally prescriptive, with no areas of special interest; and

"(D) ensure that the panel of scientific and technical peers assembled under subsection (e) to review proposals is composed predominantly of independent experts selected from outside the Departments of Agriculture and Energy.

"(4) FUNDING.—Each agency represented on the Board is encouraged to provide funds for any purpose under this section.

"(5) MEETINGS.—The Board shall meet at least quarterly.

"(d) BIOMASS RESEARCH AND DEVELOPMENT TECHNICAL ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—There is established the Biomass Research and Development Technical Advisory Committee to carry out the duties described in paragraph (3).

"(2) MEMBERSHIP.—

"(A) IN GENERAL.—The Advisory Committee shall consist of—

"(i) an individual affiliated with the biofuels industry;

"(ii) an individual affiliated with the biobased industrial and commercial products industry;

"(iii) an individual affiliated with an institution of higher education who has expertise in biofuels and biobased products;

"(iv) 2 prominent engineers or scientists from government or academia who have expertise in biofuels and biobased products;

"(v) an individual affiliated with a commodity trade association;

"(vi) 2 individuals affiliated with environmental or conservation organizations;

"(vii) an individual associated with State government who has expertise in biofuels and biobased products;

"(viii) an individual with expertise in energy and environmental analysis;

"(ix) an individual with expertise in the economics of biofuels and biobased products;

"(x) an individual with expertise in agricultural economics;

"(xi) an individual with expertise in plant biology and biomass feedstock development;

"(xii) an individual with expertise in agronomy, crop science, or soil science; and

"(xiii) at the option of the points of contact, other members.

"(B) APPOINTMENT.—The members of the Advisory Committee shall be appointed by the points of contact.

"(3) DUTIES.—The Advisory Committee shall—

"(A) advise the points of contact with respect to the Initiative; and

"(B) evaluate and make recommendations in writing to the Board regarding whether—

"(i) funds authorized for the Initiative are distributed and used in a manner that is consistent with the objectives, purposes, and considerations of the Initiative;

"(ii) solicitations are open and competitive with awards made annually;

"(iii) objectives and evaluation criteria of the solicitations are clearly stated and minimally prescriptive, with no areas of special interest;

"(iv) the points of contact are funding proposals under this title that are selected on the basis of merit, as determined by an independent panel of scientific and technical peers predominantly from outside the Departments of Agriculture and Energy; and

"(v) activities under this title are carried out in accordance with this title.

"(4) COORDINATION.—To avoid duplication of effort, the Advisory Committee shall coordinate its activities with those of other Federal advisory committees working in related areas.

"(5) MEETINGS.—The Advisory Committee shall meet at least quarterly.

"(6) TERMS.—Members of the Advisory Committee shall be appointed for a term of 3 years.

"(e) BIOMASS RESEARCH AND DEVELOPMENT INITIATIVE.—

"(1) IN GENERAL.—The Secretary of Agriculture and the Secretary of Energy, acting through their respective points of contact and in consultation with the Board, shall establish and carry out a Biomass Research and Development Initiative under which competitively awarded grants, contracts, and financial assistance are provided to, or entered into with, eligible entities to carry out research on and development and demonstration of—

"(A) biofuels and biobased products; and

"(B) the methods, practices, and technologies, for the production of biofuels and biobased products.

"(2) OBJECTIVES.—The objectives of the Initiative are to develop—

"(A) technologies and processes necessary for abundant commercial production of biofuels at prices competitive with fossil fuels;

"(B) high-value biobased products—

"(i) to enhance the economic viability of biofuels and power;

"(ii) to serve as substitutes for petroleum-based feedstocks and products; and

"(iii) to enhance the value of coproducts produced using the technologies and processes; and

"(C) a diversity of economically and environmentally sustainable domestic sources of renewable biomass for conversion to biofuels, bioenergy, and biobased products.

"(3) TECHNICAL AREAS.—The Secretary of Agriculture and the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency and heads of other appropriate departments and agencies (referred to in this subsection as the 'Secretaries'), shall direct the Initiative in the 3 following areas:

"(A) FEEDSTOCKS DEVELOPMENT.—Research, development, and demonstration activities regarding feedstocks and feedstock logistics (including the harvest, handling, transport, preprocessing, and storage) relevant to production of raw materials for conversion to biofuels and biobased products.

"(B) BIOFUELS AND BIOBASED PRODUCTS DEVELOPMENT.—Research, development, and demonstration activities to support—

"(i) the development of diverse cost-effective technologies for the use of cellulosic biomass in the production of biofuels and biobased products; and

"(ii) product diversification through technologies relevant to production of a range of biobased products (including chemicals, animal feeds, and cogenerated power) that potentially can increase the feasibility of fuel production in a biorefinery.

"(C) BIOFUELS DEVELOPMENT ANALYSIS.—

"(i) STRATEGIC GUIDANCE.—The development of analysis that provides strategic guidance for the application of renewable biomass technologies to improve sustainability and environmental quality, cost effectiveness, security, and rural economic development.

"(ii) ENERGY AND ENVIRONMENTAL IMPACT.—Development of systematic evaluations of the impact of expanded biofuel production on the environment (including forest land) and on the food supply for humans and animals, including the improvement and development of tools for life cycle analysis of current and potential biofuels.

"(iii) ASSESSMENT OF FEDERAL LAND.—Assessments of the potential of Federal land resources to increase the production of feedstocks for biofuels and biobased products, consistent with the integrity of soil and water resources and with other environmental considerations.

"(4) ADDITIONAL CONSIDERATIONS.—Within the technical areas described in paragraph (3), the Secretaries shall support research and development—

"(A) to create continuously expanding opportunities for participants in existing biofuels production by seeking synergies and continuity with current technologies and practices;

"(B) to maximize the environmental, economic, and social benefits of production of biofuels and derived biobased products on a large scale; and

"(C) to facilitate small-scale production and local and on-farm use of biofuels, including the development of small-scale gasification technologies for production of biofuel from cellulosic feedstocks.

"(5) ELIGIBILITY.—To be eligible for a grant, contract, or assistance under this section, an applicant shall be—

"(A) an institution of higher education;

"(B) a National Laboratory;

"(C) a Federal research agency;

"(D) a State research agency;

"(E) a private sector entity;

"(F) a nonprofit organization; or

"(G) a consortium of 2 or more entities described in subparagraphs (A) through (F).

"(6) ADMINISTRATION.—

"(A) IN GENERAL.—After consultation with the Board, the points of contact shall—

"(i) publish annually 1 or more joint requests for proposals for grants, contracts, and assistance under this subsection;

"(ii) require that grants, contracts, and assistance under this section be awarded based on a scientific peer review by an independent panel of scientific and technical peers;

"(iii) give special consideration to applications that—

"(I) involve a consortia of experts from multiple institutions;

"(II) encourage the integration of disciplines and application of the best technical resources; and

"(III) increase the geographic diversity of demonstration projects; and

"(iv) require that the technical areas described in each of subparagraphs (A), (B), and (C) of paragraph (3) receive not less than 15 percent of funds made available to carry out this section.

"(B) COST SHARE.—

"(i) RESEARCH AND DEVELOPMENT PROJECTS.—

"(I) IN GENERAL.—Except as provided in subclause (II), the non-Federal share of the cost of a research or development project under this section shall be not less than 20 percent.

"(II) REDUCTION.—The Secretary of Agriculture or the Secretary of Energy, as appropriate, may reduce the non-Federal share required under

subclause (I) if the appropriate Secretary determines the reduction to be necessary and appropriate.

"(ii) DEMONSTRATION AND COMMERCIAL PROJECTS.—The non-Federal share of the cost of a demonstration or commercial project under this section shall be not less than 50 percent.

"(C) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary of Agriculture and the Secretary of Energy shall ensure that applicable research results and technologies from the Initiative are—

"(i) adapted, made available, and disseminated, as appropriate; and

"(ii) included in the best practices database established under section 1672C(e) of the Food, Agriculture, Conservation, and Trade Act of 1990.

"(f) ADMINISTRATIVE SUPPORT AND FUNDS.—

"(1) IN GENERAL.—The Secretary of Energy and the Secretary of Agriculture may provide such administrative support and funds of the Department of Energy and the Department of Agriculture to the Board and the Advisory Committee as are necessary to enable the Board and the Advisory Committee to carry out their duties under this section.

"(2) OTHER AGENCIES.—The heads of the agencies referred to in subsection (c)(2)(B), and the other members of the Board appointed under subsection (c)(2)(C), are encouraged to provide administrative support and funds of their respective agencies to the Board and the Advisory Committee.

"(3) LIMITATION.—Not more than 4 percent of the amount made available for each fiscal year under subsection (h) may be used to pay the administrative costs of carrying out this section.

"(g) REPORTS.—For each fiscal year for which funds are made available to carry out this section, the Secretary of Energy and the Secretary of Agriculture shall jointly submit to Congress a detailed report on—

"(1) the status and progress of the Initiative, including a report from the Advisory Committee on whether funds appropriated for the Initiative have been distributed and used in a manner that is consistent with the objectives and requirements of this section;

"(2) the general status of cooperation and research and development efforts carried out at each agency with respect to biofuels and biobased products; and

"(3) the plans of the Secretary of Energy and the Secretary of Agriculture for addressing concerns raised in the report, including concerns raised by the Advisory Committee.

"(h) FUNDING.—

"(1) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall use to carry out this section, to remain available until expended—

"(A) $20,000,000 for fiscal year 2009;

"(B) $28,000,000 for fiscal year 2010;

"(C) $30,000,000 for fiscal year 2011; and

"(D) $40,000,000 for fiscal year 2012.

"(2) DISCRETIONARY FUNDING.—In addition to any other funds made available to carry out this section, there is authorized to be appropriated to carry out this section $35,000,000 for each of fiscal years 2009 through 2012.

"SEC. 9009. RURAL ENERGY SELF-SUFFICIENCY INITIATIVE.

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE RURAL COMMUNITY.—The term 'eligible rural community' means a community located in a rural area (as defined in section 343(a)(13)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)(A))).

"(2) INITIATIVE.—The term 'Initiative' means the Rural Energy Self-Sufficiency Initiative established under this section.

"(3) INTEGRATED RENEWABLE ENERGY SYSTEM.—The term 'integrated renewable energy system' means a community-wide energy system that—

"(A) reduces conventional energy use; and

"(B) increases the use of energy from renewable sources.

"(b) ESTABLISHMENT.—The Secretary shall establish a Rural Energy Self-Sufficiency Initiative to provide financial assistance for the purpose of enabling eligible rural communities to substantially increase the energy self-sufficiency of the eligible rural communities.

"(c) GRANT ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make grants available under the Initiative to eligible rural communities to carry out an activity described in paragraph (2).

"(2) USE OF GRANT FUNDS.—An eligible rural community may use a grant—

"(A) to conduct an energy assessment that assesses the total energy use of all energy users in the eligible rural community;

"(B) to formulate and analyze ideas for reducing energy usage by the eligible rural community from conventional sources; and

"(C) to develop and install an integrated renewable energy system.

"(3) GRANT SELECTION.—

"(A) APPLICATION.—To be considered for a grant, an eligible rural community shall submit an application to the Secretary that describes the ways in which the community would use the grant to carry out an activity described in paragraph (2).

"(B) PREFERENCE.—The Secretary shall give preference to those applications that propose to carry out an activity in coordination with—

"(i) institutions of higher education or nonprofit foundations of institutions of higher education;

"(ii) Federal, State, or local government agencies;

"(iii) public or private power generation entities; or

"(iv) government entities with responsibility for water or natural resources.

"(4) REPORT.—An eligible rural community receiving a grant under the Initiative shall submit to the Secretary a report on the project of the eligible rural community.

"(5) COST-SHARING.—The amount of a grant under the Initiative shall not exceed 50 percent of the cost of the activities described in the application.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2009 through 2012.

"SEC. 9010. FEEDSTOCK FLEXIBILITY PROGRAM FOR BIOENERGY PRODUCERS.

"(a) DEFINITIONS.—In this section:

"(1) BIOENERGY.—The term 'bioenergy' means fuel grade ethanol and other biofuel.

"(2) BIOENERGY PRODUCER.—The term 'bioenergy producer' means a producer of bioenergy that uses an eligible commodity to produce bioenergy under this section.

"(3) ELIGIBLE COMMODITY.—The term 'eligible commodity' means a form of raw or refined sugar or in-process sugar that is eligible to be marketed in the United States for human consumption or to be used for the extraction of sugar for human consumption.

"(4) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity located in the United States that markets an eligible commodity in the United States.

"(b) FEEDSTOCK FLEXIBILITY PROGRAM.—

"(1) IN GENERAL.—

"(A) PURCHASES AND SALES.—For each of the 2008 through 2012 crops, the Secretary shall purchase eligible commodities from eligible entities and sell such commodities to bioenergy producers for the purpose of producing bioenergy in a manner that ensures that section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272) is operated at no cost to the Federal Government by avoiding forfeitures to the Commodity Credit Corporation.

"(B) COMPETITIVE PROCEDURES.—In carrying out the purchases and sales required under subparagraph (A), the Secretary shall, to the maximum extent practicable, use competitive procedures, including the receiving, offering, and accepting of bids, when entering into contracts with eligible entities and bioenergy producers, provided that such procedures are consistent with the purposes of subparagraph (A).

"(C) LIMITATION.—The purchase and sale of eligible commodities under subparagraph (A) shall only be made in crop years in which such purchases and sales are necessary to ensure that the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272) is operated at no cost to the Federal Government by avoiding forfeitures to the Commodity Credit Corporation.

"(2) NOTICE.—

"(A) IN GENERAL.—As soon as practicable after the date of enactment of the Food, Conservation, and Energy Act of 2008 and each September 1 thereafter through September 1, 2012, the Secretary shall provide notice to eligible entities and bioenergy producers of the quantity of eligible commodities that shall be made available for purchase and

sale for the crop year following the date of the notice under this section.

"(B) REESTIMATES.—Not later than the January 1, April 1, and July 1 of the calendar year following the date of a notice under subparagraph (A), the Secretary shall reestimate the quantity of eligible commodities determined under subparagraph (A), and provide notice and make purchases and sales based on such reestimates.

"(3) COMMODITY CREDIT CORPORATION INVENTORY.—

"(A) DISPOSITIONS.—

"(i) BIOENERGY AND GENERALLY.—Except as provided in clause (ii), to the extent that an eligible commodity is owned and held in inventory by the Commodity Credit Corporation (accumulated pursuant to the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272)), the Secretary shall—

"(I) sell the eligible commodity to bioenergy producers under this section consistent with paragraph (1)(C);

"(II) dispose of the eligible commodity in accordance with section 156(f)(2) of that Act; or

"(III) otherwise dispose of the eligible commodity through the buyback of certificates of quota entry.

"(ii) PRESERVATION OF OTHER AUTHORITIES.—Nothing in this section limits the use of other authorities for the disposition of an eligible commodity held in the inventory of the Commodity Credit Corporation for nonfood use or otherwise in a manner that does not increase the net quantity of sugar available for human consumption in the United States market, consistent with section 156(f)(1) of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272(f)(1)).

"(B) EMERGENCY SHORTAGES.—Notwithstanding subparagraph (A), if there is an emergency shortage of sugar for human consumption in the United States market that is caused by a war, flood, hurricane, or other natural disaster, or other similar event, the Secretary may dispose of an eligible commodity that is owned and held in inventory by the Commodity Credit Corporation (accumulated pursuant to the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272)) through disposition as authorized under section 156(f) of that Act or through the use of any other authority of the Commodity Credit Corporation.

"(4) TRANSFER RULE; STORAGE FEES.—

"(A) GENERAL TRANSFER RULE.—Except with regard to emergency dispositions under paragraph (3)(B) and as provided in subparagraph (C), the Secretary shall ensure that bioenergy producers that purchase eligible commodities pursuant to this section take possession of the eligible commodities within 30 calendar days of the date of such purchase from the Commodity Credit Corporation.

"(B) PAYMENT OF STORAGE FEES PROHIBITED.—

"(i) IN GENERAL.—The Secretary shall, to the maximum extent practicable, carry out this section in a manner that ensures no storage fees are paid by the Commodity Credit Corporation in the administration of this section.

"(ii) EXCEPTION.—Clause (i) shall not apply with respect to any commodities owned and held in inventory by the Commodity Credit Corporation (accumulated pursuant to the program authorized under section 156 of the Federal Agriculture Improvement and Reform Act (7 U.S.C. 7272)).

"(C) OPTION TO PREVENT STORAGE FEES.—

"(i) IN GENERAL.—The Secretary may enter into contracts with bioenergy producers to sell eligible commodities to such producers prior in time to entering into contracts with eligible entities to purchase the eligible commodities to be used to satisfy the contracts entered into with the bioenergy producers.

"(ii) SPECIAL TRANSFER RULE.—If the Secretary makes a sale and purchase referred to in clause (i), the Secretary shall ensure that the bioenergy producer that purchased eligible commodities takes possession of such commodities within 30 calendar days of the date the Commodity Credit Corporation purchases the eligible commodities.

"(5) RELATION TO OTHER LAWS.—If sugar that is subject to a marketing allotment under part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359aa et seq.) is the subject of a payment under this section, the sugar shall be considered marketed and shall count against a processor's allocation of an allotment under such part, as applicable.

"(6) FUNDING.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation, including the use of such sums as are necessary, to carry out this section.

"SEC. 9011. BIOMASS CROP ASSISTANCE PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) BCAP.—The term 'BCAP' means the Biomass Crop Assistance Program established under this section.

"(2) BCAP PROJECT AREA.—The term 'BCAP project area' means an area that—

"(A) has specified boundaries that are submitted to the Secretary by the project sponsor and subsequently approved by the Secretary;

"(B) includes producers with contract acreage that will supply a portion of the renewable biomass needed by a biomass conversion facility; and

"(C) is physically located within an economically practicable distance from the biomass conversion facility.

"(3) CONTRACT ACREAGE.—The term 'contract acreage' means eligible land that is covered by a BCAP contract entered into with the Secretary.

"(4) ELIGIBLE CROP.—

"(A) IN GENERAL.—The term 'eligible crop' means a crop of renewable biomass.

"(B) EXCLUSIONS.—The term 'eligible crop' does not include—

"(i) any crop that is eligible to receive payments under title I of the Food, Conservation, and Energy Act of 2008 or an amendment made by that title; or

"(ii) any plant that is invasive or noxious or has the potential to become invasive or noxious, as determined by the Secretary, in consultation with other appropriate Federal or State departments and agencies.

"(5) ELIGIBLE LAND.—

"(A) IN GENERAL.—The term 'eligible land' includes agricultural and nonindustrial private forest lands (as defined in section 5(c) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103a(c))).

"(B) EXCLUSIONS.—The term 'eligible land' does not include—

"(i) Federal- or State-owned land;

"(ii) land that is native sod, as of the date of enactment of the Food, Conservation, and Energy Act of 2008;

"(iii) land enrolled in the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.);

"(iv) land enrolled in the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of title XII of that Act (16 U.S.C. 3837 et seq.); or

"(v) land enrolled in the grassland reserve program established under subchapter D of chapter 2 of subtitle D of title XII of that Act (16 U.S.C. 3838n et seq.).

"(6) ELIGIBLE MATERIAL.—

"(A) IN GENERAL.—The term 'eligible material' means renewable biomass.

"(B) EXCLUSIONS.—The term 'eligible material' does not include—

"(i) any crop that is eligible to receive payments under title I of the Food, Conservation, and Energy Act of 2008 or an amendment made by that title;

"(ii) animal waste and byproducts (including fats, oils, greases, and manure);

"(iii) food waste and yard waste; or

"(iv) algae.

"(7) PRODUCER.—The term 'producer' means an owner or operator of contract acreage that is physically located within a BCAP project area.

"(8) PROJECT SPONSOR.—The term 'project sponsor' means—

"(A) a group of producers; or

"(B) a biomass conversion facility.

"(b) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish and administer a Biomass Crop Assistance Program to—

"(1) support the establishment and production of eligible crops for conversion to bioenergy in selected BCAP project areas; and

"(2) assist agricultural and forest land owners and operators with collection, harvest, storage, and transportation of eligible material for use in a biomass conversion facility.

"(c) BCAP PROJECT AREA.—

"(1) IN GENERAL.—The Secretary shall provide financial assistance to producers of eligible crops in a BCAP project area.

"(2) SELECTION OF PROJECT AREAS.—

"(A) IN GENERAL.—To be considered for selection as a BCAP project area, a project sponsor shall submit to the Secretary a proposal that includes, at a minimum—

"(i) a description of the eligible land and eligible crops of each producer that will participate in the proposed BCAP project area;

"(ii) a letter of commitment from a biomass conversion facility that the facility will use the eligible crops intended to be produced in the proposed BCAP project area;

"(iii) evidence that the biomass conversion facility has sufficient equity available, as determined by the Secretary, if the biomass conversion facility is not operational at the time the proposal is submitted to the Secretary; and

"(iv) any other appropriate information about the biomass conversion facility or proposed biomass conversion facility that gives the Secretary a reasonable assurance that the plant will be in operation by the time that the eligible crops are ready for harvest.

"(B) BCAP PROJECT AREA SELECTION CRITERIA.—In selecting BCAP project areas, the Secretary shall consider—

"(i) the volume of the eligible crops proposed to be produced in the proposed BCAP project area and the probability that such crops will be used for the purposes of the BCAP;

"(ii) the volume of renewable biomass projected to be available from sources other than the eligible crops grown on contract acres;

"(iii) the anticipated economic impact in the proposed BCAP project area;

"(iv) the opportunity for producers and local investors to participate in the ownership of the biomass conversion facility in the proposed BCAP project area;

"(v) the participation rate by—

"(I) beginning farmers or ranchers (as defined in accordance with section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a))); or

"(II) socially disadvantaged farmers or ranchers (as defined in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)));

"(vi) the impact on soil, water, and related resources;

"(vii) the variety in biomass production approaches within a project area, including (as appropriate)—

"(I) agronomic conditions;

"(II) harvest and postharvest practices; and

"(III) monoculture and polyculture crop mixes;

"(viii) the range of eligible crops among project areas; and

"(ix) any additional information, as determined by the Secretary.

"(3) CONTRACT.—

"(A) IN GENERAL.—On approval of a BCAP project area by the Secretary, each producer in the BCAP project area shall enter into a contract directly with the Secretary.

"(B) MINIMUM TERMS.—At a minimum, contracts shall include terms that cover—

"(i) an agreement to make available to the Secretary, or to an institution of higher education or other entity designated by the Secretary, such information as the Secretary considers to be appropriate to promote the production of eligible crops and the development of biomass conversion technology;

"(ii) compliance with the highly erodible land conservation requirements of subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and the wetland conservation requirements of subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.);

"(iii) the implementation of (as determined by the Secretary)—

"(I) a conservation plan; or

"(II) a forest stewardship plan or an equivalent plan; and

"(iv) any additional requirements the Secretary considers appropriate.

"(C) DURATION.—A contract under this subsection shall have a term of up to—

"(i) 5 years for annual and perennial crops; or

"(ii) 15 years for woody biomass.

"(4) RELATIONSHIP TO OTHER PROGRAMS.—In carrying out this subsection, the Secretary shall provide for the preservation of cropland base and yield history applicable to the land enrolled in a BCAP contract.

"(5) PAYMENTS.—

"(A) IN GENERAL.—The Secretary shall make establishment and annual payments directly to producers to support the establishment and production of eligible crops on contract acreage.

"(B) AMOUNT OF ESTABLISHMENT PAYMENTS.—The amount of an establishment payment under this subsection shall be up to 75 percent of the costs of establishing an eligible perennial crop covered by the contract, including—

"(i) the cost of seeds and stock for perennials;

"(ii) the cost of planting the perennial crop, as determined by the Secretary; and

"(iii) in the case of nonindustrial private forestland, the costs of site preparation and tree planting.

"(C) AMOUNT OF ANNUAL PAYMENTS.—

"(i) IN GENERAL.—Subject to clause (ii), the amount of an annual payment under this subsection shall be determined by the Secretary.

"(ii) REDUCTION.—The Secretary shall reduce an annual payment by an amount determined to be appropriate by the Secretary, if—

"(I) an eligible crop is used for purposes other than the production of energy at the biomass conversion facility;

"(II) an eligible crop is delivered to the biomass conversion facility;

"(III) the producer receives a payment under subsection (d);

"(IV) the producer violates a term of the contract; or

"(V) there are such other circumstances, as determined by the Secretary to be necessary to carry out this section.

"(d) ASSISTANCE WITH COLLECTION, HARVEST, STORAGE, AND TRANSPORTATION.—

"(1) IN GENERAL.—The Secretary shall make a payment for the delivery of eligible material to a biomass conversion facility to—

"(A) a producer of an eligible crop that is produced on BCAP contract acreage; or

"(B) a person with the right to collect or harvest eligible material.

"(2) PAYMENTS.—

"(A) COSTS COVERED.—A payment under this subsection shall be in an amount described in subparagraph (B) for—

"(i) collection;

"(ii) harvest;

"(iii) storage; and

"(iv) transportation to a biomass conversion facility.

"(B) AMOUNT.—Subject to paragraph (3), the Secretary may provide matching payments at a rate of $1 for each $1 per ton provided by the biomass conversion facility, in an amount equal to not more than $45 per ton for a period of 2 years.

"(3) LIMITATION ON ASSISTANCE FOR BCAP CONTRACT ACREAGE.—As a condition of the receipt of annual payment under subsection (c), a producer receiving a payment under this subsection for collection, harvest, storage or transportation of an eligible crop produced on BCAP acreage shall agree to a reduction in the annual payment.

"(e) REPORT.—Not later than 4 years after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the dissemination by the Secretary of the best practice data and information gathered from participants receiving assistance under this section.

"(f) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.

"SEC. 9012. FOREST BIOMASS FOR ENERGY.

"(a) IN GENERAL.—The Secretary, acting through the Forest Service, shall conduct a competitive research and development program to encourage use of forest biomass for energy.

"(b) ELIGIBLE ENTITIES.—Entities eligible to compete under the program under this section include—

"(1) the Forest Service (acting through Research and Development);

"(2) other Federal agencies;

"(3) State and local governments;

"(4) Indian tribes;

"(5) land-grant colleges and universities; and

"(6) private entities.

"(c) PRIORITY FOR PROJECT SELECTION.—In carrying out this section, the Secretary shall give priority to projects that—

"(1) develop technology and techniques to use low-value forest biomass, such as byproducts of forest health treatments and hazardous fuels reduction, for the production of energy;

"(2) develop processes that integrate production of energy from forest biomass into biorefineries or other existing manufacturing streams;

"(3) develop new transportation fuels from forest biomass; and

"(4) improve the growth and yield of trees intended for renewable energy production.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2009 through 2012.

"SEC. 9013. COMMUNITY WOOD ENERGY PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) COMMUNITY WOOD ENERGY PLAN.—The term 'community wood energy plan' means an assessment of—

"(A) available feedstocks necessary to supply a community wood energy system; and

"(B) the long-term feasibility of supplying and operating a community wood energy system.

"(2) COMMUNITY WOOD ENERGY SYSTEM.—

"(A) IN GENERAL.—The term 'community wood energy system' means an energy system that—

"(i) primarily services public facilities owned or operated by State or local governments, including schools, town halls, libraries, and other public buildings; and

"(ii) uses woody biomass as the primary fuel.

"(B) INCLUSIONS.—The term 'community wood energy system' includes single facility central heating, district heating, combined heat and energy systems, and other related biomass energy systems.

"(b) GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary, acting through the Chief of the Forest Service, shall establish a program to be known as the 'Community Wood Energy Program' to provide—

"(A) grants of up to $50,000 to State and local governments (or designees) to develop community wood energy plans; and

"(B) competitive grants to State and local governments to acquire or upgrade community wood energy systems.

"(2) CONSIDERATIONS.—In selecting applicants for grants under paragraph (1)(B), the Secretary shall consider—

"(A) the energy efficiency of the proposed system;

"(B) the cost effectiveness of the proposed system; and

"(C) other conservation and environmental criteria that the Secretary considers appropriate.

"(3) USE OF PLAN.—A State or local government applying to receive a competitive grant described in paragraph (1)(B) shall submit to the Secretary as part of the grant application the applicable community wood energy plan.

"(c) LIMITATION.—A community wood energy system acquired with grant funds provided under subsection (b)(1)(B) shall not exceed an output of—

"(1) 50,000,000 Btu per hour for heating; and

"(2) 2 megawatts for electric power production.

"(d) MATCHING FUNDS.—A State or local government that receives a grant under subsection (b) shall contribute an amount of non-Federal funds towards the development of the community wood energy plan, or acquisition of the community wood energy systems that is at least equal to the amount of grant funds received by the State or local government under that subsection.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2009 through 2012.".

(b) CONFORMING AMENDMENT.—The Biomass Research and Development Act of 2000 (7 U.S.C. 8601 et seq.) is repealed.

SEC. 9002. BIOFUELS INFRASTRUCTURE STUDY.

(a) IN GENERAL.—The Secretary of Agriculture, the Secretary of Energy, the Administrator of the Environmental Protection Agency, and the Secretary of Transportation (referred to in this section as the "Secretaries"), shall jointly conduct a study that includes—

(1) an assessment of the infrastructure needs for expanding the domestic production, transport, and distribution of biofuels given current and likely future market trends;

(2) recommendations for infrastructure needs and development approaches, taking into account cost and other associated factors; and

(3) a report that includes—

(A) a summary of infrastructure needs;

(B) an analysis of alternative development approaches to meeting the needs described in subparagraph (A), including cost, siting, and other regulatory issues; and

(C) recommendations for specific infrastructure development actions to be taken.

(b) SCOPE OF STUDY.—

(1) IN GENERAL.—In conducting the study described in subsection (a), the Secretaries shall address—

(A) current and likely future market trends for biofuels through calendar year 2025;

(B) current and future availability of feedstocks;

(C) water resource needs, including water requirements for biorefineries;

(D) shipping and storage needs for biomass feedstock and biofuels, including the adequacy of rural roads; and

(E) modes of transportation and delivery for biofuels (including shipment by rail, truck, pipeline or barge) and associated infrastructure issues.

(2) CONSIDERATIONS.—In addressing the issues described in paragraph (1), the Secretaries shall consider—

(A) the effects of increased tank truck, rail, and barge transport on existing infrastructure and safety;

(B) the feasibility of shipping biofuels through pipelines in existence as of the date of enactment of this Act;

(C) the development of new biofuels pipelines, including siting, financing, timing, and other economic issues;

(D) the implications of various biofuel blend levels on infrastructure needs;

(E) the implications of various approaches to infrastructure development on resource use and conservation;

(F) regional differences in biofuels infrastructure needs; and

(G) other infrastructure issues, as determined by the Secretaries.

(c) IMPLEMENTATION.—In carrying out this section, the Secretaries —

(1) shall—

(A) consult with individuals and entities with interest or expertise in the areas described in subsection (b);

(B) to the extent available, use the information developed and results of the related studies authorized under sections 243 and 245 of the Energy Independence and Security Act of 2007 (Public Law 110–140; 121 Stat. 1540, 1546)); and

(C) submit to Congress the report required under subsection (a)(3), including—

(i) in the Senate—

(I) the Committee on Agriculture, Nutrition, and Forestry ;

(II) the Committee on Commerce, Science, and Transportation;

(III) the Committee on Energy and Natural Resources; and

(IV) the Committee on Environment and Public Works; and

(ii) in the House of Representatives—

(I) the Committee on Agriculture;

(II) the Committee on Energy and Commerce;

(III) the Committee on Transportation and Infrastructure; and

(IV) the Committee on Science and Technology; and

(2) may issue a solicitation for a competition to select a contractor to support the Secretaries.

SEC. 9003. RENEWABLE FERTILIZER STUDY.

(a) IN GENERAL.—Not later than 1 year after the date of receipt of appropriations to carry out this section, the Secretary shall—

(1) conduct a study to assess the current state of knowledge regarding the potential for the production of fertilizer from renewable energy sources in rural areas, including—

(A) identification of the critical challenges to commercialization of rural production of nitrogen and phosphorus-based fertilizer from renewables;

(B) the most promising processes and technologies for renewable fertilizer production;

(C) the potential cost-competitiveness of renewable fertilizer; and

(D) the potential impacts of renewable fertilizer on fossil fuel use and the environment; and

(2) submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the study.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for fiscal year 2009.

TITLE X—HORTICULTURE AND ORGANIC AGRICULTURE

SEC. 10001. DEFINITIONS.

In this title:

(1) SPECIALTY CROP.—The term "specialty crop" has the meaning given the term in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108–465).

(2) STATE DEPARTMENT OF AGRICULTURE.—The term "State department of agriculture" means the agency, commission, or department of a State government responsible for protecting and promoting agriculture in the State.

Subtitle A—Horticulture Marketing and Information

SEC. 10101. INDEPENDENT EVALUATION OF DEPARTMENT OF AGRICULTURE COMMODITY PURCHASE PROCESS.

(a) EVALUATION REQUIRED.—The Secretary shall arrange to have performed an independent evaluation of the purchasing processes (including the budgetary, statutory, and regulatory authority underlying the processes) used by the Department of Agriculture to implement the requirement that funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be principally devoted to perishable agricultural commodities.

(b) SUBMISSION OF RESULTS.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the evaluation.

SEC. 10102. QUALITY REQUIREMENTS FOR CLEMENTINES.

Section 8e(a) of the Agricultural Adjustment Act (7 U.S.C. 608e–1(a)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended in the matter preceding

the first proviso in the first sentence by inserting "clementines," after "nectarines,".

SEC. 10103. INCLUSION OF SPECIALTY CROPS IN CENSUS OF AGRICULTURE.

Section 2(a) of the Census of Agriculture Act of 1997 (7 U.S.C. 2204g(a)) is amended—

(1) by striking "In 1998" and inserting the following:

"(1) IN GENERAL.—In 1998"; and

(2) by adding at the end the following:

"(2) INCLUSION OF SPECIALTY CROPS.—Effective beginning with the census of agriculture required to be conducted in 2008, the Secretary shall conduct as part of each census of agriculture a census of specialty crops (as that term is defined in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108-465)).".

SEC. 10104. MUSHROOM PROMOTION, RESEARCH, AND CONSUMER INFORMATION.

(a) REGIONS AND MEMBERS.—Section 1925(b)(2) of the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6104(b)(2)) is amended—

(1) in subparagraph (B), by striking "4 regions" and inserting "3 regions";

(2) in subparagraph (D), by striking "35,000,000 pounds" and inserting "50,000,000 pounds"; and

(3) by striking subparagraph (E) and inserting the following:

"(E) ADDITIONAL MEMBERS.—In addition to the members appointed pursuant to paragraph (1), and subject to the 9-member limit of members on the Council provided in that paragraph, the Secretary shall appoint additional members to the council from a region that attains additional pounds of production as follows:

"(i) If the annual production of a region is greater than 110,000,000 pounds, but less than or equal to 180,000,000 pounds, the region shall be represented by 1 additional member.

"(ii) If the annual production of a region is greater than 180,000,000 pounds, but less than or equal to 260,000,000 pounds, the region shall be represented by 2 additional members.

"(iii) If the annual production of a region is greater than 260,000,000 pounds, the region shall be represented by 3 additional members.".

(b) POWERS AND DUTIES OF COUNCIL.—Section 1925(c) of the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6104(c)) is amended—

(1) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(2) by inserting after paragraph (5) the following:

"(6) to develop and propose to the Secretary programs for good agricultural and good handling practices and related activities for mushrooms;".

SEC. 10105. FOOD SAFETY EDUCATION INITIATIVES.

(a) INITIATIVE AUTHORIZED.—The Secretary may carry out a food safety education program to educate the public and persons in the fresh produce industry about—

(1) scientifically proven practices for reducing microbial pathogens on fresh produce; and

(2) methods of reducing the threat of cross-contamination of fresh produce through sanitary handling practices.

(b) COOPERATION.—The Secretary may carry out the education program in cooperation with public and private partners.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $1,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.

SEC. 10106. FARMERS' MARKET PROMOTION PROGRAM.

Section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3005) is amended—

(1) in subsection (a), by inserting "and to promote direct producer-to-consumer marketing" before the period at the end;

(2) in subsection (b)(1)—

(A) in subparagraph (A), by inserting "agri-tourism activities," after "programs,"; and

(B) in subparagraph (B)—

(i) by inserting "agri-tourism activities," after "programs," and

(ii) by striking "infrastructure" and inserting "marketing opportunities";

(3) in subsection (c)(1), by inserting "or a producer network or association" after "cooperative"; and

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

"(e) FUNDING.—

"(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section—

"(A) $3,000,000 for fiscal year 2008;

"(B) $5,000,000 for each of fiscal years 2009 through 2010; and

"(C) $10,000,000 for each of fiscal years 2011 and 2012.

"(2) USE OF FUNDS.—Not less than 10 percent of the funds used to carry out this section in a fiscal year under paragraph (1) shall be used to support the use of electronic benefits transfers for Federal nutrition programs at farmers' markets.

"(3) INTERDEPARTMENTAL COORDINATION.—In carrying out this subsection, the Secretary shall ensure coordination between the various agencies to the maximum extent practicable.

"(4) LIMITATION.—Funds described in paragraph (2)—

"(A) may not be used for the ongoing cost of carrying out any project; and

"(B) shall only be provided to eligible entities that demonstrate a plan to continue to provide EBT card access at 1 or more farmers' markets following the receipt of the grant.".

SEC. 10107. SPECIALTY CROPS MARKET NEWS ALLOCATION.

(a) IN GENERAL.—The Secretary shall—

(1) carry out market news activities to provide timely price and shipment information of specialty crops in the United States; and

(2) use funds made available under subsection (b) to increase the reporting levels for specialty crops in effect on the date of enactment of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available through annual appropriations for market news services, there is authorized to be appropriated to carry out this section $9,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.

SEC. 10108. EXPEDITED MARKETING ORDER FOR HASS AVOCADOS FOR GRADES AND STANDARDS AND OTHER PURPOSES.

(a) IN GENERAL.—The Secretary shall initiate procedures under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to determine whether it would be appropriate to establish a Federal marketing order for Hass avocados relating to grades and standards and for other purposes under that Act.

(b) EXPEDITED PROCEDURES.—

(1) PROPOSAL FOR AN ORDER.—An organization of domestic avocado producers in existence on the date of enactment of this Act may request the issuance of, and submit to the Secretary a proposal for, an order described in subsection (a).

(2) PUBLICATION OF PROPOSAL.—Not later than 60 days after the date on which the Secretary receives a proposed order under paragraph (1), the Secretary shall initiate procedures described in subsection (a) to determine whether the proposed order should proceed.

(c) EFFECTIVE DATE.—Any order issued under this section shall become effective not later than 15 months after the date on which the Secretary initiates procedures under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

SEC. 10109. SPECIALTY CROP BLOCK GRANTS.

(a) DEFINITION OF SPECIALTY CROP.—Section 3(1) of the Specialty Crops Competitiveness Act of 2004 (Public Law 108–465; 7 U.S.C. 1621 note) is amended by inserting "horticulture and" before "nursery".

(b) DEFINITION OF STATE.—Section 3(2) of the Specialty Crops Competitiveness Act of 2004 (Public Law 108–465; 7 U.S.C. 1621 note) is amended by striking "and the Commonwealth of Puerto Rico" and inserting "the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands".

(c) SPECIALTY CROP BLOCK GRANTS.—Section 101 of the Specialty Crops Competitiveness Act of 2004 (Public Law 108–465; 7 U.S.C. 1621 note) is amended—

(1) in subsection (a)—

(A) by striking "Subject to the appropriation of funds to carry out this section" and inserting "Using the funds made available under subsection (j)"; and

(B) by striking "2009" and inserting "2012";

(2) in subsection (b), by striking "appropriated pursuant to the authorization of appropriations in subsection (i)" and inserting "made available under subsection (j)";

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

"(c) MINIMUM GRANT AMOUNT.—Notwithstanding subsection (b), each State shall receive a grant under this section for each fiscal year in an amount that is at least equal to the higher of—

"(1) $100,000; or

"(2) 1/3 of 1 percent of the total amount of funding made available to carry out this section for the fiscal year."; and

(4) by striking subsection (i) and inserting the following:

"(i) REALLOCATION.—

"(1) IN GENERAL.—The Secretary shall reallocate to other States in accordance with paragraph (2) any amounts made available for a fiscal year under this section that are not obligated or expended by a date during that fiscal year determined by the Secretary.

"(2) PRO RATA ALLOCATION.—The Secretary shall allocate funds described in paragraph (1) pro rata to the remaining States that applied during the specified grant application period.

"(3) USE OF REALLOCATED FUNDS.—Funds allocated to a State under this subsection shall be used by the State only to carry out projects that were previously approved in the State plan of the State.

"(j) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall make grants under this section, using—

"(1) $10,000,000 for fiscal year 2008;

"(2) $49,000,000 for fiscal year 2009; and

"(3) $55,000,000 for each of fiscal years 2010 through 2012.".

Subtitle B—Pest and Disease Management

SEC. 10201. PLANT PEST AND DISEASE MANAGEMENT AND DISASTER PREVENTION.

(a) IN GENERAL.—Subtitle A of the Plant Protection Act (7 U.S.C. 7711 et seq.) is amended by adding at the end the following:

"SEC. 420. PLANT PEST AND DISEASE MANAGEMENT AND DISASTER PREVENTION.

"(a) DEFINITIONS.—In this section:

"(1) EARLY PLANT PEST DETECTION AND SURVEILLANCE.—The term 'early plant pest detection and surveillance' means the full range of activities undertaken to find newly introduced plant pests, whether the plant pests are new to the United States or new to certain areas of the United States, before—

"(A) the plant pests become established; or

"(B) the plant pest infestations become too large and costly to eradicate or control.

"(2) SPECIALTY CROP.—The term 'specialty crop' has the meaning given the term in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108–465).

"(3) STATE DEPARTMENT OF AGRICULTURE.—The term 'State department of agriculture' means an agency of a State that has

a legal responsibility to perform early plant pest detection and surveillance activities.

"(b) EARLY PLANT PEST DETECTION AND SURVEILLANCE IMPROVEMENT PROGRAM.—

"(1) COOPERATIVE AGREEMENTS.—The Secretary shall enter into a cooperative agreement with each State department of agriculture that agrees to conduct early plant pest detection and surveillance activities.

"(2) CONSULTATION.—In carrying out this subsection, the Secretary shall consult with—

"(A) the National Plant Board; and

"(B) other interested parties.

"(3) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to consultations under this subsection.

"(4) APPLICATION.—

"(A) IN GENERAL.—A State department of agriculture seeking to enter into a cooperative agreement under this subsection shall submit to the Secretary an application containing such information as the Secretary may require.

"(B) NOTIFICATION.—The Secretary shall notify applicants of—

"(i) the requirements to be imposed on a State department of agriculture for auditing of, and reporting on, the use of any funds provided by the Secretary under the cooperative agreement;

"(ii) the criteria to be used to ensure that early pest detection and surveillance activities supported under the cooperative agreement are based on sound scientific data or thorough risk assessments; and

"(iii) the means of identifying pathways of pest introductions.

"(5) USE OF FUNDS.—

"(A) PLANT PEST DETECTION AND SURVEILLANCE ACTIVITIES.—A State department of agriculture that receives funds under this subsection shall use the funds to carry out early plant pest detection and surveillance activities approved by the Secretary to prevent the introduction or spread of a plant pest.

"(B) SUBAGREEMENTS.—Nothing in this subsection prevents a State department of agriculture from using funds received under paragraph (4) to enter into subagreements with political subdivisions of the State that have legal responsibilities relating to agricultural plant pest and disease surveillance.

"(C) NON-FEDERAL SHARE.—The non-Federal share of the cost of carrying out a cooperative agreement under this section may be provided in-kind, including through provision of such indirect costs of the cooperative agreement as the Secretary considers to be appropriate.

"(D) ABILITY TO PROVIDE FUNDS.—The Secretary shall not take the ability to provide non-Federal costs to carry out a cooperative agreement entered into under subparagraph (A) into consideration when deciding whether to

enter into a cooperative agreement with a State department of agriculture.

"(6) SPECIAL FUNDING CONSIDERATIONS.—The Secretary shall provide funds to a State department of agriculture if the Secretary determines that—

"(A) the State department of agriculture is in a State that has a high risk of being affected by 1 or more plant pests or diseases, taking into consideration—

"(i) the number of international ports of entry in the State;

"(ii) the volume of international passenger and cargo entry into the State;

"(iii) the geographic location of the State and if the location or types of agricultural commodities produced in the State are conducive to agricultural pest and disease establishment due to the climate, crop diversity, or natural resources (including unique plant species) of the State; and

"(iv) whether the Secretary has determined that an agricultural pest or disease in the State is a Federal concern; and

"(B) the early plant pest detection and surveillance activities supported with the funds will likely—

"(i) prevent the introduction and establishment of plant pests; and

"(ii) provide a comprehensive approach to compliment Federal detection efforts.

"(7) REPORTING REQUIREMENT.—Not later than 90 days after the date of completion of an early plant pest detection and surveillance activity conducted by a State department of agriculture using funds provided under this section, the State department of agriculture shall submit to the Secretary a report that describes the purposes and results of the activities.

"(c) THREAT IDENTIFICATION AND MITIGATION PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a threat identification and mitigation program to determine and address threats to the domestic production of crops.

"(2) REQUIREMENTS.—In conducting the program established under paragraph (1), the Secretary shall—

"(A) develop risk assessments of the potential threat to the agricultural industry of the United States from foreign sources;

"(B) collaborate with the National Plant Board; and

"(C) implement action plans for high consequence plant pest and diseases to assist in preventing the introduction and widespread dissemination of new plant pest and disease threats in the United States.

"(3) REPORTS.—Not later than 1 year after the date of enactment of this paragraph, and annually thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the action plans described in paragraph (2), including an accounting of funds expended on the action plans.

"(d) SPECIALTY CROP CERTIFICATION AND RISK MANAGEMENT SYSTEMS.—The Secretary shall provide funds and technical assistance to specialty crop growers, organizations representing specialty crop growers, and State and local agencies working with specialty crop growers and organizations for the development and implementation of—

"(1) audit-based certification systems, such as best management practices—

"(A) to address plant pests; and

"(B) to mitigate the risk of plant pests in the movement of plants and plant products; and

"(2) nursery plant pest risk management systems, in collaboration with the nursery industry, research institutions, and other appropriate entities—

"(A) to enable growers to identify and prioritize nursery plant pests and diseases of regulatory significance;

"(B) to prevent the introduction, establishment, and spread of those plant pests and diseases; and

"(C) to reduce the risk of and mitigate those plant pests and diseases.

"(e) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—

"(1) $12,000,000 for fiscal year 2009;

"(2) $45,000,000 for fiscal year 2010;

"(3) $50,000,000 for fiscal year 2011; and

"(4) $50,000,000 for fiscal year 2012 and each fiscal year thereafter.".

(b) CONGRESSIONAL DISAPPROVAL.—Congress disapproves the rule submitted by the Secretary of Agriculture relating to cost-sharing for animal and plant health emergency programs (68 Fed. Reg. 40541 (2003)), and such rule shall have no force or effect.

SEC. 10202. NATIONAL CLEAN PLANT NETWORK.

(a) IN GENERAL.—The Secretary shall establish a program to be known as the "National Clean Plant Network" (referred to in this section as the "Program").

(b) REQUIREMENTS.—Under the Program, the Secretary shall establish a network of clean plant centers for diagnostic and pathogen elimination services to—

(1) produce clean propagative plant material; and

(2) maintain blocks of pathogen-tested plant material in sites located throughout the United States.

(c) AVAILABILITY OF CLEAN PLANT SOURCE MATERIAL.—Clean plant source material may be made available to—

(1) a State for a certified plant program of the State; and

(2) private nurseries and producers.

(d) CONSULTATION AND COLLABORATION.—In carrying out the Program, the Secretary shall—

(1) consult with State departments of agriculture, land grant universities, and NLGCA Institutions (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)); and

(2) to the extent practicable and with input from the appropriate State officials and industry representatives, use existing Federal or State facilities to serve as clean plant centers.

(e) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out the Program $5,000,000 for each of fiscal years 2009 through 2012, to remain available until expended.

SEC. 10203. PLANT PROTECTION.

(a) REVIEW OF PAYMENT OF COMPENSATION.—Section 415(e) of the Plant Protection Act (7 U.S.C. 7715(e)) is amended in the second sentence by striking "of longer than 60 days".

(b) SECRETARIAL DISCRETION.—Section 442(c) of the Plant Protection Act (7 U.S.C. 7772(c)) is amended by striking "of longer than 60 days".

(c) SUBPOENA AUTHORITY.—Section 423 of the Plant Protection Act (7 U.S.C. 7733) is amended—

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

"(a) AUTHORITY TO ISSUE.—The Secretary shall have the power to subpoena the attendance and testimony of any witness, the production of all evidence (including books, papers, documents, electronically stored information, and other tangible things that constitute or contain evidence), or to require the person to whom the subpoena is directed to permit the inspection of premises relating to the administration or enforcement of this title or any matter under investigation in connection with this title.";

(2) in subsection (b), by striking "documentary"; and

(3) in subsection (c)—

(A) in the first sentence, by striking "testimony of any witness and the production of documentary evidence" and inserting "testimony of any witness, the production of evidence, or the inspection of premises"; and

(B) in the second sentence, by striking "question or to produce documentary evidence" and inserting "question, produce evidence, or permit the inspection of premises".

(d) WILLFUL VIOLATIONS.—Section 424(b)(1)(A) of the Plant Protection Act (7 U.S.C. 7734(b)(1)(A)) is amended by striking "and $500,000 for all violations adjudicated in a single proceeding" and inserting "$500,000 for all violations adjudicated in a single proceeding if the violations do not include a willful violation, and $1,000,000 for all violations adjudicated in a single proceeding if the violations include a willful violation".

SEC. 10204. REGULATIONS TO IMPROVE MANAGEMENT AND OVERSIGHT OF CERTAIN REGULATED ARTICLES.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(1) take action on each issue identified in the document entitled "Lessons Learned and Revisions under Consideration for APHIS' Biotechnology Framework", dated October 4, 2007; and

(2) as the Secretary considers appropriate, promulgate regulations to improve the management and oversight of articles regulated under the Plant Protection Act (7 U.S.C. 7701 et seq.).

(b) INCLUSIONS.—In carrying out subsection (a), the Secretary shall take actions that are designed to enhance—

(1) the quality and completeness of records;

(2) the availability of representative samples;

(3) the maintenance of identity and control in the event of an unauthorized release;

(4) corrective actions in the event of an unauthorized release;

(5) protocols for conducting molecular forensics;

(6) clarity in contractual agreements;

(7) the use of the latest scientific techniques for isolation and confinement distances;

(8) standards for quality management systems and effective research; and

(9) the design of electronic permits to store documents and other information relating to the permit and notification processes.

(c) CONSIDERATION.—In carrying out subsection (a), the Secretary shall consider—

(1) establishing—

(A) a system of risk-based categories to classify each regulated article;

(B) a means to identify regulated articles (including the retention of seed samples); and

(C) standards for isolation and containment distances; and

(2) requiring permit holders—

(A) to maintain a positive chain of custody;

(B) to provide for the maintenance of records;

(C) to provide for the accounting of material;

(D) to conduct periodic audits;

(E) to establish an appropriate training program;

(F) to provide contingency and corrective action plans; and

(G) to submit reports as the Secretary considers to be appropriate.

SEC. 10205. PEST AND DISEASE REVOLVING LOAN FUND.

(a) DEFINITIONS.—In this section:

(1) AUTHORIZED EQUIPMENT.—

(A) IN GENERAL.—The term "authorized equipment" means any equipment necessary for the management of forest land.

(B) INCLUSIONS.—The term "authorized equipment" includes—

(i) cherry pickers;

(ii) equipment necessary for—

(I) the construction of staging and marshalling areas;

(II) the planting of trees; and

(III) the surveying of forest land;

(iii) vehicles capable of transporting harvested trees;

(iv) wood chippers; and

(v) any other appropriate equipment, as determined by the Secretary.

(2) FUND.—The term "Fund" means the Pest and Disease Revolving Loan Fund established by subsection (b).

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, acting through the Deputy Chief of the State and Private Forestry organization.

(b) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a revolving fund, to be known as the "Pest and Disease Revolving Loan Fund", consisting of such amounts as are appropriated to the Fund under subsection (f).

(c) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to provide loans under subsection (e).

(2) ADMINISTRATIVE EXPENSES.—An amount not exceeding 10 percent of the amounts in the Fund shall be available for each fiscal year to pay the administrative expenses necessary to carry out this section.

(d) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(e) USES OF FUND.—

(1) LOANS.—

(A) IN GENERAL.—The Secretary shall use amounts in the Fund to provide loans to eligible units of local government to finance purchases of authorized equipment to monitor, remove, dispose of, and replace infested trees that are located—

(i) on land under the jurisdiction of the eligible units of local government; and

(ii) within the borders of quarantine areas infested by plant pests.

(B) MAXIMUM AMOUNT.—The maximum amount of a loan that may be provided by the Secretary to an eligible unit of local government under this subsection shall be the lesser of—

(i) the amount that the eligible unit of local government has appropriated to finance purchases of authorized equipment in accordance with subparagraph (A); or

(ii) $5,000,000.

(C) INTEREST RATE.—The interest rate on any loan made by the Secretary under this paragraph shall be a rate equal to 2 percent.

(D) REPORT.—Not later than 180 days after the date on which an eligible unit of local government receives a loan provided by the Secretary under subparagraph (A), the eligible unit of local government shall submit to the Secretary a report that describes each purchase made by the eligible unit of local government using assistance provided through the loan.

(2) LOAN REPAYMENT SCHEDULE.—

(A) IN GENERAL.—To be eligible to receive a loan from the Secretary under paragraph (1), in accordance with each

requirement described in subparagraph (B), an eligible unit of local government shall enter into an agreement with the Secretary to establish a loan repayment schedule relating to the repayment of the loan.

(B) REQUIREMENTS RELATING TO LOAN REPAYMENT SCHEDULE.—A loan repayment schedule established under subparagraph (A) shall require the eligible unit of local government—

(i) to repay to the Secretary of the Treasury, not later than 1 year after the date on which the eligible unit of local government receives a loan under paragraph (1), and semiannually thereafter, an amount equal to the quotient obtained by dividing—

(I) the principal amount of the loan (including interest); by

(II) the total quantity of payments that the eligible unit of local government is required to make during the repayment period of the loan; and

(ii) not later than 20 years after the date on which the eligible unit of local government receives a loan under paragraph (1), to complete repayment to the Secretary of the Treasury of the loan made under this section (including interest).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as are necessary to carry out this section.

SEC. 10206. COOPERATIVE AGREEMENTS RELATING TO PLANT PEST AND DISEASE PREVENTION ACTIVITIES.

Section 431 of the Plant Protection Act (7 U.S.C. 7751) is amended by adding at the end the following:

"(f) TRANSFER OF COOPERATIVE AGREEMENT FUND.—

"(1) IN GENERAL.—A State may provide to a unit of local government in the State described in paragraph (2) any cost-sharing assistance or financing mechanism provided to the State under a cooperative agreement entered into under this Act between the Secretary and the State relating to the eradication, prevention, control, or suppression of plant pests.

"(2) REQUIREMENTS.—To be eligible for assistance or financing under paragraph (1), a unit of local government shall be—

"(A) engaged in any activity relating to the eradication, prevention, control, or suppression of the plant pest infestation covered under the cooperative agreement between the Secretary and the State; and

"(B) capable of documenting each plant pest infestation eradication, prevention, control, or suppression activity generally carried out by—

"(i) the Department of Agriculture; or

"(ii) the State department of agriculture that has jurisdiction over the unit of local government.".

Subtitle C—Organic Agriculture

SEC. 10301. NATIONAL ORGANIC CERTIFICATION COST-SHARE PROGRAM.

Section 10606 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 6523) is amended—

(1) in subsection (a), by striking "$5,000,000 for fiscal year 2002" and inserting "$22,000,000 for fiscal year 2008";

(2) in subsection (b)(2), by striking "$500" and inserting "$750"; and

(3) by adding at the end the following:

"(c) REPORTING.—Not later than March 1 of each year, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the requests by, disbursements to, and expenditures for each State under the program during the current and previous fiscal year, including the number of producers and handlers served by the program in the previous fiscal year.".

SEC. 10302. ORGANIC PRODUCTION AND MARKET DATA INITIATIVES.

Section 7407 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 5925c) is amended to read as follows:

"SEC. 7407. ORGANIC PRODUCTION AND MARKET DATA INITIATIVES.

"(a) IN GENERAL.—The Secretary shall collect and report data on the production and marketing of organic agricultural products.

"(b) REQUIREMENTS.—In carrying out subsection (a), the Secretary shall, at a minimum—

"(1) collect and distribute comprehensive reporting of prices relating to organically produced agricultural products;

"(2) conduct surveys and analysis and publish reports relating to organic production, handling, distribution, retail, and trend studies (including consumer purchasing patterns); and

"(3) develop surveys and report statistical analysis on organically produced agricultural products.

"(c) REPORT.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

"(1) describes the progress that has been made in implementing this section; and

"(2) identifies any additional production and marketing data needs.

"(d) FUNDING.—

"(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section $5,000,000, to remain available until expended.

"(2) ADDITIONAL FUNDING.—In addition to funds made available under paragraph (1), there are authorized to be appropriated to carry out this section not more than $5,000,000 for each of fiscal years 2008 through 2012, to remain available until expended.".

SEC. 10303. NATIONAL ORGANIC PROGRAM.

Section 2123 of the Organic Foods Production Act of 1990 (7 U.S.C. 6522) is amended—

(1) by striking "There are" and inserting the following:

"(a) IN GENERAL.—There are"; and

(2) by adding at the end the following:

"(b) NATIONAL ORGANIC PROGRAM.—Notwithstanding any other provision of law, in order to carry out activities under the national organic program established under this title, there are authorized to be appropriated—

"(1) $5,000,000 for fiscal year 2008;

"(2) $6,500,000 for fiscal year 2009;

"(3) $8,000,000 for fiscal year 2010;

"(4) $9,500,000 for fiscal year 2011;

"(5) $11,000,000 for fiscal year 2012; and

"(6) in addition to those amounts, such additional sums as are necessary for fiscal year 2009 and each fiscal year thereafter.".

Subtitle D—Miscellaneous

SEC. 10401. NATIONAL HONEY BOARD.

Section 7(c) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606(c)) is amended by adding at the end the following:

"(12) REFERENDUM REQUIREMENT.—

"(A) DEFINITION OF EXISTING HONEY BOARD.—The term 'existing Honey Board' means the Honey Board in effect on the date of enactment of this paragraph.

"(B) CONDUCT OF REFERENDA.—Notwithstanding any other provision of law, subject to subparagraph (C), the order providing for the establishment and operation of the existing Honey Board shall continue in force, until the Secretary first conducts, at the earliest practicable date, but not later than 180 days after the date of enactment of this paragraph, referenda on orders to establish a honey packer-importer board or a United States honey producer board.

"(C) REQUIREMENTS.—In conducting referenda under subparagraph (B), and in exercising fiduciary responsibilities in any transition to any 1 or more successor boards, the Secretary shall—

"(i) conduct a referendum of eligible United States honey producers for the establishment of a marketing board solely for United States honey producers;

"(ii) conduct a referendum of eligible packers, importers, and handlers of honey for the establishment of a marketing board for packers, importers, and handlers of honey;

"(iii) notwithstanding the timing of the referenda required under clauses (i) and (ii) or of the establishment of any 1 or more successor boards pursuant to those referenda, ensure that the rights and interests of honey producers, importers, packers, and handlers of honey are equitably protected in any disposition of the assets, facilities, intellectual property, and programs of the existing Honey Board and in the transition to any 1 or more new successor marketing boards;

"(iv) ensure that the existing Honey Board continues in operation until such time as the Secretary determines that—

"(I) any 1 or more successor boards, if approved, are operational; and

"(II) the interests of producers, importers, packers, and handlers of honey can be equitably protected during any remaining period in which a referendum on a successor board or the establishment of such a board is pending; and

"(v) discontinue collection of assessments under the order establishing the existing Honey Board on the date the Secretary requires that collections commence pursuant to an order approved in a referendum by eligible producers or processors and importers of honey.

"(D) HONEY BOARD REFERENDUM.—If 1 or more orders are approved pursuant to paragraph (C)—

"(i) the Secretary shall not be required to conduct a continuation referendum on the order in existence on the date of enactment of this paragraph; and

"(ii) that order shall be terminated pursuant to the provisions of the order.".

SEC. 10402. IDENTIFICATION OF HONEY.

(a) IN GENERAL.—Section 203(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) is amended—

(1) by designating the first through sixth sentences as paragraphs (1), (2)(A), (2)(B), (3), (4), and (5), respectively; and

(2) by adding at the end the following:

"(6) IDENTIFICATION OF HONEY.—

"(A) IN GENERAL.—The use of a label or advertising material on, or in conjunction with, packaged honey that bears any official certificate of quality, grade mark or statement, continuous inspection mark or statement, sampling mark or statement, or any combination of the certificates, marks, or statements of the Department of Agriculture is hereby prohibited under this Act unless there appears legibly and permanently in close proximity (such as on the same side(s) or surface(s)) to the certificate, mark, or statement, and in at least a comparable size, the 1 or more names of the 1 or more countries of origin of the lot or container of honey, preceded by the words 'Product of' or other words of similar meaning.

"(B) VIOLATION.—A violation of the requirements of subparagraph (A) may be deemed by the Secretary to be sufficient cause for debarment from the benefits of this Act only with respect to honey.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date that is 1 year after the date of enactment of this Act.

SEC. 10403. GRANT PROGRAM TO IMPROVE MOVEMENT OF SPECIALTY CROPS.

(a) GRANTS AUTHORIZED.—The Secretary may make grants under this section to an eligible entity described in subsection (b)—

(1) to improve the cost-effective movement of specialty crops to local, regional, national, and international markets; and

(2) to address regional intermodal transportation deficiencies that adversely affect the movement of specialty crops to markets inside or outside the United States.

(b) ELIGIBLE GRANT RECIPIENTS.—Grants may be made under this section to any of, or any combination of:

(1) State and local governments.

(2) Grower cooperatives.

(3) National, State, or regional organizations of producers, shippers, or carriers.

(4) Other entities as determined to be appropriate by the Secretary.

(c) MATCHING FUNDS.—The recipient of a grant under this section shall contribute an amount of non-Federal funds toward the project for which the grant is provided that is at least equal to the amount of grant funds received by the recipient under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2008 through 2012.

SEC. 10404. MARKET LOSS ASSISTANCE FOR ASPARAGUS PRODUCERS.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall make payments to producers of the 2007 crop of asparagus for market loss resulting from imports during the 2004 through 2007 crop years.

(b) PAYMENT RATE.—The payment rate for a payment under this section shall be based on the reduction in revenue received by asparagus producers associated with imports during the 2004 through 2007 crop years.

(c) PAYMENT QUANTITY.—The payment quantity for asparagus for which the producers on a farm are eligible for payments under this section shall be equal to the average quantity of the 2003 crop of asparagus produced by producers on the farm.

(d) FUNDING.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall make available $15,000,000 of the funds of the Commodity Credit Corporation to carry out a program to provide market loss payments to producers of asparagus under this section.

(2) ALLOCATION.—Of the amount made available under paragraph (1), the Secretary shall use—

(A) $7,500,000 to make payments to producers of asparagus for the fresh market; and

(B) $7,500,000 to make payments to producers of asparagus for the processed or frozen market.

TITLE XI—LIVESTOCK

SEC. 11001. LIVESTOCK MANDATORY REPORTING.

(a) WEB SITE IMPROVEMENTS AND USER EDUCATION.—

(1) IN GENERAL.—Section 251(g) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636(g)) is amended to read as follows:

"(g) ELECTRONIC REPORTING AND PUBLISHING.—

"(1) IN GENERAL.—The Secretary shall, to the maximum extent practicable, provide for the reporting and publishing of the information required under this subtitle by electronic means.

"(2) IMPROVEMENTS AND EDUCATION.—

"(A) ENHANCED ELECTRONIC PUBLISHING.—The Secretary shall develop and implement an enhanced system of electronic publishing to disseminate information collected pursuant to this subtitle. Such system shall—

"(i) present information in a format that can be readily understood by producers, packers, and other market participants;

"(ii) adhere to the publication deadlines in this subtitle;

"(iii) present information in charts and graphs, as appropriate;

"(iv) present comparative information for prior reporting periods, as the Secretary considers appropriate; and

"(v) be updated as soon as practicable after information is reported to the Secretary.

"(B) EDUCATION.—The Secretary shall carry out a market news education program to educate the public and persons in the livestock and meat industries about—

"(i) usage of the system developed under subparagraph (A); and

"(ii) interpreting and understanding information collected and disseminated through such system.".

(2) APPLICABILITY.—

(A) ENHANCED REPORTING.—The Secretary of Agriculture shall develop and implement the system required under paragraph (2)(A) of section 251(g) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1636(g)), as amended by paragraph (1), not later than one year after the date on which the Secretary determines sufficient funds have been appropriated pursuant to subsection (c).

(B) CURRENT SYSTEM.—Notwithstanding the amendment made by paragraph (1), the Secretary shall continue to use the information format for disseminating information under subtitle B of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) in effect on the date of the enactment of this Act at least until the date that is two years after the date on which the Secretary makes the determination referred to in subparagraph (A).

(b) STUDY AND REPORT.—

(1) STUDY.—The Secretary shall conduct a study on the effects of requiring packer processing plants to report to the Secretary information on wholesale pork cuts (including price and volume information), including—

(A) the positive or negative economic effects on producers and consumers; and

(B) the effects of a confidentiality requirement on mandatory reporting.

(2) INFORMATION.—During the period preceding the submission of the report under paragraph (3), the Secretary may collect, and each packer processing plant shall provide, such in-

formation as is necessary to enable the Secretary to conduct the study required under paragraph (1).

(3) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the study conducted under paragraph (1).

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

SEC. 11002. COUNTRY OF ORIGIN LABELING.

Subtitle D of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638 et seq.) is amended—

(1) in section 281(2)(A)—

(A) in clause (v), by striking "and";

(B) in clause (vi), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(vii) meat produced from goats;

"(viii) chicken, in whole and in part;

"(ix) ginseng;

"(x) pecans; and

"(xi) macadamia nuts.";

(2) in section 282—

(A) in subsection (a), by striking paragraphs (2) and (3) and inserting the following:

"(2) DESIGNATION OF COUNTRY OF ORIGIN FOR BEEF, LAMB, PORK, CHICKEN, AND GOAT MEAT.—

"(A) UNITED STATES COUNTRY OF ORIGIN.—A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat may designate the covered commodity as exclusively having a United States country of origin only if the covered commodity is derived from an animal that was—

"(i) exclusively born, raised, and slaughtered in the United States;

"(ii) born and raised in Alaska or Hawaii and transported for a period of not more than 60 days through Canada to the United States and slaughtered in the United States; or

"(iii) present in the United States on or before July 15, 2008, and once present in the United States, remained continuously in the United States.

"(B) MULTIPLE COUNTRIES OF ORIGIN.—

"(i) IN GENERAL.—A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat that is derived from an animal that is—

"(I) not exclusively born, raised, and slaughtered in the United States,

"(II) born, raised, or slaughtered in the United States, and

"(III) not imported into the United States for immediate slaughter,

may designate the country of origin of such covered commodity as all of the countries in which the animal may have been born, raised, or slaughtered.

"(ii) RELATION TO GENERAL REQUIREMENT.—Nothing in this subparagraph alters the mandatory requirement to inform consumers of the country of origin of covered commodities under paragraph (1).

"(C) IMPORTED FOR IMMEDIATE SLAUGHTER.—A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat that is derived from an animal that is imported into the United States for immediate slaughter shall designate the origin of such covered commodity as—

"(i) the country from which the animal was imported; and

"(ii) the United States.

"(D) FOREIGN COUNTRY OF ORIGIN.—A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat that is derived from an animal that is not born, raised, or slaughtered in the United States shall designate a country other than the United States as the country of origin of such commodity.

"(E) GROUND BEEF, PORK, LAMB, CHICKEN, AND GOAT.—The notice of country of origin for ground beef, ground pork, ground lamb, ground chicken, or ground goat shall include—

"(i) a list of all countries of origin of such ground beef, ground pork, ground lamb, ground chicken, or ground goat; or

"(ii) a list of all reasonably possible countries of origin of such ground beef, ground pork, ground lamb, ground chicken, or ground goat.

"(3) DESIGNATION OF COUNTRY OF ORIGIN FOR FISH.—

"(A) IN GENERAL.—A retailer of a covered commodity that is farm-raised fish or wild fish may designate the covered commodity as having a United States country of origin only if the covered commodity—

"(i) in the case of farm-raised fish, is hatched, raised, harvested, and processed in the United States; and

"(ii) in the case of wild fish, is—

"(I) harvested in the United States, a territory of the United States, or a State, or by a vessel that is documented under chapter 121 of title 46, United States Code, or registered in the United States; and

"(II) processed in the United States, a territory of the United States, or a State, including the waters thereof, or aboard a vessel that is documented under chapter 121 of title 46, United States Code, or registered in the United States.

"(B) DESIGNATION OF WILD FISH AND FARM-RAISED FISH.—The notice of country of origin for wild fish and farm-raised fish shall distinguish between wild fish and farm-raised fish.

"(4) DESIGNATION OF COUNTRY OF ORIGIN FOR PERISHABLE AGRICULTURAL COMMODITIES, GINSENG, PEANUTS, PECANS, AND MACADAMIA NUTS.—

"(A) IN GENERAL.—A retailer of a covered commodity that is a perishable agricultural commodity, ginseng, peanut, pecan, or macadamia nut may designate the covered commodity as having a United States country of origin only if the covered commodity is exclusively produced in the United States.

"(B) STATE, REGION, LOCALITY OF THE UNITED STATES.—With respect to a covered commodity that is a perishable agricultural commodity, ginseng, peanut, pecan, or macadamia nut produced exclusively in the United States, designation by a retailer of the State, region, or locality of the United States where such commodity was produced shall be sufficient to identify the United States as the country of origin."; and

(B) by striking subsection (d) and inserting the following:

"(d) AUDIT VERIFICATION SYSTEM.—

"(1) IN GENERAL.—The Secretary may conduct an audit of any person that prepares, stores, handles, or distributes a covered commodity for retail sale to verify compliance with this subtitle (including the regulations promulgated under section 284(b)).

"(2) RECORD REQUIREMENTS.—

"(A) IN GENERAL.—A person subject to an audit under paragraph (1) shall provide the Secretary with verification of the country of origin of covered commodities. Records maintained in the course of the normal conduct of the business of such person, including animal health papers, import or customs documents, or producer affidavits, may serve as such verification.

"(B) PROHIBITION ON REQUIREMENT OF ADDITIONAL RECORDS.—The Secretary may not require a person that prepares, stores, handles, or distributes a covered commodity to maintain a record of the country of origin of a covered commodity other than those maintained in the course of the normal conduct of the business of such person."; and

(3) in section 283—

(A) by striking subsections (a) and (c);

(B) by redesignating subsection (b) as subsection (a);

(C) in subsection (a) (as so redesignated), by striking "retailer" and inserting "retailer or person engaged in the business of supplying a covered commodity to a retailer"; and

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

"(b) FINES.—If, on completion of the 30-day period described in subsection (a)(2), the Secretary determines that the retailer or person engaged in the business of supplying a covered commodity to a retailer has—

"(1) not made a good faith effort to comply with section 282, and

"(2) continues to willfully violate section 282 with respect to the violation about which the retailer or person received notification under subsection (a)(1),

after providing notice and an opportunity for a hearing before the Secretary with respect to the violation, the Secretary may fine the retailer or person in an amount of not more than $1,000 for each violation.".

SEC. 11003. AGRICULTURAL FAIR PRACTICES ACT OF 1967 DEFINITIONS.

Section 3 of the Agricultural Fair Practices Act of 1967 (7 U.S.C. 2302) is amended—

(1) by striking "When used in this Act—" and inserting "In this Act:";

(2) in subsection (a)—

(A) by redesignating paragraphs (1) through (4) as clauses (i) through (iv), respectively; and

(B) in clause (iv) (as so redesignated), by striking "clause (1), (2), or (3) of this paragraph" and inserting "clause (i), (ii), or (iii)";

(3) by striking subsection (d);

(4) by redesignating subsections (a), (b), (c), and (e) as paragraphs (3), (4), (2), (1), respectively, indenting appropriately, and moving those paragraphs so as to appear in numerical order;

(5) in each paragraph (as so redesignated) that does not have a heading, by inserting a heading, in the same style as the heading in the amendment made by paragraph (6), the text of which is comprised of the term defined in the paragraph;

(6) in paragraph (2) (as so redesignated)—

(A) by striking "The term 'association of producers' means" and inserting the following:

"(2) ASSOCIATION OF PRODUCERS.—

"(A) IN GENERAL.—The term 'association of producers' means"; and

(B) by adding at the end the following:

"(B) INCLUSION.—The term 'association of producers' includes an organization whose membership is exclusively limited to agricultural producers and dedicated to promoting the common interest and general welfare of producers of agricultural products."; and

(7) in paragraph (3) (as so redesignated)—

(A) by striking "The term" and inserting the following: "(3) HANDLER.—

"(A) IN GENERAL.—The term"; and

(B) by inserting after clause (iv) of subparagraph (A) (as redesignated by subparagraph (A) and paragraph (2)) the following:

"(B) EXCLUSION.—The term 'handler' does not include a person, other than a packer (as defined in section 201 of the Packers and Stockyards Act, 1921 (7 U.S.C. 191)), that provides custom feeding services for a producer.".

SEC. 11004. ANNUAL REPORT.

(a) IN GENERAL.—The Packers and Stockyards Act, 1921, is amended—

(1) by redesignating section 416 (7 U.S.C. 229) as section 417; and

(2) by inserting after section 415 (7 U.S.C. 228d) the following:

"SEC. 416. ANNUAL REPORT.

"(a) IN GENERAL.—Not later than March 1 of each year, the Secretary shall submit to Congress and make publicly available a report that—

"(1) states, for the preceding year, separately for livestock and poultry and separately by enforcement area category (financial, trade practice, or competitive acts and practices), with respect to investigations into possible violations of this Act—

"(A) the number of investigations opened;

"(B) the number of investigations that were closed or settled without a referral to the General Counsel of the Department of Agriculture;

"(C) for investigations described in subparagraph (B), the length of time from initiation of the investigation to when the investigation was closed or settled without the filing of an enforcement complaint;

"(D) the number of investigations that resulted in referral to the General Counsel of the Department of Agriculture for further action, the number of such referrals resolved without administrative enforcement action, and the number of enforcement actions filed by the General Counsel;

"(E) for referrals to the General Counsel that resulted in an administrative enforcement action being filed, the length of time from the referral to the filing of the administrative action;

"(F) for referrals to the General Counsel that resulted in an administrative enforcement action being filed, the length of time from filing to resolution of the administrative enforcement action;

"(G) the number of investigations that resulted in referral to the Department of Justice for further action, and the number of civil enforcement actions filed by the Department of Justice on behalf of the Secretary pursuant to such a referral;

"(H) for referrals that resulted in a civil enforcement action being filed by the Department of Justice, the length of time from the referral to the filing of the enforcement action;

"(I) for referrals that resulted in a civil enforcement action being filed by the Department of Justice, the length of time from the filing of the enforcement action to resolution; and

"(J) the average civil penalty imposed in administrative or civil enforcement actions for violations of this Act, and the total amount of civil penalties imposed in all such enforcement actions; and

"(2) includes any other additional information the Secretary considers important to include in the annual report.

"(b) FORMAT OF INFORMATION PROVIDED.—For subparagraphs (C), (E), (F), and (H) of subsection (a)(1), the Secretary may, if appropriate due to the number of complaints for a given category, pro-

vide summary statistics (including range, maximum, minimum, mean, and average times) and graphical representations.".

(b) SUNSET.—Effective September 30, 2012, section 416 of the Packers and Stockyards Act, 1921, as added by subsection (a)(2), is repealed.

SEC. 11005. PRODUCTION CONTRACTS.

Title II of the Packers and Stockyards Act, 1921 (7 U.S.C. 198 et seq.) is amended by adding at the end the following:

"SEC. 208. PRODUCTION CONTRACTS.

"(a) RIGHT OF CONTRACT PRODUCERS TO CANCEL PRODUCTION CONTRACTS.—

"(1) IN GENERAL.—A poultry grower or swine production contract grower may cancel a poultry growing arrangement or swine production contract by mailing a cancellation notice to the live poultry dealer or swine contractor not later than the later of—

"(A) the date that is 3 business days after the date on which the poultry growing arrangement or swine production contract is executed; or

"(B) any cancellation date specified in the poultry growing arrangement or swine production contract.

"(2) DISCLOSURE.—A poultry growing arrangement or swine production contract shall clearly disclose—

"(A) the right of the poultry grower or swine production contract grower to cancel the poultry growing arrangement or swine production contract;

"(B) the method by which the poultry grower or swine production contract grower may cancel the poultry growing arrangement or swine production contract; and

"(C) the deadline for canceling the poultry growing arrangement or swine production contract.

"(b) REQUIRED DISCLOSURE OF ADDITIONAL CAPITAL INVESTMENTS IN PRODUCTION CONTRACTS.—

"(1) IN GENERAL.—A poultry growing arrangement or swine production contract shall contain on the first page a statement identified as 'Additional Capital Investments Disclosure Statement', which shall conspicuously state that additional large capital investments may be required of the poultry grower or swine production contract grower during the term of the poultry growing arrangement or swine production contract.

"(2) APPLICATION.—Paragraph (1) shall apply to any poultry growing arrangement or swine production contract entered into, amended, altered, modified, renewed, or extended after the date of the enactment of this section.

"SEC. 209. CHOICE OF LAW AND VENUE.

"(a) LOCATION OF FORUM.—The forum for resolving any dispute among the parties to a poultry growing arrangement or swine production or marketing contract that arises out of the arrangement or contract shall be located in the Federal judicial district in which the principle part of the performance takes place under the arrangement or contract.

"(b) CHOICE OF LAW.—A poultry growing arrangement or swine production or marketing contract may specify which State's law is to apply to issues governed by State law in any dispute arising out

of the arrangement or contract, except to the extent that doing so is prohibited by the law of the State in which the principal part of the performance takes place under the arrangement or contract.

"SEC. 210. ARBITRATION.

"(a) IN GENERAL.—Any livestock or poultry contract that contains a provision requiring the use of arbitration to resolve any controversy that may arise under the contract shall contain a provision that allows a producer or grower, prior to entering the contract to decline to be bound by the arbitration provision.

"(b) DISCLOSURE.—Any livestock or poultry contract that contains a provision requiring the use of arbitration shall contain terms that conspicuously disclose the right of the contract producer or grower, prior to entering the contract, to decline the requirement to use arbitration to resolve any controversy that may arise under the livestock or poultry contract.

"(c) DISPUTE RESOLUTION.—Any contract producer or grower that declines a requirement of arbitration pursuant to subsection (b) has the right, to nonetheless seek to resolve any controversy that may arise under the livestock or poultry contract, if, after the controversy arises, both parties consent in writing to use arbitration to settle the controversy.

"(d) APPLICATION.—Subsections (a) (b) and (c) shall apply to any contract entered into, amended, altered, modified, renewed, or extended after the date of the enactment of the Food, Conservation, and Energy Act of 2008.

"(e) UNLAWFUL PRACTICE.—Any action by or on behalf of a packer, swine contractor, or live poultry dealer that violates this section (including any action that has the intent or effect of limiting the ability of a producer or grower to freely make a choice described in subsection (b)) is an unlawful practice under this Act.

"(f) REGULATIONS.—The Secretary shall promulgate regulations to—

"(1) carry out this section; and

"(2) establish criteria that the Secretary will consider in determining whether the arbitration process provided in a contract provides a meaningful opportunity for the grower or producer to participate fully in the arbitration process.".

SEC. 11006. REGULATIONS.

As soon as practicable, but not later than 2 years after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate regulations with respect to the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) to establish criteria that the Secretary will consider in determining—

(1) whether an undue or unreasonable preference or advantage has occurred in violation of such Act;

(2) whether a live poultry dealer has provided reasonable notice to poultry growers of any suspension of the delivery of birds under a poultry growing arrangement;

(3) when a requirement of additional capital investments over the life of a poultry growing arrangement or swine production contract constitutes a violation of such Act; and

(4) if a live poultry dealer or swine contractor has provided a reasonable period of time for a poultry grower or a swine production contract grower to remedy a breach of contract that

could lead to termination of the poultry growing arrangement or swine production contract.

SEC. 11007. SENSE OF CONGRESS REGARDING PSEUDORABIES ERADICATION PROGRAM.

It is the sense of Congress that—

(1) the Secretary of Agriculture should recognize the threat feral swine pose to the domestic swine population and the entire livestock industry;

(2) keeping the United States commercial swine herd free of pseudorabies is essential to maintaining and growing pork export markets;

(3) the establishment and continued support of a swine surveillance system will assist the swine industry in the monitoring, surveillance, and eradication of pseudorabies; and

(4) pseudorabies eradication is a high priority that the Secretary should carry out under the authorities of the Animal Health Protection Act.

SEC. 11008. SENSE OF CONGRESS REGARDING THE CATTLE FEVER TICK ERADICATION PROGRAM.

It is the sense of Congress that—

(1) the cattle fever tick and the southern cattle tick are vectors of the causal agent of babesiosis, a severe and often fatal disease of cattle; and

(2) implementing a national strategic plan for the cattle fever tick eradication program is a high priority that the Secretary of Agriculture should carry out in order to—

(A) prevent the entry of cattle fever ticks into the United States;

(B) enhance and maintain an effective surveillance program to rapidly detect any cattle fever tick incursions; and

(C) research, identify, and procure the tools and knowledge necessary to prevent and eradicate cattle fever ticks in the United States.

SEC. 11009. NATIONAL SHEEP INDUSTRY IMPROVEMENT CENTER.

(a) FUNDING.—Section 375(e)(6) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j(e)(6)) is amended by striking subparagraphs (B) and (C) and inserting the following:

"(B) MANDATORY FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section $1,000,000 for fiscal year 2008, to remain available until expended.

"(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $10,000,000 for each of fiscal years 2008 through 2012.".

(b) REPEAL OF REQUIREMENT TO PRIVATIZE REVOLVING FUND.—

(1) IN GENERAL.—Section 375 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j) is amended by striking subsection (j).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect on May 1, 2007.

SEC. 11010. TRICHINAE CERTIFICATION PROGRAM.

(a) VOLUNTARY TRICHINAE CERTIFICATION.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall establish a voluntary trichinae certification program. Such program shall include the facilitation of the export of pork products and certification services related to such products.

(2) REGULATIONS.—The Secretary shall issue final regulations to implement the program under paragraph (1) not later than 90 days after the date of the enactment of this Act.

(3) REPORT.—If final regulations are not published in accordance with paragraph (2) within 90 days of the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing—

(A) an explanation of why the final regulations have not been issued in accordance with paragraph (2); and

(B) the date on which the Secretary expects to issue such final regulations.

(b) FUNDING.—Subject to the availability of appropriations under subsection (d)(1)(A) of section 10405 of the Animal Health Protection Act (7 U.S.C. 8304), as added by subsection (c), the Secretary shall use not less than $6,200,000 of the funds made available under such subsection to carry out subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 10405 of the Animal Health Protection Act (7 U.S.C. 8304) is amended by adding at the end the following new subsection:

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated—

"(A) $1,500,000 for each of fiscal years 2008 through 2012 to carry out section 11010 of the Food, Conservation, and Energy Act of 2008; and

"(B) such sums as may be necessary for each of fiscal years 2008 through 2012 to carry out this section.

"(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available until expended.".

SEC. 11011. LOW PATHOGENIC DISEASES.

The Animal Health Protection Act (7 U.S.C. 8301 et seq.) is amended—

(1) in section 10407(d)(2)(C) (7 U.S.C. 8306(d)(2)(C)), by striking "of longer than 60 days";

(2) in section 10409(b) (7 U.S.C. 8308(b))—

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

(B) by inserting after paragraph (1) the following new paragraph:

"(2) SPECIFIC COOPERATIVE PROGRAMS.—The Secretary shall compensate industry participants and State agencies that cooperate with the Secretary in carrying out operations and measures under subsection (a) for 100 percent of eligible costs relating to cooperative programs involving Federal, State, and industry participants to control diseases of low pathogenicity in accordance with regulations issued by the Secretary."; and

(C) in paragraph (3) (as so redesignated), by striking "of longer than 60 days"; and

(3) in section 10417(b)(3) (7 U.S.C. 8316(b)(3)), by striking "of longer than 60 days".

SEC. 11012. ANIMAL PROTECTION.

(a) WILLFUL VIOLATIONS.—Section 10414(b)(1)(A) of the Animal Health Protection Act (7 U.S.C. 8316(b)(1)(A)) is amended by striking clause (iii) and inserting the following:

"(iii) for all violations adjudicated in a single proceeding—

"(I) $500,000 if the violations do not include a willful violation; or

"(II) $1,000,000 if the violations include 1 or more willful violations.".

(b) SUBPOENA AUTHORITY.—Section 10415(a)(2) of the Animal Health Protection Act (7 U.S.C. 8314) is amended

(1) by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—The Secretary shall have the power to subpoena the attendance and testimony of any witness, the production of all evidence (including books, papers, documents, electronically stored information, and other tangible things that constitute or contain evidence), or to require the person to whom the subpoena is directed to permit the inspection of premises relating to the administration or enforcement of this title or any matter under investigation in connection with this title.";

(2) in subparagraph (B), by striking "documentary"; and

(3) in subparagraph (C)—

(A) in clause (i), by striking "testimony of any witness and the production of documentary evidence" and inserting "testimony of any witness, the production of evidence, or the inspection of premises"; and

(B) in clause (ii), by striking "question or to produce documentary evidence" and inserting "question, produce evidence, or permit the inspection of premises".

SEC. 11013. NATIONAL AQUATIC ANIMAL HEALTH PLAN.

(a) IN GENERAL.—The Secretary of Agriculture may enter into a cooperative agreement with an eligible entity to carry out a project under a national aquatic animal health plan under the authority of the Secretary under section 10411 of the Animal Health Protection Act (7 U.S.C. 8310) for the purpose of detecting, controlling, or eradicating diseases of aquaculture species and promoting species-specific best management practices.

(b) COOPERATIVE AGREEMENTS BETWEEN ELIGIBLE ENTITIES AND THE SECRETARY.—

(1) DUTIES.—As a condition of entering into a cooperative agreement with the Secretary under this section, an eligible entity shall agree to—

(A) assume responsibility for the non-Federal share of the cost of carrying out the project under the national aquatic health plan, as determined by the Secretary in accordance with paragraph (2); and

(B) act in accordance with applicable disease and species specific best management practices relating to activities to be carried out under such project.

(2) NON-FEDERAL SHARE.—The Secretary shall determine the non-Federal share of the cost of carrying out a project under the national aquatic health plan on a case-by-case basis for

each such project. Such non-Federal share may be provided in cash or in-kind.

(c) APPLICABILITY OF OTHER LAWS.—In carrying out this section, the Secretary may make use of the authorities under the Animal Health Protection Act (7 U.S.C. 8301 et seq.), including the authority to carry out operations and measures to detect, control, and eradicate pests and diseases and the authority to pay claims arising out of the destruction of any animal, article, or means of conveyance.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2008 through 2012.

(e) ELIGIBLE ENTITY DEFINED.—In this section, the term "eligible entity" means a State, a political subdivision of a State, Indian tribe, or other appropriate entity, as determined by the Secretary of Agriculture.

SEC. 11014. STUDY ON BIOENERGY OPERATIONS.

(a) STUDY.—The Secretary of Agriculture shall conduct a study to evaluate the role of animal manure as a source of fertilizer and its potential additional uses. Such study shall include—

(1) a determination of the extent to which animal manure is utilized as fertilizer in agricultural operations by type (including species and agronomic practices employed) and size;

(2) an evaluation of the potential impact on consumers and on agricultural operations (by size) resulting from limitations being placed on the utilization of animal manure as fertilizer; and

(3) an evaluation of the effects on agriculture production contributable to the increased competition for animal manure use due to bioenergy production, including as a feedstock or a replacement for fossil fuels.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate the results of the study conducted under subsection (a).

SEC. 11015. INTERSTATE SHIPMENT OF MEAT AND POULTRY INSPECTED BY FEDERAL AND STATE AGENCIES FOR CERTAIN SMALL ESTABLISHMENTS.

(a) MEAT AND MEAT PRODUCTS.—The Federal Meat Inspection Act (21 U.S.C. 601 et seq.) is amended by adding at the end the following:

"TITLE V—INSPECTIONS BY FEDERAL AND STATE AGENCIES

"SEC. 501. INTERSTATE SHIPMENT OF MEAT INSPECTED BY FEDERAL AND STATE AGENCIES FOR CERTAIN SMALL ESTABLISHMENTS.

"(a) DEFINITIONS.—

"(1) APPROPRIATE STATE AGENCY.—The term 'appropriate State agency' means a State agency described in section 301(b).

"(2) DESIGNATED PERSONNEL.—The term 'designated personnel' means inspection personnel of a State agency that have undergone all necessary inspection training and certification to

assist the Secretary in the administration and enforcement of this Act, including rules and regulations issued under this Act.

"(3) ELIGIBLE ESTABLISHMENT.—The term 'eligible establishment' means an establishment that is in compliance with—

"(A) the State inspection program of the State in which the establishment is located; and

"(B) this Act, including rules and regulations issued under this Act.

"(4) MEAT ITEM.—The term 'meat item' means—

"(A) a portion of meat; and

"(B) a meat food product.

"(5) SELECTED ESTABLISHMENT.—The term 'selected establishment' means an eligible establishment that is selected by the Secretary, in coordination with the appropriate State agency of the State in which the eligible establishment is located, under subsection (b) to ship carcasses, portions of carcasses, and meat items in interstate commerce.

"(b) AUTHORITY OF SECRETARY TO ALLOW SHIPMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary, in coordination with the appropriate State agency of the State in which an establishment is located, may select the establishment to ship carcasses, portions of carcasses, and meat items in interstate commerce, and place on each carcass, portion of a carcass, and meat item shipped in interstate commerce a Federal mark, stamp, tag, or label of inspection, if—

"(A) the carcass, portion of carcass, or meat item qualifies for the mark, stamp, tag, or label of inspection under the requirements of this Act;

"(B) the establishment is an eligible establishment; and

"(C) inspection services for the establishment are provided by designated personnel.

"(2) PROHIBITED ESTABLISHMENTS.—In carrying out paragraph (1), the Secretary, in coordination with an appropriate State agency, shall not select an establishment that—

"(A) on average, employs more than 25 employees (including supervisory and nonsupervisory employees), as defined by the Secretary;

"(B) as of the date of the enactment of this section, ships in interstate commerce carcasses, portions of carcasses, or meat items that are inspected by the Secretary in accordance with this Act;

"(C)(i) is a Federal establishment;

"(ii) was a Federal establishment that was reorganized on a later date under the same name or a different name or person by the person, firm, or corporation that controlled the establishment as of the date of the enactment of this section; or

"(iii) was a State establishment as of the date of the enactment of this section that—

"(I) as of the date of the enactment of this section, employed more than 25 employees; and

"(II) was reorganized on a later date by the person, firm, or corporation that controlled the establishment as of the date of the enactment of this section;

"(D) is in violation of this Act;

"(E) is located in a State that does not have a State inspection program; or

"(F) is the subject of a transition carried out in accordance with a procedure developed by the Secretary under paragraph (3)(A).

"(3) ESTABLISHMENTS THAT EMPLOY MORE THAN 25 EMPLOYEES.—

"(A) DEVELOPMENT OF PROCEDURE.—The Secretary may develop a procedure to transition to a Federal establishment any establishment under this section that, on average, consistently employs more than 25 employees.

"(B) ELIGIBILITY OF CERTAIN ESTABLISHMENTS.—

"(i) IN GENERAL.—A State establishment that employs more than 25 employees but less than 35 employees as of the date of the enactment of this section may be selected as a selected establishment under this subsection.

"(ii) PROCEDURES.—A State establishment shall be subject to the procedures established under subparagraph (A) beginning on the date that is 3 years after the effective date described in subsection (j).

"(c) REIMBURSEMENT OF STATE COSTS.—The Secretary shall reimburse a State for costs related to the inspection of selected establishments in the State in accordance with Federal requirements in an amount of not less than 60 percent of eligible State costs.

"(d) COORDINATION BETWEEN FEDERAL AND STATE AGENCIES.—

"(1) IN GENERAL.—The Secretary shall designate an employee of the Federal Government as State coordinator for each appropriate State agency—

"(A) to provide oversight and enforcement of this title; and

"(B) to oversee the training and inspection activities of designated personnel of the State agency.

"(2) SUPERVISION.—A State coordinator shall be under the direct supervision of the Secretary.

"(3) DUTIES OF STATE COORDINATOR.—

"(A) IN GENERAL.—A State coordinator shall visit selected establishments with a frequency that is appropriate to ensure that selected establishments are operating in a manner that is consistent with this Act (including regulations and policies under this Act).

"(B) QUARTERLY REPORTS.—A State coordinator shall, on a quarterly basis, submit to the Secretary a report that describes the status of each selected establishment that is under the jurisdiction of the State coordinator with respect to the level of compliance of each selected establishment with the requirements of this Act.

"(C) IMMEDIATE NOTIFICATION REQUIREMENT.—If a State coordinator determines that any selected establishment that is under the jurisdiction of the State coordinator is in violation of any requirement of this Act, the State coordinator shall—

"(i) immediately notify the Secretary of the violation; and

"(ii) deselect the selected establishment or suspend inspection at the selected establishment.

"(4) PERFORMANCE EVALUATIONS.—Performance evaluations of State coordinators designated under this subsection shall be conducted by the Secretary as part of the Federal agency management control system.

"(e) AUDITS.—

"(1) PERIODIC AUDITS CONDUCTED BY INSPECTOR GENERAL OF THE DEPARTMENT OF AGRICULTURE.—Not later than 2 years after the effective date described in subsection (j), and not less often than every 3 years thereafter, the Inspector General of the Department of Agriculture shall conduct an audit of each activity taken by the Secretary under this section for the period covered by the audit to determine compliance with this section.

"(2) AUDIT CONDUCTED BY COMPTROLLER GENERAL OF THE UNITED STATES.—Not earlier than 3 years, nor later than 5 years, after the date of the enactment of this section, the Comptroller General of the United States shall conduct an audit of the implementation of this section to determine—

"(A) the effectiveness of the implementation of this section; and

"(B) the number of selected establishments selected by the Secretary to ship carcasses, portions of carcasses, or meat items under this section.

"(f) TECHNICAL ASSISTANCE DIVISION.—

"(1) ESTABLISHMENT.—Not later than 180 days after the effective date described in subsection (j), the Secretary shall establish in the Food Safety and Inspection Service of the Department of Agriculture a technical assistance division to coordinate the initiatives of any other appropriate agency of the Department of Agriculture to provide—

"(A) outreach, education, and training to very small or certain small establishments (as defined by the Secretary); and

"(B) grants to appropriate State agencies to provide outreach, technical assistance, education, and training to very small or certain small establishments (as defined by the Secretary).

"(2) PERSONNEL.—The technical assistance division shall be comprised of individuals that, as determined by the Secretary—

"(A) are of a quantity sufficient to carry out the duties of the technical assistance division; and

"(B) possess appropriate qualifications and expertise relating to the duties of the technical assistance division.

"(g) TRANSITION GRANTS.—The Secretary may provide grants to appropriate State agencies to assist the appropriate State agencies in helping establishments covered by title III to transition to selected establishments.

"(h) VIOLATIONS.—Any selected establishment that the Secretary determines to be in violation of any requirement of this Act shall be transitioned to a Federal establishment in accordance with a procedure developed by the Secretary under subsection (b)(3)(A).

"(i) EFFECT.—Nothing in this section limits the jurisdiction of the Secretary with respect to the regulation of meat and meat products under this Act.

"(j) EFFECTIVE DATE.—

"(1) IN GENERAL.—This section takes effect on the date on which the Secretary, after providing a period of public comment (including through the conduct of public meetings or hearings), promulgates final regulations to carry out this section.

"(2) REQUIREMENT.—Not later than 18 months after the date of the enactment of this section, the Secretary shall promulgate final regulations in accordance with paragraph (1).".

(b) POULTRY AND POULTRY PRODUCTS.—The Poultry Products Inspection Act (21 U.S.C. 451 et seq.) is amended by adding at the end the following:

"SEC. 31. INTERSTATE SHIPMENT OF POULTRY INSPECTED BY FEDERAL AND STATE AGENCIES FOR CERTAIN SMALL ESTABLISHMENTS.

"(a) DEFINITIONS.—

"(1) APPROPRIATE STATE AGENCY.—The term 'appropriate State agency' means a State agency described in section 5(a)(1).

"(2) DESIGNATED PERSONNEL.—The term 'designated personnel' means inspection personnel of a State agency that have undergone all necessary inspection training and certification to assist the Secretary in the administration and enforcement of this Act, including rules and regulations issued under this Act.

"(3) ELIGIBLE ESTABLISHMENT.—The term 'eligible establishment' means an establishment that is in compliance with—

"(A) the State inspection program of the State in which the establishment is located; and

"(B) this Act, including rules and regulations issued under this Act.

"(4) POULTRY ITEM.—The term 'poultry item' means—

"(A) a portion of poultry; and

"(B) a poultry product.

"(5) SELECTED ESTABLISHMENT.—The term 'selected establishment' means an eligible establishment that is selected by the Secretary, in coordination with the appropriate State agency of the State in which the eligible establishment is located, under subsection (b) to ship poultry items in interstate commerce.

"(b) AUTHORITY OF SECRETARY TO ALLOW SHIPMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary, in coordination with the appropriate State agency of the State in which an establishment is located, may select the establishment to ship poultry items in interstate commerce, and place on each poultry item shipped in interstate commerce a Federal mark, stamp, tag, or label of inspection, if—

"(A) the poultry item qualifies for the Federal mark, stamp, tag, or label of inspection under the requirements of this Act;

"(B) the establishment is an eligible establishment; and

"(C) inspection services for the establishment are provided by designated personnel.

"(2) PROHIBITED ESTABLISHMENTS.—In carrying out paragraph (1), the Secretary, in coordination with an appropriate State agency, shall not select an establishment that—

"(A) on average, employs more than 25 employees (including supervisory and nonsupervisory employees), as defined by the Secretary;

"(B) as of the date of the enactment of this section, ships in interstate commerce carcasses, portions of carcasses, or poultry items that are inspected by the Secretary in accordance with this Act;

"(C)(i) is a Federal establishment;

"(ii) was a Federal establishment as of the date of the enactment of this section, and was reorganized on a later date under the same name or a different name or person by the person, firm, or corporation that controlled the establishment as of the date of the enactment of this section; or

"(iii) was a State establishment as of the date of the enactment of this section that—

"(I) as of the date of the enactment of this section, employed more than 25 employees; and

"(II) was reorganized on a later date by the person, firm, or corporation that controlled the establishment as of the date of the enactment of this section;

"(D) is in violation of this Act;

"(E) is located in a State that does not have a State inspection program; or

"(F) is the subject of a transition carried out in accordance with a procedure developed by the Secretary under paragraph (3)(A).

"(3) ESTABLISHMENTS THAT EMPLOY MORE THAN 25 EMPLOYEES.—

"(A) DEVELOPMENT OF PROCEDURE.—The Secretary may develop a procedure to transition to a Federal establishment any establishment under this section that, on average, consistently employs more than 25 employees.

"(B) ELIGIBILITY OF CERTAIN ESTABLISHMENTS.—

"(i) IN GENERAL.—A State establishment that employs more than 25 employees but less than 35 employees as of the date of the enactment of this section may be selected as a selected establishment under this subsection.

"(ii) PROCEDURES.—A State establishment shall be subject to the procedures established under subparagraph (A) beginning on the date that is 3 years after the effective date described in subsection (i).

"(c) REIMBURSEMENT OF STATE COSTS.—The Secretary shall reimburse a State for costs related to the inspection of selected establishments in the State in accordance with Federal requirements in an amount of not less than 60 percent of eligible State costs.

"(d) COORDINATION BETWEEN FEDERAL AND STATE AGENCIES.—

"(1) IN GENERAL.—The Secretary shall designate an employee of the Federal Government as State coordinator for each appropriate State agency—

"(A) to provide oversight and enforcement of this section; and

"(B) to oversee the training and inspection activities of designated personnel of the State agency.

"(2) SUPERVISION.—A State coordinator shall be under the direct supervision of the Secretary.

"(3) DUTIES OF STATE COORDINATOR.—

"(A) IN GENERAL.—A State coordinator shall visit selected establishments with a frequency that is appropriate to ensure that selected establishments are operating in a manner that is consistent with this Act (including regulations and policies under this Act).

"(B) QUARTERLY REPORTS.—A State coordinator shall, on a quarterly basis, submit to the Secretary a report that describes the status of each selected establishment that is under the jurisdiction of the State coordinator with respect to the level of compliance of each selected establishment with the requirements of this Act.

"(C) IMMEDIATE NOTIFICATION REQUIREMENT.—If a State coordinator determines that any selected establishment that is under the jurisdiction of the State coordinator is in violation of any requirement of this Act, the State coordinator shall—

"(i) immediately notify the Secretary of the violation; and

"(ii) deselect the selected establishment or suspend inspection at the selected establishment.

"(4) PERFORMANCE EVALUATIONS.—Performance evaluations of State coordinators designated under this subsection shall be conducted by the Secretary as part of the Federal agency management control system.

"(e) AUDITS.—

"(1) PERIODIC AUDITS CONDUCTED BY INSPECTOR GENERAL OF THE DEPARTMENT OF AGRICULTURE.—Not later than 2 years after the effective date described in subsection (i), and not less often than every 3 years thereafter, the Inspector General of the Department of Agriculture shall conduct an audit of each activity taken by the Secretary under this section for the period covered by the audit to determine compliance with this section.

"(2) AUDIT CONDUCTED BY COMPTROLLER GENERAL OF THE UNITED STATES.—Not earlier than 3 years, nor later than 5 years, after the date of the enactment of this section, the Comptroller General of the United States shall conduct an audit of the implementation of this section to determine—

"(A) the effectiveness of the implementation of this section; and

"(B) the number of selected establishments selected by the Secretary to ship poultry items under this section.

"(f) TRANSITION GRANTS.—The Secretary may provide grants to appropriate State agencies to assist the appropriate State agencies in helping establishments covered by this Act to transition to selected establishments.

"(g) VIOLATIONS.—Any selected establishment that the Secretary determines to be in violation of any requirement of this Act shall be transitioned to a Federal establishment in accordance with a procedure developed by the Secretary under subsection (b)(3)(A).

"(h) EFFECT.—Nothing in this section limits the jurisdiction of the Secretary with respect to the regulation of poultry and poultry products under this Act.

"(i) EFFECTIVE DATE.—

"(1) IN GENERAL.—This section takes effect on the date on which the Secretary, after providing a period of public comment (including through the conduct of public meetings or hearings), promulgates final regulations to carry out this section.

"(2) REQUIREMENT.—Not later than 18 months after the date of the enactment of this section, the Secretary shall promulgate final regulations in accordance with paragraph (1).".

SEC. 11016. INSPECTION AND GRADING.

(a) GRADING.—Section 203 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622) is amended—

(1) by redesignating subsection (n) as subsection (o); and

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

"(n) GRADING PROGRAM.—To establish within the Department of Agriculture a voluntary fee based grading program for—

"(1) catfish (as defined by the Secretary under paragraph (2) of section 1(w) of the Federal Meat Inspection Act (21 U.S.C. 601(w))); and

"(2) any additional species of farm-raised fish or farm-raised shellfish—

"(A) for which the Secretary receives a petition requesting such voluntary fee based grading; and

"(B) that the Secretary considers appropriate.".

(b) INSPECTION.—

(1) IN GENERAL.—The Federal Meat Inspection Act is amended—

(A) in section 1(w) (21 U.S.C. 601(w)) —

(i) by striking "and" at the end of paragraph (1);

(ii) by redesignating paragraph (2) as paragraph (3); and

(iii) by inserting after paragraph (1) the following new paragraph:

"(2) catfish, as defined by the Secretary; and";

(B) by striking section 6 (21 U.S.C. 606) and inserting the following new section:

"SEC. 6. (a) IN GENERAL.—For the purposes hereinbefore set forth the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of all meat food products prepared for commerce in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment, and for the purposes of any examination and inspection and inspectors shall have access at all times, by day or night, whether the establishment be operated or not, to every part of said establishment; and said inspectors shall mark, stamp, tag, or label as 'Inspected and passed' all such products found to be not adulterated; and said inspectors shall label, mark, stamp, or tag as 'Inspected and condemned' all such products found adulterated, and all such condemned meat food products shall be destroyed for food purposes, as hereinbefore provided, and the Secretary may remove inspectors from any establishment which fails to so destroy such condemned meat food products: Provided, That subject to the rules and regulations of the Secretary the provisions of this section in regard to preservatives shall not apply to meat food products for export to any foreign country and which are prepared or packed according to the specifications or

directions of the foreign purchaser, when no substance is used in the preparation or packing thereof in conflict with the laws of the foreign country to which said article is to be exported; but if said article shall be in fact sold or offered for sale for domestic use or consumption then this proviso shall not exempt said article from the operation of all the other provisions of this chapter.

"(b) CATFISH.—In the case of an examination and inspection under subsection (a) of a meat food product derived from catfish, the Secretary shall take into account the conditions under which the catfish is raised and transported to a processing establishment."; and

(C) by adding at the end of title I the following new section:

"SEC. 25. Notwithstanding any other provision of this Act, the requirements of sections 3, 4, 5, 10(b), and 23 shall not apply to catfish.".

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by paragraph (1) shall not apply until the date on which the Secretary of Agriculture issues final regulations (after providing a period of public comment, including through the conduct of public meetings or hearings, in accordance with chapter 5 of title 5, United States Code) to carry out such amendments.

(B) REGULATIONS.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Agriculture, in consultation with the Commissioner of Food and Drugs, shall issue final regulations to carry out the amendments made by paragraph (1).

(3) BUDGET REQUEST.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit to Congress an estimate of the costs of implementing the amendments made by paragraph (1), including the estimated—

(A) staff years;

(B) number of establishments;

(C) volume expected to be produced at such establishments; and

(D) any other information used in estimating the costs of implementing such amendments.

SEC. 11017. FOOD SAFETY IMPROVEMENT.

(a) FEDERAL MEAT INSPECTION ACT.—Title I of the Federal Meat Inspection Act is further amended by inserting after section 11 (21 U.S.C. 611) the following:

"SEC. 12. NOTIFICATION.

"Any establishment subject to inspection under this Act that believes, or has reason to believe, that an adulterated or misbranded meat or meat food product received by or originating from the establishment has entered into commerce shall promptly notify the Secretary with regard to the type, amount, origin, and destination of the meat or meat food product.

"SEC. 13. PLANS AND REASSESSMENTS.

"The Secretary shall require that each establishment subject to inspection under this Act shall, at a minimum—

"(1) prepare and maintain current procedures for the recall of all meat or meat food products produced and shipped by the establishment;

"(2) document each reassessment of the process control plans of the establishment; and

"(3) upon request, make the procedures and reassessed process control plans available to inspectors appointed by the Secretary for review and copying.".

(b) POULTRY PRODUCTS INSPECTION ACT.—Section 10 of the Poultry Products Inspection Act (21 U.S.C. 459) is amended—

(1) by striking the section heading and all that follows through "~~sec.~~ ~~10~~. No establishment" and inserting the following:

"SEC. 10. COMPLIANCE BY ALL ESTABLISHMENTS.

"(a) IN GENERAL.—No establishment"; and

(2) by adding at the end the following:

"(b) NOTIFICATION.—Any establishment subject to inspection under this Act that believes, or has reason to believe, that an adulterated or misbranded poultry or poultry product received by or originating from the establishment has entered into commerce shall promptly notify the Secretary with regard to the type, amount, origin, and destination of the poultry or poultry product.

"(c) PLANS AND REASSESSMENTS.—The Secretary shall require that each establishment subject to inspection under this Act shall, at a minimum—

"(1) prepare and maintain current procedures for the recall of all poultry or poultry products produced and shipped by the establishment;

"(2) document each reassessment of the process control plans of the establishment; and

"(3) upon request, make the procedures and reassessed process control plans available to inspectors appointed by the Secretary for review and copying.".

TITLE XII—CROP INSURANCE AND DISASTER ASSISTANCE PROGRAMS

Subtitle A—Crop Insurance and Agricultural Disaster Assistance

SEC. 12001. DEFINITION OF ORGANIC CROP.

Section 502(b) of the Federal Crop Insurance Act (7 U.S.C. 1502(b)) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

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

"(7) ORGANIC CROP.—The term 'organic crop' means an agricultural commodity that is organically produced consistent with section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502).".

SEC. 12002. GENERAL POWERS.

(a) IN GENERAL.—Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) is amended—

(1) in the first sentence of subsection (d), by striking "The Corporation" and inserting "Subject to section 508(j)(2)(A), the Corporation"; and

(2) by striking subsection (n).

(b) CONFORMING AMENDMENTS.—

(1) Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) is amended by redesignating subsections (o), (p), and (q) as subsections (n), (o), and (p), respectively.

(2) Section 521 of the Federal Crop Insurance Act (7 U.S.C. 1521) is amended by striking the last sentence.

SEC. 12003. REDUCTION IN LOSS RATIO.

(a) PROJECTED LOSS RATIO.—Subsection (n)(2) of section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) (as redesignated by section 12002(b)(1)) is amended—

(1) in the paragraph heading, by striking "AS OF OCTOBER 1, 1998";

(2) by striking ", on and after October 1, 1998,"; and

(3) by striking "1.075" and inserting "1.0".

(b) PREMIUMS REQUIRED.—Section 508(d)(1) of the Federal Crop Insurance Act (7 U.S.C. 1508(d)(1)) is amended by striking "not greater than 1.1" and all that follows and inserting "not greater than—

"(A) 1.1 through September 30, 1998;

"(B) 1.075 for the period beginning October 1, 1998, and ending on the day before the date of enactment of the Food, Conservation, and Energy Act of 2008; and

"(C) 1.0 on and after the date of enactment of that Act.".

SEC. 12004. PREMIUMS ADJUSTMENTS.

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) is amended by adding at the end the following:

"(9) PREMIUM ADJUSTMENTS.—

"(A) PROHIBITION.—Except as provided in subparagraph (B), no person shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, either as an inducement to procure insurance or after insurance has been procured, any rebate, discount, abatement, credit, or reduction of the premium named in an insurance policy or any other valuable consideration or inducement not specified in the policy.

"(B) EXCEPTIONS.—Subparagraph (A) does not apply with respect to—

"(i) a payment authorized under subsection (b)(5)(B);

"(ii) a performance-based discount authorized under subsection (d)(3); or

"(iii) a patronage dividend, or similar payment, that is paid—

"(I) by an entity that was approved by the Corporation to make such payments for the 2005, 2006, or 2007 reinsurance year, in accordance with subsection (b)(5)(B) as in effect on the day before the date of enactment of this paragraph; and

"(II) in a manner consistent with the payment plan approved in accordance with that subsection for the entity by the Corporation for the applicable reinsurance year.".

SEC. 12005. CONTROLLED BUSINESS INSURANCE.

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) (as amended by section 12004) is amended by adding at the end the following:

"(10) COMMISSIONS.—

"(A) DEFINITION OF IMMEDIATE FAMILY.—In this paragraph, the term 'immediate family' means an individual's father, mother, stepfather, stepmother, brother, sister, stepbrother, stepsister, son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, the spouse of the foregoing, and the individual's spouse.

"(B) PROHIBITION.—No individual (including a subagent) may receive directly, or indirectly through an entity, any compensation (including any commission, profit sharing, bonus, or any other direct or indirect benefit) for the sale or service of a policy or plan of insurance offered under this title if—

"(i) the individual has a substantial beneficial interest, or a member of the individual's immediate family has a substantial beneficial interest, in the policy or plan of insurance; and

"(ii) the total compensation to be paid to the individual with respect to the sale or service of the policies or plans of insurance that meet the condition described in clause (i) exceeds 30 percent or the percentage specified in State law, whichever is less, of the total of all compensation received directly or indirectly by the individual for the sale or service of all policies and plans of insurance offered under this title for the reinsurance year.

"(C) REPORTING.—Not later than 90 days after the annual settlement date of the reinsurance year, any individual that received directly or indirectly any compensation for the service or sale of any policy or plan of insurance offered under this title in the prior reinsurance year shall certify to applicable approved insurance providers that the compensation that the individual received was in compliance with this paragraph.

"(D) SANCTIONS.—The procedural requirements and sanctions prescribed in section 515(h) shall apply to the prosecution of a violation of this paragraph.

"(E) APPLICABILITY.—

"(i) IN GENERAL.—Sanctions for violations under this paragraph shall only apply to the individuals or entities directly responsible for the certification required under subparagraph (C) or the failure to comply with the requirements of this paragraph.

"(ii) PROHIBITION.—No sanctions shall apply with respect to the policy or plans of insurance upon which compensation is received, including the reinsurance for those policies or plans.".

SEC. 12006. ADMINISTRATIVE FEE.

(a) IN GENERAL.—Section 508(b)(5) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(5)) is amended—

(1) by striking subparagraph (A) and inserting the following:

"(A) BASIC FEE.—Each producer shall pay an administrative fee for catastrophic risk protection in the amount of $300 per crop per county."; and

(2) in subparagraph (B)—

*(A) by striking "**PAYMENT ON BEHALF OF PRODUCERS**" and inserting "**PAYMENT OF CATASTROPHIC RISK PROTECTION FEE ON BEHALF OF PRODUCERS**";*

(B) in clause (i)—

(i) by striking "or other payment"; and

(ii) by striking "with catastrophic risk protection or additional coverage" and inserting "through the payment of catastrophic risk protection administrative fees";

(C) by striking clauses (ii) and (vi);

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

(E) in clause (iii) (as so redesignated), by striking "A policy or plan of insurance" and inserting "Catastrophic risk protection coverage"; and

(F) in clause (iv) (as so redesignated)—

(i) by striking "or other arrangement under this subparagraph"; and

(ii) by striking "additional".

(b) REPEAL.—Section 748 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (7 U.S.C. 1508 note; Public Law 105–277) is repealed.

SEC. 12007. TIME FOR PAYMENT.

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

(1) in subsection (b)(5)(C), by striking "the date that premium" and inserting "the same date on which the premium";

(2) in subsection (c)(10), by adding at the end the following:

"(C) TIME FOR PAYMENT.—Subsection (b)(5)(C) shall apply with respect to the collection date for the administrative fee."; and

(3) in subsection (d), by adding at the end the following:

"(4) BILLING DATE FOR PREMIUMS.—Effective beginning with the 2012 reinsurance year, the Corporation shall establish August 15 as the billing date for premiums.".

SEC. 12008. CATASTROPHIC COVERAGE REIMBURSEMENT RATE.

Section 508(b)(11) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(11)) is amended by striking "8 percent" and inserting "6 percent".

SEC. 12009. GRAIN SORGHUM PRICE ELECTION.

Section 508(c)(5) of the Federal Crop Insurance Act (7 U.S.C. 1508(c)(5)) is amended by adding at the end the following:

"(D) GRAIN SORGHUM PRICE ELECTION.—

"(i) IN GENERAL.—The Corporation, in conjunction with the Secretary (referred to in this subparagraph as the 'Corporation'), shall—

"(I) not later than 60 days after the date of enactment of this subparagraph, make available all methods and data, including data from the Economic Research Service, used by the Corporation to develop the expected market prices for grain sorghum under the production and revenue-based plans of insurance of the Corporation; and

"(II) request applicable data from the grain sorghum industry.

"(ii) EXPERT REVIEWERS.—

"(I) IN GENERAL.—Not later than 120 days after the date of enactment of this subparagraph, the Corporation shall contract individually with 5 expert reviewers described in subclause (II) to develop and recommend a methodology for determining an expected market price for sorghum for both the production and revenue-based plans of insurance to more accurately reflect the actual price at harvest.

"(II) REQUIREMENTS.—The expert reviewers under subclause (I) shall be comprised of agricultural economists with experience in grain sorghum and corn markets, of whom—

"(aa) 2 shall be agricultural economists of institutions of higher education;

"(bb) 2 shall be economists from within the Department; and

"(cc) 1 shall be an economist nominated by the grain sorghum industry.

"(iii) RECOMMENDATIONS.—

"(I) IN GENERAL.—Not later than 90 days after the date of contracting with the expert reviewers under clause (ii), the expert reviewers shall submit, and the Corporation shall make available to the public, the recommendations of the expert reviewers.

"(II) CONSIDERATION.—The Corporation shall consider the recommendations under subclause (I) when determining the appropriate pricing methodology to determine the expected market price for grain sorghum under both the production and revenue-based plans of insurance.

"(III) PUBLICATION.—Not later than 60 days after the date on which the Corporation receives the recommendations of the expert reviewers, the Corporation shall publish the proposed pricing methodology for both the production and revenue-based plans of insurance for notice and comment and, during the comment period, conduct at least 1 public meeting to discuss the proposed pricing methodologies.

"(iv) APPROPRIATE PRICING METHODOLOGY.—

"(I) IN GENERAL.—Not later than 180 days after the close of the comment period in clause (iii)(III), but effective not later than the 2010 crop year, the Corporation shall implement a pricing methodology for grain sorghum under the production and revenue-based plans of insurance that is transparent and replicable.

"(II) INTERIM METHODOLOGY.—Until the date on which the new pricing methodology is implemented, the Corporation may continue to use the pricing methodology that the Corporation determines best establishes the expected market price.

"(III) AVAILABILITY.—On an annual basis, the Corporation shall make available the pricing methodology and data used to determine the expected market prices for grain sorghum under the production and revenue-based plans of insurance, including any changes to the methodology used to determine the expected market prices for grain sorghum from the previous year.".

SEC. 12010. PREMIUM REDUCTION AUTHORITY.

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

(1) in paragraph (2), by striking "paragraph (4)" and inserting "paragraph (3)";

(2) by striking paragraph (3); and

(3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

SEC. 12011. ENTERPRISE AND WHOLE FARM UNITS.

Section 508(e) of Federal Crop Insurance Act (7 U.S.C. 1508(e)) (as amended by section 12010) is amended by adding at the end the following:

"(5) ENTERPRISE AND WHOLE FARM UNITS.—

"(A) IN GENERAL.—The Corporation may carry out a pilot program under which the Corporation pays a portion of the premiums for plans or policies of insurance for which the insurable unit is defined on a whole farm or enterprise unit basis that is higher than would otherwise be paid in accordance with paragraph (2).

"(B) AMOUNT.—The percentage of the premium paid by the Corporation to a policyholder for a policy with an enterprise or whole farm unit under this paragraph shall, to the maximum extent practicable, provide the same dollar amount of premium subsidy per acre that would otherwise have been paid by the Corporation under paragraph (2) if the policyholder had purchased a basic or optional unit for the crop for the crop year.

"(C) LIMITATION.—The amount of the premium paid by the Corporation under this paragraph may not exceed 80 percent of the total premium for the enterprise or whole farm unit policy.".

SEC. 12012. PAYMENT OF PORTION OF PREMIUM FOR AREA REVENUE PLANS.

Section 508(e) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)) (as amended by section 12011) is amended—

(1) in paragraph (2), in the matter preceding subparagraph (A), by striking "paragraph (4)" and inserting "paragraphs (4), (6), and (7)"; and

(2) by adding at the end the following:

"(6) PREMIUM SUBSIDY FOR AREA REVENUE PLANS.—Subject to paragraph (4), in the case of a policy or plan of insurance that covers losses due to a reduction in revenue in an area, the amount of the premium paid by the Corporation shall be as follows:

"(A) In the case of additional area coverage equal to or greater than 70 percent, but less than 75 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

"(i) 59 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

"(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

"(B) In the case of additional area coverage equal to or greater than 75 percent, but less than 85 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

"(i) 55 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

"(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

"(C) In the case of additional area coverage equal to or greater than 85 percent, but less than 90 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

"(i) 49 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

"(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

"(D) In the case of additional area coverage equal to or greater than 90 percent of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

"(i) 44 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

"(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

"(7) PREMIUM SUBSIDY FOR AREA YIELD PLANS.—Subject to paragraph (4), in the case of a policy or plan of insurance that covers losses due to a loss of yield or prevented planting in an area, the amount of the premium paid by the Corporation shall be as follows:

"(A) In the case of additional area coverage equal to or greater than 70 percent, but less than 80 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

"(i) 59 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

"(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

"(B) In the case of additional area coverage equal to or greater than 80 percent, but less than 90 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

"(i) 55 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

"(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.

"(C) In the case of additional area coverage equal to or greater than 90 percent, of the recorded county yield indemnified at not greater than 100 percent of the expected market price, the amount shall be equal to the sum of—

"(i) 51 percent of the amount of the premium established under subsection (d)(2)(B)(i) for the coverage level selected; and

"(ii) the amount determined under subsection (d)(2)(B)(ii) for the coverage level selected to cover operating and administrative expenses.".

SEC. 12013. DENIAL OF CLAIMS.

Section 508(j)(2)(A) of the Federal Crop Insurance Act (7 U.S.C. 1508(j)(2)(A)) is amended by inserting "on behalf of the Corporation" after "approved provider".

SEC. 12014. SETTLEMENT OF CROP INSURANCE CLAIMS ON FARM-STORED PRODUCTION.

(a) IN GENERAL.—Section 508(j) of the Federal Crop Insurance Act (7 U.S.C. 1508(j)) is amended by adding at the end the following:

"(5) SETTLEMENT OF CLAIMS ON FARM-STORED PRODUCTION.—A producer with farm-stored production may, at the option of the producer, delay settlement of a crop insurance claim relating to the farm-stored production for up to 4 months after

the last date on which claims may be submitted under the policy of insurance.".

(b) STUDY ON THE EFFICACY OF PACK FACTORS.—

(1) IN GENERAL.—The Secretary shall conduct a study of the efficacy and accuracy of the application of pack factors regarding the measurement of farm-stored production for purposes of providing policies or plans of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(2) CONSIDERATIONS.—The study shall consider—

(A) structural shape and size;

(B) time in storage;

(C) the impact of facility aeration systems; and

(D) any other factors the Secretary considers appropriate.

(3) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes the findings of the study and any related policy recommendations.

SEC. 12015. TIME FOR REIMBURSEMENT.

Section 508(k)(4) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)(4)) is amended by adding at the end the following:

"(D) TIME FOR REIMBURSEMENT.—Effective beginning with the 2012 reinsurance year, the Corporation shall reimburse approved insurance providers and agents for the allowable administrative and operating costs of the providers and agents as soon as practicable after October 1 (but not later than October 31) after the reinsurance year for which reimbursements are earned.".

SEC. 12016. REIMBURSEMENT RATE.

Section 508(k)(4) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)(4)) (as amended by section 12015) is amended—

(1) in subparagraph (A), by striking "Except as provided in subparagraph (B)" and inserting "Except as otherwise provided in this paragraph"; and

(2) by adding at the end the following:

"(E) REIMBURSEMENT RATE REDUCTION.—In the case of a policy of additional coverage that received a rate of reimbursement for administrative and operating costs for the 2008 reinsurance year, for each of the 2009 and subsequent reinsurance years, the reimbursement rate for administrative and operating costs shall be 2.3 percentage points below the rates in effect as of the date of enactment of the Food, Conservation, and Energy Act of 2008 for all crop insurance policies used to define loss ratio, except that only ½ of the reduction shall apply in a reinsurance year to the total premium written in a State in which the State loss ratio is greater than 1.2.

"(F) REIMBURSEMENT RATE FOR AREA POLICIES AND PLANS OF INSURANCE.—Notwithstanding subparagraphs (A) through (E), for each of the 2009 and subsequent reinsurance years, the reimbursement rate for area policies and plans of insurance widely available as of the date of enact-

ment of this subparagraph shall be 12 percent of the premium used to define loss ratio for that reinsurance year.".

SEC. 12017. RENEGOTIATION OF STANDARD REINSURANCE AGREEMENT.

Section 508(k) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)) is amended by adding at the end the following:

"(8) RENEGOTIATION OF STANDARD REINSURANCE AGREEMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), notwithstanding section 536 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 1506 note; Public Law 105–185) and section 148 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1506 note; Public Law 106–224), the Corporation may renegotiate the financial terms and conditions of each Standard Reinsurance Agreement—

"(i) to be effective for the 2011 reinsurance year beginning July 1, 2010; and

"(ii) once during each period of 5 reinsurance years thereafter.

"(B) EXCEPTIONS.—

"(i) ADVERSE CIRCUMSTANCES.—Subject to clause (ii), subparagraph (A) shall not apply in any case in which the approved insurance providers, as a whole, experience unexpected adverse circumstances, as determined by the Secretary.

"(ii) EFFECT OF FEDERAL LAW CHANGES.—If Federal law is enacted after the date of enactment of this paragraph that requires revisions in the financial terms of the Standard Reinsurance Agreement, and changes in the Agreement are made on a mandatory basis by the Corporation, the changes shall not be considered to be a renegotiation of the Agreement for purposes of subparagraph (A).

"(C) NOTIFICATION REQUIREMENT.—If the Corporation renegotiates a Standard Reinsurance Agreement under subparagraph (A)(iii), the Corporation shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the renegotiation.

"(D) CONSULTATION.—The approved insurance providers may confer with each other and collectively with the Corporation during any renegotiation under subparagraph (A).

"(E) 2011 REINSURANCE YEAR.—

"(i) IN GENERAL.—As part of the Standard Reinsurance Agreement renegotiation authorized under subparagraph (A)(i), the Corporation shall consider alternative methods to determine reimbursement rates for administrative and operating costs.

"(ii) ALTERNATIVE METHODS.—Alternatives considered under clause (i) shall include—

"(I) methods that—

"(aa) are graduated and base reimbursement rates in a State on changes in premiums in that State;

"(bb) are graduated and base reimbursement rates in a State on the loss ratio for crop insurance for that State; and

"(cc) are graduated and base reimbursement rates on individual policies on the level of total premium for each policy; and

"(II) any other method that takes into account current financial conditions of the program and ensures continued availability of the program to producers on a nationwide basis.".

SEC. 12018. CHANGE IN DUE DATE FOR CORPORATION PAYMENTS FOR UNDERWRITING GAINS.

Section 508(k) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)) (as amended by section 12017) is amended by adding at the end the following:

"(9) DUE DATE FOR PAYMENT OF UNDERWRITING GAINS.—Effective beginning with the 2011 reinsurance year, the Corporation shall make payments for underwriting gains under this title on—

"(A) for the 2011 reinsurance year, October 1, 2012; and

"(B) for each reinsurance year thereafter, October 1 of the following calendar year.".

SEC. 12019. MALTING BARLEY.

Section 508(m) of the Federal Crop Insurance Act (7 U.S.C. 1508(m)) is amended by adding at the end the following:

"(5) SPECIAL PROVISIONS FOR MALTING BARLEY.—The Corporation shall promulgate special provisions under this subsection specific to malting barley, taking into consideration any changes in quality factors, as required by applicable market conditions.".

SEC. 12020. CROP PRODUCTION ON NATIVE SOD.

(a) FEDERAL CROP INSURANCE.—Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended by adding at the end the following:

"(o) CROP PRODUCTION ON NATIVE SOD.—

"(1) DEFINITION OF NATIVE SOD.—In this subsection, the term 'native sod' means land—

"(A) on which the plant cover is composed principally of native grasses, grasslike plants, forbs, or shrubs suitable for grazing and browsing; and

"(B) that has never been tilled for the production of an annual crop as of the date of enactment of this subsection.

"(2) INELIGIBILITY FOR BENEFITS.—

"(A) IN GENERAL.—Subject to subparagraph (B) and paragraph (3), native sod acreage that has been tilled for the production of an annual crop after the date of enactment of this subsection shall be ineligible during the first 5 crop years of planting, as determined by the Secretary, for benefits under—

"(i) this title; and

"(ii) section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

"(B) DE MINIMIS ACREAGE EXEMPTION.—The Secretary shall exempt areas of 5 acres or less from subparagraph (A).

"(3) APPLICATION.—Paragraph (2) may apply to native sod acreage in the Prairie Pothole National Priority Area at the election of the Governor of the respective State.".

(b) NONINSURED CROP DISASTER ASSISTANCE.—Section 196(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(a)) is amended by adding at the end the following:

"(4) PROGRAM INELIGIBILITY RELATING TO CROP PRODUCTION ON NATIVE SOD.—

"(A) DEFINITION OF NATIVE SOD.—In this paragraph, the term 'native sod' means land—

"(i) on which the plant cover is composed principally of native grasses, grasslike plants, forbs, or shrubs suitable for grazing and browsing; and

"(ii) that has never been tilled for the production of an annual crop as of the date of enactment of this paragraph.

"(B) INELIGIBILITY FOR BENEFITS.—

"(i) IN GENERAL.—Subject to clause (ii) and subparagraph (C), native sod acreage that has been tilled for the production of an annual crop after the date of enactment of this paragraph shall be ineligible during the first 5 crop years of planting, as determined by the Secretary, for benefits under—

"(I) this section; and

"(II) the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

"(ii) DE MINIMIS ACREAGE EXEMPTION.—The Secretary shall exempt areas of 5 acres or less from clause (i).

"(C) APPLICATION.—Subparagraph (B) may apply to native sod acreage in the Prairie Pothole National Priority Area at the election of the Governor of the respective State.".

SEC. 12021. INFORMATION MANAGEMENT.

Section 515 of the Federal Crop Insurance Act (7 U.S.C. 1515) is amended—

(a) in subsection (j)(3), by adding before the period at the end the following: ", which shall be subject to competition on a periodic basis, as determined by the Secretary"; and

(b) by striking subsection (k) and inserting the following:

"(k) FUNDING.—

"(1) INFORMATION TECHNOLOGY.—To carry out subsection (j)(1), the Corporation may use, from amounts made available from the insurance fund established under section 516(c), not more than $15,000,000 for each of fiscal years 2008 through 2011.

"(2) DATA MINING.—To carry out subsection (j)(2), the Corporation may use, from amounts made available from the insurance fund established under section 516(c), not more than $4,000,000 for fiscal year 2009 and each subsequent fiscal year.".

SEC. 12022. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Section 522(b) of the Federal Crop Insurance Act (7 U.S.C. 1522(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) RESEARCH AND DEVELOPMENT PAYMENT.—

"(A) IN GENERAL.—The Corporation shall provide a payment to an applicant for research and development costs in accordance with this subsection.

"(B) REIMBURSEMENT.—An applicant who submits a policy under section 508(h) shall be eligible for the reimbursement of reasonable research and development costs directly related to the policy if the policy is approved by the Board for sale to producers.

"(2) ADVANCE PAYMENTS.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph, the Board may approve the request of an applicant for advance payment of a portion of reasonable research and development costs prior to submission and approval of the policy by the Board under section 508(h).

"(B) PROCEDURES.—The Board shall establish procedures for approving advance payment of reasonable research and development costs to applicants.

"(C) CONCEPT PROPOSAL.—As a condition of eligibility for advance payments, an applicant shall submit a concept proposal for the policy that the applicant plans to submit to the Board under section 508(h), consistent with procedures established by the Board for submissions under subparagraph (B), including—

"(i) a summary of the qualifications of the applicant, including any prior concept proposals and submissions to the Board under section 508(h) and, if applicable, any work conducted under this section;

"(ii) a projection of total research and development costs that the applicant expects to incur;

"(iii) a description of the need for the policy, the marketability of and expected demand for the policy among affected producers, and the potential impact of the policy on producers and the crop insurance delivery system;

"(iv) a summary of data sources available to demonstrate that the policy can reasonably be developed and actuarially appropriate rates established; and

"(v) an identification of the risks the proposed policy will cover and an explanation of how the identified risks are insurable under this title.

"(D) REVIEW.—

"(i) EXPERTS.—If the requirements of subparagraph (B) and (C) are met, the Board may submit a concept proposal described in subparagraph (C) to not less than 2 independent expert reviewers, whose services are appropriate for the type of concept proposal submitted, to assess the likelihood that the proposed policy being developed will result in a viable and marketable policy, as determined by the Board.

"(ii) TIMING.—The time frames described in subparagraphs (C) and (D) of section 508(h)(4) shall apply to the review of concept proposals under this subparagraph.

"(E) APPROVAL.—The Board may approve up to 50 percent of the projected total research and development costs to be paid in advance to an applicant, in accordance with the procedures developed by the Board for the making of such payments, if, after consideration of the reviewer reports described in subparagraph (D) and such other information as the Board determines appropriate, the Board determines that—

"(i) the concept, in good faith, will likely result in a viable and marketable policy consistent with section 508(h);

"(ii) in the sole opinion of the Board, the concept, if developed into a policy and approved by the Board, would provide crop insurance coverage—

"(I) in a significantly improved form;

"(II) to a crop or region not traditionally served by the Federal crop insurance program; or

"(III) in a form that addresses a recognized flaw or problem in the program;

"(iii) the applicant agrees to provide such reports as the Corporation determines are necessary to monitor the development effort;

"(iv) the proposed budget and timetable are reasonable; and

"(v) the concept proposal meets any other requirements that the Board determines appropriate.

"(F) SUBMISSION OF POLICY.—If the Board approves an advanced payment under subparagraph (E), the Board shall establish a date by which the applicant shall present a submission in compliance with section 508(h) (including the procedures implemented under that section) to the Board for approval.

"(G) FINAL PAYMENT.—

"(i) APPROVED POLICIES.—If a policy is submitted under subparagraph (F) and approved by the Board under section 508(h) and the procedures established by the Board (including procedures established under subparagraph (B)), the applicant shall be eligible for a payment of reasonable research and development costs in the same manner as policies reimbursed under paragraph (1)(B), less any payments made pursuant to subparagraph (E).

"(ii) POLICIES NOT APPROVED.—If a policy is submitted under subparagraph (F) and is not approved by the Board under section 508(h), the Corporation shall—

"(I) not seek a refund of any payments made in accordance with this paragraph; and

"(II) not make any further research and development cost payments associated with the submission of the policy under this paragraph.

"(H) POLICY NOT SUBMITTED.—If an applicant receives an advance payment and fails to fulfill the obligation of the applicant to the Board by not submitting a completed submission without just cause and in accordance with the procedures established under subparagraph (B)), including notice and reasonable opportunity to respond, as determined by the Board, the applicant shall return to the Board the amount of the advance plus interest.

"(I) REPEATED SUBMISSIONS.—The Board may prohibit advance payments to applicants who have submitted—

"(i) a concept proposal or submission that did not result in a marketable product; or

"(ii) a concept proposal or submission of poor quality.

"(J) CONTINUED ELIGIBILITY.—A determination that an applicant is not eligible for advance payments under this paragraph shall not prevent an applicant from reimbursement under paragraph (1)(B).".

(b) CONFORMING AMENDMENTS.—Section 522(b) of the Federal Crop Insurance Act (7 U.S.C. 1522(b)) is amended—

(1) in paragraph (3), by striking "or (2)"; and

(2) in paragraph (4)(A), by striking "and (2)"."

SEC. 12023. CONTRACTS FOR ADDITIONAL POLICIES AND STUDIES.

Section 522(c) of the Federal Crop Insurance Act (7 U.S.C. 1522) is amended—

(1) by redesignating paragraph (10) as paragraph (17); and

(2) by inserting after paragraph (9) the following:

"(10) CONTRACTS FOR ORGANIC PRODUCTION COVERAGE IMPROVEMENTS.—

"(A) CONTRACTS REQUIRED.—Not later than 180 days after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Corporation shall enter into 1 or more contracts for the development of improvements in Federal crop insurance policies covering crops produced in compliance with standards issued by the Department of Agriculture under the national organic program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

"(B) REVIEW OF UNDERWRITING RISK AND LOSS EXPERIENCE.—

"(i) REVIEW REQUIRED.—

"(I) IN GENERAL.—A contract under subparagraph (A) shall include a review of the underwriting, risk, and loss experience of organic crops covered by the Corporation, as compared with the same crops produced in the same counties and during the same crop years using nonorganic methods.

"(II) REQUIREMENTS.—The review shall—

"(aa) to the maximum extent practicable, be designed to allow the Corporation to determine whether significant, consistent, or systemic variations in loss history exist between organic and nonorganic production;

"(bb) include the widest available range of data collected by the Secretary and other outside sources of information; and

"(cc) not be limited to loss history under existing crop insurance policies.

"(ii) EFFECT ON PREMIUM SURCHARGE.—Unless the review under this subparagraph documents the existence of significant, consistent, and systemic variations in loss history between organic and nonorganic crops, either collectively or on an individual crop basis, the Corporation shall eliminate or reduce the premium surcharge that the Corporation charges for coverage for organic crops, as determined in accordance with the results.

"(iii) ANNUAL UPDATES.—Beginning with the 2009 crop year, the review under this subparagraph shall be updated on an annual basis as data is accumulated by the Secretary and other sources, so that the Corporation may make determinations regarding adjustments to the surcharge in a timely manner as quickly as evolving practices and data trends allow.

"(C) ADDITIONAL PRICE ELECTION.—

"(i) IN GENERAL.—A contract under subparagraph (A) shall include the development of a procedure, including any associated changes in policy terms or materials required for implementation of the procedure, to offer producers of organic crops an additional price election that reflects actual prices received by organic producers for crops from the field (including appropriate retail and wholesale prices), as established using data collected and maintained by the Secretary or from other sources.

"(ii) TIMING.—The development of the procedure shall be completed in a timely manner to allow the Corporation to begin offering the additional price election for organic crops with sufficient data for the 2010 crop year.

"(iii) EXPANSION.—The procedure shall be expanded as quickly as practicable as additional data on prices of organic crops collected by the Secretary and other sources of information becomes available, with a goal of applying this procedure to all organic crops not later than the fifth full crop year that begins after the date of enactment of Food, Conservation, and Energy Act of 2008.

"(D) REPORTING REQUIREMENTS.—

"(i) IN GENERAL.—The Corporation shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report on progress made in developing and improving Federal crop insurance for organic crops, including—

"(I) the numbers and varieties of organic crops insured;

"(II) the development of new insurance approaches; and

"(III) the progress of implementing the initiatives required under this paragraph, including the rate at which additional price elections are adopted for organic crops.

"(ii) RECOMMENDATIONS.—The report shall include such recommendations as the Corporation considers appropriate to improve Federal crop insurance coverage for organic crops.

"(11) ENERGY CROP INSURANCE POLICY.—

"(A) DEFINITION OF DEDICATED ENERGY CROP.—In this subsection, the term 'dedicated energy crop' means an annual or perennial crop that—

"(i) is grown expressly for the purpose of producing a feedstock for renewable biofuel, renewable electricity, or biobased products; and

"(ii) is not typically used for food, feed, or fiber.

"(B) AUTHORITY.—The Corporation shall offer to enter into 1 or more contracts with qualified entities to carry out research and development regarding a policy to insure dedicated energy crops.

"(C) RESEARCH AND DEVELOPMENT.—Research and development described in subparagraph (B) shall evaluate the effectiveness of risk management tools for the production of dedicated energy crops, including policies and plans of insurance that—

"(i) are based on market prices and yields;

"(ii) to the extent that insufficient data exist to develop a policy based on market prices and yields, evaluate the policies and plans of insurance based on the use of weather or rainfall indices to protect the interests of crop producers; and

"(iii) provide protection for production or revenue losses, or both.

"(12) AQUACULTURE INSURANCE POLICY.—

"(A) DEFINITION OF AQUACULTURE.—In this subsection:

"(i) IN GENERAL.—The term 'aquaculture' means the propagation and rearing of aquatic species in controlled or selected environments, including shellfish cultivation on grants or leased bottom and ocean ranching.

"(ii) EXCLUSION.—The term 'aquaculture' does not include the private ocean ranching of Pacific salmon for profit in any State in which private ocean ranching of Pacific salmon is prohibited by any law (including regulations).

"(B) AUTHORITY.—

"(i) IN GENERAL.—As soon as practicable after the date of enactment of the Food, Conservation, and Energy Act of 2008, the Corporation shall offer to enter into 3 or more contracts with qualified entities to carry out research and development regarding a policy to insure the production of aquacultural species in aquaculture operations.

"(ii) BIVALVE SPECIES.—At least 1 of the contracts described in clause (i) shall address insurance of bivalve species, including—

"(I) American oysters (crassostrea virginica);

"(II) hard clams (mercenaria mercenaria);

"(III) Pacific oysters (crassostrea gigas);

"(IV) Manila clams (tapes phillipinnarium); or

"(V) blue mussels (mytilus edulis).

"(iii) FRESHWATER SPECIES.—At least 1 of the contracts described in clause (i) shall address insurance of freshwater species, including—

"(I) catfish (icataluridae);

"(II) rainbow trout (oncorhynchus mykiss);

"(III) largemouth bass (micropterus salmoides);

"(IV) striped bass (morone saxatilis);

"(V) bream (abramis brama);

"(VI) shrimp (penaeus); or

"(VII) tilapia (oreochromis niloticus).

"(iv) SALTWATER SPECIES.—At least 1 of the contracts described in clause (i) shall address insurance of saltwater species, including—

"(I) Atlantic salmon (salmo salar); or

"(II) shrimp (penaeus).

"(C) RESEARCH AND DEVELOPMENT.—Research and development described in subparagraph (B) shall evaluate the effectiveness of policies and plans of insurance for the production of aquacultural species in aquaculture operations, including policies and plans of insurance that—

"(i) are based on market prices and yields;

"(ii) to the extent that insufficient data exist to develop a policy based on market prices and yields, evaluate how best to incorporate insuring of production of aquacultural species in aquaculture operations into existing policies covering adjusted gross revenue; and

"(iii) provide protection for production or revenue losses, or both.

"(13) POULTRY INSURANCE POLICY.—

"(A) DEFINITION OF POULTRY.—In this paragraph, the term 'poultry' has the meaning given the term in section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)).

"(B) AUTHORITY.—The Corporation shall offer to enter into 1 or more contracts with qualified entities to carry out research and development regarding a policy to insure commercial poultry production.

"(C) RESEARCH AND DEVELOPMENT.—Research and development described in subparagraph (B) shall evaluate the effectiveness of risk management tools for the production of poultry, including policies and plans of insurance that provide protection for production or revenue losses, or both, while the poultry is in production.

"(14) APIARY POLICIES.—The Corporation shall offer to enter into a contract with a qualified entity to carry out re-

search and development regarding insurance policies that cover loss of bees.

"(15) ADJUSTED GROSS REVENUE POLICIES FOR BEGINNING PRODUCERS.—The Corporation shall offer to enter into a contract with a qualified entity to carry out research and development into needed modifications of adjusted gross revenue insurance policies, consistent with principles of actuarial sufficiency, to permit coverage for beginning producers with no previous production history, including permitting those producers to have production and premium rates based on information with similar farming operations.

"(16) SKIPROW CROPPING PRACTICES.—

"(A) IN GENERAL.—The Corporation shall offer to enter into a contract with a qualified entity to carry out research into needed modifications of policies to insure corn and sorghum produced in the Central Great Plains (as determined by the Agricultural Research Service) through use of skiprow cropping practices.

"(B) RESEARCH.—Research described in subparagraph (A) shall—

"(i) review existing research on skiprow cropping practices and actual production history of producers using skiprow cropping practices; and

"(ii) evaluate the effectiveness of risk management tools for producers using skiprow cropping practices, including—

"(I) the appropriateness of rules in existence as of the date of enactment of this paragraph relating to the determination of acreage planted in skiprow patterns; and

"(II) whether policies for crops produced through skiprow cropping practices reflect actual production capabilities.".

SEC. 12024. FUNDING FROM INSURANCE FUND.

Section 522(e) of the Federal Crop Insurance Act (7 U.S.C. 1522(e)) is amended—

(1) in paragraph (1), by striking "$10,000,000" and all that follows through the end of the paragraph and inserting "$7,500,000 for fiscal year 2008 and each subsequent fiscal year";

(2) in paragraph (2)(A), by striking "$20,000,000 for" and all that follows through "year 2004" and inserting "$12,500,000 for fiscal year 2008"; and

(3) in paragraph (3), by striking "the Corporation may use" and all that follows through the end of the paragraph and inserting "the Corporation may use—

"(A) not more than $5,000,000 for each fiscal year to improve program integrity, including by—

"(i) increasing compliance-related training;

"(ii) improving analysis tools and technology regarding compliance;

"(iii) use of information technology, as determined by the Corporation; and

"(iv) identifying and using innovative compliance strategies; and

"(B) any excess amounts to carry out other activities authorized under this section.".

SEC. 12025. PILOT PROGRAMS.

(a) IN GENERAL.—Section 523 of the Federal Crop Insurance Act (7 U.S.C. 1523) is amended by adding at the end the following:

"(f) CAMELINA PILOT PROGRAM.—

"(1) IN GENERAL.—The Corporation shall establish a pilot program under which producers or processors of camelina may propose for approval by the Board policies or plans of insurance for camelina, in accordance with section 508(h).

"(2) DETERMINATION BY BOARD.—The Board shall approve a policy or plan of insurance proposed under paragraph (1) if, as determined by the Board, the policy or plan of insurance—

"(A) protects the interests of producers;

"(B) is actuarially sound; and

"(C) meets the requirements of this title.

"(3) TIMEFRAME.—The Corporation shall commence the camelina insurance pilot program as soon as practicable after the date of enactment of this subsection.

"(g) SESAME INSURANCE PILOT PROGRAM.—

"(1) IN GENERAL.—In addition to any other authority of the Corporation, the Corporation shall establish and carry out a pilot program under which a producer of nondehiscent sesame under contract may elect to obtain multiperil crop insurance, as determined by the Corporation.

"(2) TERMS AND CONDITIONS.—The multiperil crop insurance offered under the sesame insurance pilot program shall—

"(A) be offered through reinsurance arrangements with private insurance companies;

"(B) be actuarially sound; and

"(C) require the payment of premiums and administrative fees by a producer obtaining the insurance.

"(3) LOCATION.—The sesame insurance pilot program shall be carried out only in the State of Texas.

"(4) DURATION.—The Corporation shall commence the sesame insurance pilot program as soon as practicable after the date of the enactment of this subsection.

"(h) GRASS SEED INSURANCE PILOT PROGRAM.—

"(1) IN GENERAL.—In addition to any other authority of the Corporation, the Corporation shall establish and carry out a grass seed pilot program under which a producer of Kentucky bluegrass or perennial rye grass under contract may elect to obtain multiperil crop insurance, as determined by the Corporation.

"(2) TERMS AND CONDITIONS.—The multiperil crop insurance offered under the grass seed insurance pilot program shall—

"(A) be offered through reinsurance arrangements with private insurance companies;

"(B) be actuarially sound; and

"(C) require the payment of premiums and administrative fees by a producer obtaining the insurance.

"(3) LOCATION.—The grass seed insurance pilot program shall be carried out only in each of the States of Minnesota and North Dakota.

"(4) DURATION.—The Corporation shall commence the grass seed insurance pilot program as soon as practicable after the date of the enactment of this subsection.".

(b) CONFORMING AMENDMENT.—Section 196(a)(2)(B) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(a)(2)(B)) is amended by adding "camelina," after "sea oats,".

SEC. 12026. RISK MANAGEMENT EDUCATION FOR BEGINNING FARMERS OR RANCHERS.

Section 524(a) of the Federal Crop Insurance Act (7 U.S.C. 1524(a)) is amended—

(1) in paragraph (1), by striking "paragraph (4)" and inserting "paragraph (5)";

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:

"(4) REQUIREMENTS.—In carrying out the programs established under paragraphs (2) and (3), the Secretary shall place special emphasis on risk management strategies, education, and outreach specifically targeted at—

"(A) beginning farmers or ranchers;

"(B) legal immigrant farmers or ranchers that are attempting to become established producers in the United States;

"(C) socially disadvantaged farmers or ranchers;

"(D) farmers or ranchers that—

"(i) are preparing to retire; and

"(ii) are using transition strategies to help new farmers or ranchers get started; and

"(E) new or established farmers or ranchers that are converting production and marketing systems to pursue new markets.".

SEC. 12027. COVERAGE FOR AQUACULTURE UNDER NONINSURED CROP ASSISTANCE PROGRAM.

Section 196(c)(2) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(c)(2)) is amended—

(1) by striking "On making" and inserting the following:

"(A) IN GENERAL.—On making"; and

(2) by adding at the end the following:

"(B) AQUACULTURE PRODUCERS.—On making a determination described in subsection (a)(3) for aquaculture producers, the Secretary shall provide assistance under this section to aquaculture producers from all losses related to drought.".

SEC. 12028. INCREASE IN SERVICE FEES FOR NONINSURED CROP ASSISTANCE PROGRAM.

Section 196(k)(1) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(k)(1)) is amended—

(1) in subparagraph (A), by striking "$100" and inserting "$250"; and

(2) in subparagraph (B)—

(A) by striking "$300" and inserting "$750"; and

(B) by striking "$900" and inserting "$1,875".

SEC. 12029. DETERMINATION OF CERTAIN SWEET POTATO PRODUCTION.

Section 9001(d) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28; 121 Stat. 211) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following:

"(8) SWEET POTATOES.—

"(A) DATA.—In the case of sweet potatoes, any data obtained under a pilot program carried out by the Risk Management Agency shall not be considered for the purpose of determining the quantity of production under the crop disaster assistance program established under this section.

"(B) EXTENSION OF DEADLINE.—If this paragraph is not implemented before the sign-up deadline for the crop disaster assistance program established under this section, the Secretary shall extend the deadline for producers of sweet potatoes to permit sign-up for the program in accordance with this paragraph.".

SEC. 12030. DECLINING YIELD REPORT.

Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing details about activities and administrative options of the Federal Crop Insurance Corporation and Risk Management Agency that address issues relating to—

(1) declining yields on the actual production histories of producers; and

(2) declining and variable yields for perennial crops, including pecans.

SEC. 12031. DEFINITION OF BASIC UNIT.

The Secretary shall not modify the definition of "basic unit" in accordance with the proposed regulations entitled "Common Crop Insurance Regulations" (72 Fed. Reg. 28895; relating to common crop insurance regulations) or any successor regulation.

SEC. 12032. CROP INSURANCE MEDIATION.

Section 275 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6995) is amended—

(1) by striking "If an officer" and inserting the following:

"(a) IN GENERAL.—If an officer";

(2) by striking "With respect to" and inserting the following:

"(b) FARM SERVICE AGENCY.—With respect to";

(3) by striking "If a mediation"; and inserting the following:

"(c) MEDIATION.—If a mediation"; and

(4) in subsection (c) (as so designated)—

(A) by striking "participant shall be offered" and inserting "participant shall—

"(1) be offered"; and

(B) by striking the period at the end and inserting the following: "; and

"(2) to the maximum extent practicable, be allowed to use both informal agency review and mediation to resolve disputes under that title.".

SEC. 12033. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.

(a) IN GENERAL.—The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) is amended by adding at the end the following:

"Subtitle B—Supplemental Agricultural Disaster Assistance

"SEC. 531. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.

"(a) DEFINITIONS.—In this section:

"(1) ACTUAL PRODUCTION HISTORY YIELD.—The term 'actual production history yield' means the weighted average of the actual production history for each insurable commodity or noninsurable commodity, as calculated under subtitle A or the noninsured crop disaster assistance program, respectively.

"(2) ADJUSTED ACTUAL PRODUCTION HISTORY YIELD.—The term 'adjusted actual production history yield' means—

"(A) in the case of an eligible producer on a farm that has at least 4 years of actual production history yields for an insurable commodity that are established other than pursuant to section 508(g)(4)(B), the actual production history for the eligible producer without regard to any yields established under that section;

"(B) in the case of an eligible producer on a farm that has less than 4 years of actual production history yields for an insurable commodity, of which 1 or more were established pursuant to section 508(g)(4)(B), the actual production history for the eligible producer as calculated without including the lowest of the yields established pursuant to section 508(g)(4)(B); and

"(C) in all other cases, the actual production history of the eligible producer on a farm.

"(3) ADJUSTED NONINSURED CROP DISASTER ASSISTANCE PROGRAM YIELD.—The term 'adjusted noninsured crop disaster assistance program yield' means—

"(A) in the case of an eligible producer on a farm that has at least 4 years of production history under the noninsured crop disaster assistance program that are not replacement yields, the noninsured crop disaster assistance program yield without regard to any replacement yields;

"(B) in the case of an eligible producer on a farm that less than 4 years of production history under the noninsured crop disaster assistance program that are not replacement yields, the noninsured crop disaster assistance program yield as calculated without including the lowest of the replacement yields; and

"(C) in all other cases, the production history of the eligible producer on the farm under the noninsured crop disaster assistance program.

"(4) COUNTER-CYCLICAL PROGRAM PAYMENT YIELD.—The term 'counter-cyclical program payment yield' means the weighted average payment yield established under section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912), section 1102 of the Food, Conservation, and Energy Act of 2008, or a successor section.

"(5) DISASTER COUNTY.—

"(A) IN GENERAL.—The term 'disaster county' means a county included in the geographic area covered by a qualifying natural disaster declaration.

"(B) INCLUSION.—The term 'disaster county' includes—

"(i) a county contiguous to a county described in subparagraph (A); and

"(ii) any farm in which, during a calendar year, the total loss of production of the farm relating to weather is greater than 50 percent of the normal production of the farm, as determined by the Secretary.

"(6) ELIGIBLE PRODUCER ON A FARM.—

"(A) IN GENERAL.—The term 'eligible producer on a farm' means an individual or entity described in subparagraph (B) that, as determined by the Secretary, assumes the production and market risks associated with the agricultural production of crops or livestock.

"(B) DESCRIPTION.—An individual or entity referred to in subparagraph (A) is—

"(i) a citizen of the United States;

"(ii) a resident alien;

"(iii) a partnership of citizens of the United States; or

"(iv) a corporation, limited liability corporation, or other farm organizational structure organized under State law.

"(7) FARM.—

"(A) IN GENERAL.—The term 'farm' means, in relation to an eligible producer on a farm, the sum of all crop acreage in all counties that is planted or intended to be planted for harvest by the eligible producer.

"(B) AQUACULTURE.—In the case of aquaculture, the term 'farm' means, in relation to an eligible producer on a farm, all fish being produced in all counties that are intended to be harvested for sale by the eligible producer.

"(C) HONEY.—In the case of honey, the term 'farm' means, in relation to an eligible producer on a farm, all bees and beehives in all counties that are intended to be harvested for a honey crop by the eligible producer.

"(8) FARM-RAISED FISH.—The term 'farm-raised fish' means any aquatic species that is propagated and reared in a controlled environment.

"(9) INSURABLE COMMODITY.—The term 'insurable commodity' means an agricultural commodity (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under subtitle A.

"(10) LIVESTOCK.—The term 'livestock' includes—

"(A) cattle (including dairy cattle);

"(B) bison;

"(C) poultry;

"(D) sheep;

"(E) swine;

"(F) horses; and

"(G) other livestock, as determined by the Secretary.

"(11) NONINSURABLE COMMODITY.—The term 'noninsurable commodity' means a crop for which the eligible producers on a

farm are eligible to obtain assistance under the noninsured crop assistance program.

"(12) NONINSURED CROP ASSISTANCE PROGRAM.—The term 'noninsured crop assistance program' means the program carried out under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

"(13) QUALIFYING NATURAL DISASTER DECLARATION.—The term 'qualifying natural disaster declaration' means a natural disaster declared by the Secretary for production losses under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)).

"(14) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(15) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)).

"(16) STATE.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia;

"(C) the Commonwealth of Puerto Rico; and

"(D) any other territory or possession of the United States.

"(17) TRUST FUND.—The term 'Trust Fund' means the Agricultural Disaster Relief Trust Fund established under section 902 of the Trade Act of 1974.

"(18) UNITED STATES.—The term 'United States' when used in a geographical sense, means all of the States.

"(b) SUPPLEMENTAL REVENUE ASSISTANCE PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall use such sums as are necessary from the Trust Fund to make crop disaster assistance payments to eligible producers on farms in disaster counties that have incurred crop production losses or crop quality losses, or both, during the crop year.

"(2) AMOUNT.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall provide crop disaster assistance payments under this section to an eligible producer on a farm in an amount equal to 60 percent of the difference between—

"(i) the disaster assistance program guarantee, as described in paragraph (3); and

"(ii) the total farm revenue for a farm, as described in paragraph (4).

"(B) LIMITATION.—The disaster assistance program guarantee for a crop used to calculate the payments for a farm under subparagraph (A)(i) may not be greater than 90 percent of the sum of the expected revenue, as described in paragraph (5) for each of the crops on a farm, as determined by the Secretary.

"(3) SUPPLEMENTAL REVENUE ASSISTANCE PROGRAM GUARANTEE.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the supplemental assistance program guarantee shall be the sum obtained by adding—

"(i) for each insurable commodity on the farm, 115 percent of the product obtained by multiplying—

"(I) a payment rate for the commodity that is equal to the price election for the commodity elected by the eligible producer;

"(II) the payment acres for the commodity that is equal to the number of acres planted, or prevented from being planted, to the commodity;

"(III) the payment yield for the commodity that is equal to the percentage of the crop insurance yield elected by the producer of the higher of—

"(aa) the adjusted actual production history yield; or

"(bb) the counter-cyclical program payment yield for each crop; and

"(ii) for each noninsurable commodity on a farm, 120 percent of the product obtained by multiplying—

"(I) a payment rate for the commodity that is equal to 100 percent of the noninsured crop assistance program established price for the commodity;

"(II) the payment acres for the commodity that is equal to the number of acres planted, or prevented from being planted, to the commodity; and

"(III) the payment yield for the commodity that is equal to the higher of—

"(aa) the adjusted noninsured crop assistance program yield guarantee; or

"(bb) the counter-cyclical program payment yield for each crop.

"(B) ADJUSTMENT INSURANCE GUARANTEE.—Notwithstanding subparagraph (A), in the case of an insurable commodity for which a plan of insurance provides for an adjustment in the guarantee, such as in the case of prevented planting, the adjusted insurance guarantee shall be the basis for determining the disaster assistance program guarantee for the insurable commodity.

"(C) ADJUSTED ASSISTANCE LEVEL.—Notwithstanding subparagraph (A), in the case of a noninsurable commodity for which the noninsured crop assistance program provides for an adjustment in the level of assistance, such as in the case of unharvested crops, the adjusted assistance level shall be the basis for determining the disaster assistance program guarantee for the noninsurable commodity.

"(D) EQUITABLE TREATMENT FOR NON-YIELD BASED POLICIES.—The Secretary shall establish equitable treatment for non-yield based policies and plans of insurance, such as the Adjusted Gross Revenue Lite insurance program.

"(4) FARM REVENUE.—

"(A) IN GENERAL.—For purposes of this subsection, the total farm revenue for a farm, shall equal the sum obtained by adding—

"(i) the estimated actual value for each crop produced on a farm by using the product obtained by multiplying—

"(I) the actual crop acreage harvested by an eligible producer on a farm;

"(II) the estimated actual yield of the crop production; and

"(III) subject to subparagraphs (B) and (C), to the extent practicable, the national average market price received for the marketing year, as determined by the Secretary;

"(ii) 15 percent of amount of any direct payments made to the producer under sections 1103 and 1303 of the Food, Conservation, and Energy Act of 2008 or successor sections;

"(iii) the total amount of any counter-cyclical payments made to the producer under sections 1104 and 1304 of the Food, Conservation, and Energy Act of 2008 or successor sections or of any average crop revenue election payments made to the producer under section 1105 of that Act;

"(iv) the total amount of any loan deficiency payments, marketing loan gains, and marketing certificate gains made to the producer under subtitles B and C of the Food, Conservation, and Energy Act of 2008 or successor subtitles;

"(v) the amount of payments for prevented planting on a farm;

"(vi) the amount of crop insurance indemnities received by an eligible producer on a farm for each crop on a farm;

"(vii) the amount of payments an eligible producer on a farm received under the noninsured crop assistance program for each crop on a farm; and

"(viii) the value of any other natural disaster assistance payments provided by the Federal Government to an eligible producer on a farm for each crop on a farm for the same loss for which the eligible producer is seeking assistance.

"(B) ADJUSTMENT.—The Secretary shall adjust the average market price received by the eligible producer on a farm—

"(i) to reflect the average quality discounts applied to the local or regional market price of a crop or mechanically harvested forage due to a reduction in the intrinsic characteristics of the production resulting from adverse weather, as determined annually by the State office of the Farm Service Agency; and

"(ii) to account for a crop the value of which is reduced due to excess moisture resulting from a disaster-related condition.

"(C) MAXIMUM AMOUNT FOR CERTAIN CROPS.—With respect to a crop for which an eligible producer on a farm receives assistance under the noninsured crop assistance program, the national average market price received during the marketing year shall be an amount not more than 100 percent of the price of the crop established under the noninsured crop assistance program.

"(5) EXPECTED REVENUE.—The expected revenue for each crop on a farm shall equal the sum obtained by adding—

"(A) the product obtained by multiplying—

"(i) the greatest of—

"(I) the adjusted actual production history yield of the eligible producer on a farm; and

"(II) the counter-cyclical program payment yield;

"(ii) the acreage planted or prevented from being planted for each crop; and

"(iii) 100 percent of the insurance price guarantee; and

"(B) the product obtained by multiplying—

"(i) 100 percent of the adjusted noninsured crop assistance program yield; and

"(ii) 100 percent of the noninsured crop assistance program price for each of the crops on a farm.

"(c) LIVESTOCK INDEMNITY PAYMENTS.—

"(1) PAYMENTS.—The Secretary shall use such sums as are necessary from the Trust Fund to make livestock indemnity payments to eligible producers on farms that have incurred livestock death losses in excess of the normal mortality due to adverse weather, as determined by the Secretary, during the calendar year, including losses due to hurricanes, floods, blizzards, disease, wildfires, extreme heat, and extreme cold.

"(2) PAYMENT RATES.—Indemnity payments to an eligible producer on a farm under paragraph (1) shall be made at a rate of 75 percent of the market value of the applicable livestock on the day before the date of death of the livestock, as determined by the Secretary.

"(d) LIVESTOCK FORAGE DISASTER PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) COVERED LIVESTOCK.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'covered livestock' means livestock of an eligible livestock producer that, during the 60 days prior to the beginning date of a qualifying drought or fire condition, as determined by the Secretary, the eligible livestock producer—

"(I) owned;

"(II) leased;

"(III) purchased;

"(IV) entered into a contract to purchase;

"(V) is a contract grower; or

"(VI) sold or otherwise disposed of due to qualifying drought conditions during—

"(aa) the current production year; or

"(bb) subject to paragraph (3)(B)(ii), 1 or both of the 2 production years immediately preceding the current production year.

"(ii) EXCLUSION.—The term 'covered livestock' does not include livestock that were or would have been in a feedlot, on the beginning date of the qualifying drought or fire condition, as a part of the normal busi-

ness operation of the eligible livestock producer, as determined by the Secretary.

"(B) DROUGHT MONITOR.—The term 'drought monitor' means a system for classifying drought severity according to a range of abnormally dry to exceptional drought, as defined by the Secretary.

"(C) ELIGIBLE LIVESTOCK PRODUCER.—

"(i) IN GENERAL.—The term 'eligible livestock producer' means an eligible producer on a farm that—

"(I) is an owner, cash or share lessee, or contract grower of covered livestock that provides the pastureland or grazing land, including cash-leased pastureland or grazing land, for the livestock;

"(II) provides the pastureland or grazing land for covered livestock, including cash-leased pastureland or grazing land that is physically located in a county affected by drought;

"(III) certifies grazing loss; and

"(IV) meets all other eligibility requirements established under this subsection.

"(ii) EXCLUSION.—The term 'eligible livestock producer' does not include an owner, cash or share lessee, or contract grower of livestock that rents or leases pastureland or grazing land owned by another person on a rate-of-gain basis.

"(D) NORMAL CARRYING CAPACITY.—The term 'normal carrying capacity', with respect to each type of grazing land or pastureland in a county, means the normal carrying capacity, as determined under paragraph (3)(D)(i), that would be expected from the grazing land or pastureland for livestock during the normal grazing period, in the absence of a drought or fire that diminishes the production of the grazing land or pastureland.

"(E) NORMAL GRAZING PERIOD.—The term 'normal grazing period', with respect to a county, means the normal grazing period during the calendar year for the county, as determined under paragraph (3)(D)(i).

"(2) PROGRAM.—The Secretary shall use such sums as are necessary from the Trust Fund to provide compensation for losses to eligible livestock producers due to grazing losses for covered livestock due to—

"(A) a drought condition, as described in paragraph (3); or

"(B) fire, as described in paragraph (4).

"(3) ASSISTANCE FOR LOSSES DUE TO DROUGHT CONDITIONS.—

"(A) ELIGIBLE LOSSES.—

"(i) IN GENERAL.—An eligible livestock producer may receive assistance under this subsection only for grazing losses for covered livestock that occur on land that—

"(I) is native or improved pastureland with permanent vegetative cover; or

"(II) is planted to a crop planted specifically for the purpose of providing grazing for covered livestock.

"(ii) EXCLUSIONS.—An eligible livestock producer may not receive assistance under this subsection for grazing losses that occur on land used for haying or grazing under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

"(B) MONTHLY PAYMENT RATE.—

"(i) IN GENERAL.—Except as provided in clause (ii), the payment rate for assistance under this paragraph for 1 month shall, in the case of drought, be equal to 60 percent of the lesser of—

"(I) the monthly feed cost for all covered livestock owned or leased by the eligible livestock producer, as determined under subparagraph (C); or

"(II) the monthly feed cost calculated by using the normal carrying capacity of the eligible grazing land of the eligible livestock producer.

"(ii) PARTIAL COMPENSATION.—In the case of an eligible livestock producer that sold or otherwise disposed of covered livestock due to drought conditions in 1 or both of the 2 production years immediately preceding the current production year, as determined by the Secretary, the payment rate shall be 80 percent of the payment rate otherwise calculated in accordance with clause (i).

"(C) MONTHLY FEED COST.—

"(i) IN GENERAL.—The monthly feed cost shall equal the product obtained by multiplying—

"(I) 30 days;

"(II) a payment quantity that is equal to the feed grain equivalent, as determined under clause (ii); and

"(III) a payment rate that is equal to the corn price per pound, as determined under clause (iii).

"(ii) FEED GRAIN EQUIVALENT.—For purposes of clause (i)(I), the feed grain equivalent shall equal—

"(I) in the case of an adult beef cow, 15.7 pounds of corn per day; or

"(II) in the case of any other type of weight of livestock, an amount determined by the Secretary that represents the average number of pounds of corn per day necessary to feed the livestock.

"(iii) CORN PRICE PER POUND.—For purposes of clause (i)(II), the corn price per pound shall equal the quotient obtained by dividing—

"(I) the higher of—

"(aa) the national average corn price per bushel for the 12-month period immediately preceding March 1 of the year for which the disaster assistance is calculated; or

"(bb) the national average corn price per bushel for the 24-month period immediately preceding that March 1; by

"(II) 56.

"(D) NORMAL GRAZING PERIOD AND DROUGHT MONITOR INTENSITY.—

"(i) FSA COUNTY COMMITTEE DETERMINATIONS.—

"(I) IN GENERAL.—The Secretary shall determine the normal carrying capacity and normal grazing period for each type of grazing land or pastureland in the county served by the applicable committee.

"(II) CHANGES.—No change to the normal carrying capacity or normal grazing period established for a county under subclause (I) shall be made unless the change is requested by the appropriate State and county Farm Service Agency committees.

"(ii) DROUGHT INTENSITY.—

"(I) D2.—An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having a D2 (severe drought) intensity in any area of the county for at least 8 consecutive weeks during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph in an amount equal to 1 monthly payment using the monthly payment rate determined under subparagraph (B).

"(II) D3.—An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having at least a D3 (extreme drought) intensity in any area of the county at any time during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph—

"(aa) in an amount equal to 2 monthly payments using the monthly payment rate determined under subparagraph (B); or

"(bb) if the county is rated as having a D3 (extreme drought) intensity in any area of the county for at least 4 weeks during the normal grazing period for the county, or is rated as having a D4 (exceptional drought) intensity in any area of the county at any time during the normal grazing period, in an amount equal to 3 monthly payments using the monthly payment rate determined under subparagraph (B).

"(4) ASSISTANCE FOR LOSSES DUE TO FIRE ON PUBLIC MANAGED LAND.—

"(A) IN GENERAL.—An eligible livestock producer may receive assistance under this paragraph only if—

"(i) the grazing losses occur on rangeland that is managed by a Federal agency; and

"(ii) the eligible livestock producer is prohibited by the Federal agency from grazing the normal permitted livestock on the managed rangeland due to a fire.

"(B) PAYMENT RATE.—The payment rate for assistance under this paragraph shall be equal to 50 percent of the monthly feed cost for the total number of livestock covered by the Federal lease of the eligible livestock producer, as determined under paragraph (3)(C).

"(C) PAYMENT DURATION.—

"(i) IN GENERAL.—Subject to clause (ii), an eligible livestock producer shall be eligible to receive assistance under this paragraph for the period—

"(I) beginning on the date on which the Federal agency excludes the eligible livestock producer from using the managed rangeland for grazing; and

"(II) ending on the last day of the Federal lease of the eligible livestock producer.

"(ii) LIMITATION.—An eligible livestock producer may only receive assistance under this paragraph for losses that occur on not more than 180 days per year.

"(5) MINIMUM RISK MANAGEMENT PURCHASE REQUIREMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a livestock producer shall only be eligible for assistance under this subsection if the livestock producer—

"(i) obtained a policy or plan of insurance under subtitle A for the grazing land incurring the losses for which assistance is being requested; or

"(ii) filed the required paperwork, and paid the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program for the grazing land incurring the losses for which assistance is being requested.

"(B) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—In the case of an eligible livestock producer that is a socially disadvantaged farmer or rancher or limited resource or beginning farmer or rancher, as determined by the Secretary, the Secretary may—

"(i) waive subparagraph (A); and

"(ii) provide disaster assistance under this section at a level that the Secretary determines to be equitable and appropriate.

"(C) WAIVER FOR 2008 CALENDAR YEAR.—In the case of an eligible livestock producer that suffered losses on grazing land during the 2008 calendar year but does not meet the requirements of subparagraph (A), the Secretary shall waive subparagraph (A) if the eligible livestock producer pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection

plan fee required under subparagraph (A) to the Secretary not later than 90 days after the date of enactment of this subtitle.

"(D) EQUITABLE RELIEF.—

"(i) IN GENERAL.—The Secretary may provide equitable relief to an eligible livestock producer that is otherwise ineligible or unintentionally fails to meet the requirements of subparagraph (A) for the grazing land incurring the loss on a case-by-case basis, as determined by the Secretary.

"(ii) 2008 CALENDAR YEAR.—In the case of an eligible livestock producer that suffered losses on grazing land during the 2008 calendar year, the Secretary shall take special consideration to provide equitable relief in cases in which the eligible livestock producer failed to meet the requirements of subparagraph (A) due to the enactment of this subtitle after the closing date of sales periods for crop insurance under subtitle A and the noninsured crop assistance program.

"(6) NO DUPLICATIVE PAYMENTS.—

"(A) IN GENERAL.—An eligible livestock producer may elect to receive assistance for grazing or pasture feed losses due to drought conditions under paragraph (3) or fire under paragraph (4), but not both for the same loss, as determined by the Secretary.

"(B) RELATIONSHIP TO SUPPLEMENTAL REVENUE ASSISTANCE.—An eligible livestock producer that receives assistance under this subsection may not also receive assistance for losses to crops on the same land with the same intended use under subsection (b).

"(e) EMERGENCY ASSISTANCE FOR LIVESTOCK, HONEY BEES, AND FARM-RAISED FISH.—

"(1) IN GENERAL.—The Secretary shall use up to $50,000,000 per year from the Trust Fund to provide emergency relief to eligible producers of livestock, honey bees, and farm-raised fish to aid in the reduction of losses due to disease, adverse weather, or other conditions, such as blizzards and wildfires, as determined by the Secretary, that are not covered under subsection (b), (c), or (d).

"(2) USE OF FUNDS.—Funds made available under this subsection shall be used to reduce losses caused by feed or water shortages, disease, or other factors as determined by the Secretary.

"(3) AVAILABILITY OF FUNDS.—Any funds made available under this subsection shall remain available until expended.

"(f) TREE ASSISTANCE PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE ORCHARDIST.—The term 'eligible orchardist' means a person that produces annual crops from trees for commercial purposes.

"(B) NATURAL DISASTER.—The term 'natural disaster' means plant disease, insect infestation, drought, fire, freeze, flood, earthquake, lightning, or other occurrence, as determined by the Secretary.

"(C) NURSERY TREE GROWER.—The term 'nursery tree grower' means a person who produces nursery, ornamental, fruit, nut, or Christmas trees for commercial sale, as determined by the Secretary.

"(D) TREE.—The term 'tree' includes a tree, bush, and vine.

"(2) ELIGIBILITY.—

"(A) LOSS.—Subject to subparagraph (B), the Secretary shall provide assistance—

"(i) under paragraph (3) to eligible orchardists and nursery tree growers that planted trees for commercial purposes but lost the trees as a result of a natural disaster, as determined by the Secretary; and

"(ii) under paragraph (3)(B) to eligible orchardists and nursery tree growers that have a production history for commercial purposes on planted or existing trees but lost the trees as a result of a natural disaster, as determined by the Secretary.

"(B) LIMITATION.—An eligible orchardist or nursery tree grower shall qualify for assistance under subparagraph (A) only if the tree mortality of the eligible orchardist or nursery tree grower, as a result of damaging weather or related condition, exceeds 15 percent (adjusted for normal mortality).

"(3) ASSISTANCE.—Subject to paragraph (4), the assistance provided by the Secretary to eligible orchardists and nursery tree growers for losses described in paragraph (2) shall consist of—

"(A)(i) reimbursement of 70 percent of the cost of replanting trees lost due to a natural disaster, as determined by the Secretary, in excess of 15 percent mortality (adjusted for normal mortality); or

"(ii) at the option of the Secretary, sufficient seedlings to reestablish a stand; and

"(B) reimbursement of 50 percent of the cost of pruning, removal, and other costs incurred by an eligible orchardist or nursery tree grower to salvage existing trees or, in the case of tree mortality, to prepare the land to replant trees as a result of damage or tree mortality due to a natural disaster, as determined by the Secretary, in excess of 15 percent damage or mortality (adjusted for normal tree damage and mortality).

"(4) LIMITATIONS ON ASSISTANCE.—

"(A) DEFINITIONS OF LEGAL ENTITY AND PERSON.—In this paragraph, the terms 'legal entity' and 'person' have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a) (as amended by section 1603 of the Food, Conservation, and Energy Act of 2008).

"(B) AMOUNT.—The total amount of payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this subsection may not exceed $100,000 for any crop year, or an equivalent value in tree seedlings.

"(C) ACRES.—The total quantity of acres planted to trees or tree seedlings for which a person or legal entity shall be entitled to receive payments under this subsection may not exceed 500 acres.

"(g) RISK MANAGEMENT PURCHASE REQUIREMENT.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the eligible producers on a farm shall not be eligible for assistance under this section (other than subsection (c)) if the eligible producers on the farm—

"(A) in the case of each insurable commodity of the eligible producers on the farm, did not obtain a policy or plan of insurance under subtitle A (excluding a crop insurance pilot program under that subtitle); or

"(B) in the case of each noninsurable commodity of the eligible producers on the farm, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program.

"(2) MINIMUM.—To be considered to have obtained insurance under paragraph (1)(A), an eligible producer on a farm shall have obtained a policy or plan of insurance with not less than 50 percent yield coverage at 55 percent of the insurable price for each crop grazed, planted, or intended to be planted for harvest on a whole farm.

"(3) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—With respect to eligible producers that are socially disadvantaged farmers or ranchers or limited resource or beginning farmers or ranchers, as determined by the Secretary, the Secretary may—

"(A) waive paragraph (1); and

"(B) provide disaster assistance under this section at a level that the Secretary determines to be equitable and appropriate.

"(4) WAIVER FOR 2008 CROP YEAR.—In the case of an eligible producer that suffered losses in an insurable commodity or noninsurable commodity during the 2008 crop year but does not meet the requirements of paragraph (1), the Secretary shall waive paragraph (1) if the eligible producer pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee required under paragraph (1) to the Secretary not later than 90 days after the date of enactment of this subtitle.

"(5) EQUITABLE RELIEF.—

"(A) IN GENERAL.—The Secretary may provide equitable relief to eligible producers on a farm that are otherwise ineligible or unintentionally fail to meet the requirements of paragraph (1) for 1 or more crops on a farm on a case-by-case basis, as determined by the Secretary.

"(B) 2008 CROP YEAR.—In the case of eligible producers on a farm that suffered losses in an insurable commodity or noninsurable commodity during the 2008 crop year, the Secretary shall take special consideration to provide equitable relief in cases in which the eligible producers failed to meet the requirements of paragraph (1) due to the enactment of this subtitle after the closing date of sales periods

for crop insurance under subtitle A and the noninsured crop assistance program.

"(h) PAYMENT LIMITATIONS.—

"(1) DEFINITIONS OF LEGAL ENTITY AND PERSON.—In this subsection, the terms 'legal entity' and 'person' have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a) (as amended by section 1603 of the Food, Conservation, and Energy Act of 2008).

"(2) AMOUNT.—The total amount of disaster assistance payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this section (excluding payments received under subsection (f)) may not exceed $100,000 for any crop year.

"(3) AGI LIMITATION.—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a) or any successor provision shall apply with respect to assistance provided under this section.

"(4) DIRECT ATTRIBUTION.—Subsections (e) and (f) of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) or any successor provisions relating to direct attribution shall apply with respect to assistance provided under this section.

"(i) PERIOD OF EFFECTIVENESS.—This section shall be effective only for losses that are incurred as the result of a disaster, adverse weather, or other environmental condition that occurs on or before September 30, 2011, as determined by the Secretary.

"(j) NO DUPLICATIVE PAYMENTS.—In implementing any other program which makes disaster assistance payments (except for indemnities made under subtitle A and section 196 of the Federal Agriculture Improvement and Reform Act of 1996), the Secretary shall prevent duplicative payments with respect to the same loss for which a person receives a payment under subsections (b), (c), (d), (e), or (f).

"(k) APPLICATION.—

"(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any provision of subtitle A, subtitle A shall not apply to this subtitle.

"(2) CROSS REFERENCES.—Paragraph (1) shall not apply to a specific reference in this subtitle to a provision of subtitle A.".

(b) TRANSITION.—For purposes of the 2008 crop year, the Secretary shall carry out subsections (f)(4) and (h) of section 531 of the Federal Crop Insurance Act (as added by subsection (a)) in accordance with the terms and conditions of sections 1001 through 1001D of the Food Security Act of 1985 (16 U.S.C. 1308 et seq.), as in effect on September 30, 2007.

(c) CONFORMING AMENDMENTS.—

(1) Section 501 of the Federal Crop Insurance Act (7 U.S.C. 1501) is amended by striking the section heading and enumerator and inserting the following:

"Subtitle A—Federal Crop Insurance Act

"SEC. 501. SHORT TITLE AND APPLICATION OF OTHER PROVISIONS.".

(2) Subtitle A of the Federal Crop Insurance Act (as designated under paragraph (1)) is amended—

(A) by striking "This title" each place it appears and inserting "This subtitle"; and

(B) by striking "this title" each place it appears and inserting "this subtitle".

SEC. 12034. FISHERIES DISASTER ASSISTANCE.

Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall transfer to the Secretary of Commerce $170,000,000 for fiscal year 2008 for the National Marine Fisheries Service to distribute to commercial and recreational members of the fishing communities affected by the salmon fishery failure in the States of California, Oregon, and Washington designated under section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(a)) on May 1, 2008, in accordance with that section.

Subtitle B—Small Business Disaster Loan Program

SEC. 12051. SHORT TITLE.

This subtitle may be cited as the "Small Business Disaster Response and Loan Improvements Act of 2008".

SEC. 12052. DEFINITIONS.

In this subtitle—

(1) the terms "Administration" and "Administrator" mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term "disaster area" means an area affected by a natural or other disaster, as determined for purposes of paragraph (1) or (2) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), during the period of such declaration;

(3) the term "disaster loan program of the Administration" means assistance under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as amended by this Act;

(4) the term "disaster update period" means the period beginning on the date on which the President declares a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act) and ending on the date on which such declaration terminates;

(5) the term "major disaster" has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122);

(6) the term "small business concern" has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632); and

(7) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.

PART I—DISASTER PLANNING AND RESPONSE

SEC. 12061. ECONOMIC INJURY DISASTER LOANS TO NONPROFITS.

(a) IN GENERAL.—Section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) is amended—

(1) in the matter preceding subparagraph (A)—

(A) by inserting after "small business concern" the following: ", private nonprofit organization,"; and

(B) by inserting after "the concern" the following: ", the organization,"; and

(2) in subparagraph (D) by inserting after "small business concerns" the following: ", private nonprofit organizations,".

(b) CONFORMING AMENDMENT.—Section 7(c)(5)(C) of the Small Business Act (15 U.S.C. 636(c)(5)(C)) is amended by inserting after "business" the following: ", private nonprofit organization,".

SEC. 12062. COORDINATION OF DISASTER ASSISTANCE PROGRAMS WITH FEMA.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 37 as section 44; and

(2) by inserting after section 36 the following:

"SEC. 37. COORDINATION OF DISASTER ASSISTANCE PROGRAMS WITH FEMA.

"(a) COORDINATION REQUIRED.—The Administrator shall ensure that the disaster assistance programs of the Administration are coordinated, to the maximum extent practicable, with the disaster assistance programs of the Federal Emergency Management Agency.

"(b) REGULATIONS REQUIRED.—The Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall establish regulations to ensure that each application for disaster assistance is submitted as quickly as practicable to the Administration or directed to the appropriate agency under the circumstances.

"(c) COMPLETION; REVISION.—The initial regulations shall be completed not later than 270 days after the date of the enactment of the Small Business Disaster Response and Loan Improvements Act of 2008. Thereafter, the regulations shall be revised on an annual basis.

"(d) REPORT.—The Administrator shall include a report on the regulations whenever the Administration submits the report required by section 43.".

SEC. 12063. PUBLIC AWARENESS OF DISASTER DECLARATION AND APPLICATION PERIODS.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (3), the following:

"(4) COORDINATION WITH FEMA.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, for any disaster declared under this subsection or major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall ensure, to the maximum extent practicable, that all application periods for disaster relief under this Act correspond with application deadlines established under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), or as extended by the President.

"(B) DEADLINES.—Notwithstanding any other provision of law, not later than 10 days before the closing date of an application period for a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report that includes—

"(i) the deadline for submitting applications for assistance under this Act relating to that major disaster;

"(ii) information regarding the number of loan applications and disbursements processed by the Administrator relating to that major disaster for each day during the period beginning on the date on which that major disaster was declared and ending on the date of that report; and

"(iii) an estimate of the number of potential applicants that have not submitted an application relating to that major disaster.

"(5) PUBLIC AWARENESS OF DISASTERS.—If a disaster is declared under this subsection or the Administrator declares eligibility for additional disaster assistance under paragraph (9), the Administrator shall make every effort to communicate through radio, television, print, and web-based outlets, all relevant information needed by disaster loan applicants, including—

"(A) the date of such declaration;

"(B) cities and towns within the area of such declaration;

"(C) loan application deadlines related to such disaster;

"(D) all relevant contact information for victim services available through the Administration (including links to small business development center websites);

"(E) links to relevant Federal and State disaster assistance websites, including links to websites providing information regarding assistance available from the Federal Emergency Management Agency;

"(F) information on eligibility criteria for Administration loan programs, including where such applications can be found; and

"(G) application materials that clearly state the function of the Administration as the Federal source of disaster loans for homeowners and renters.".

(b) MARKETING AND OUTREACH.—Not later than 90 days after the date of enactment of this Act, the Administrator shall create a marketing and outreach plan that—

(1) encourages a proactive approach to the disaster relief efforts of the Administration;

(2) makes clear the services provided by the Administration, including contact information, application information, and

timelines for submitting applications, the review of applications, and the disbursement of funds;

(3) describes the different disaster loan programs of the Administration, including how they are made available and the eligibility requirements for each loan program;

(4) provides for regional marketing, focusing on disasters occurring in each region before the date of enactment of this Act, and likely scenarios for disasters in each such region; and

(5) ensures that the marketing plan is made available at small business development centers and on the website of the Administration.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

"(s) MAJOR DISASTER.—In this Act, the term 'major disaster' has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).".

(2) TECHNICAL CORRECTION.—Section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) is amended by striking "Disaster Relief and Emergency Assistance Act" and inserting "Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)".

SEC. 12064. CONSISTENCY BETWEEN ADMINISTRATION REGULATIONS AND STANDARD OPERATING PROCEDURES.

(a) IN GENERAL.—The Administrator shall, promptly following the date of enactment of this Act, conduct a study of whether the standard operating procedures of the Administration for loans offered under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) are consistent with the regulations of the Administration for administering the disaster loan program.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a report containing all findings and recommendations of the study conducted under subsection (a).

SEC. 12065. INCREASING COLLATERAL REQUIREMENTS.

Section 7(c)(6) of the Small Business Act (15 U.S.C. 636(c)(6)) is amended by striking "$10,000 or less" and inserting "$14,000 or less (or such higher amount as the Administrator determines appropriate in the event of a major disaster)".

SEC. 12066. PROCESSING DISASTER LOANS.

(a) AUTHORITY FOR QUALIFIED PRIVATE CONTRACTORS TO PROCESS DISASTER LOANS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (5), as added by this Act, the following:

"(6) AUTHORITY FOR QUALIFIED PRIVATE CONTRACTORS.—

"(A) DISASTER LOAN PROCESSING.—The Administrator may enter into an agreement with a qualified private contractor, as determined by the Administrator, to process loans under this subsection in the event of a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), under which the Administrator shall pay the contractor a fee for each loan processed.

"(B) LOAN LOSS VERIFICATION SERVICES.—The Administrator may enter into an agreement with a qualified lender or loss verification professional, as determined by the Administrator, to verify losses for loans under this subsection in the event of a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), under which the Administrator shall pay the lender or verification professional a fee for each loan for which such lender or verification professional verifies losses.".

(b) COORDINATION OF EFFORTS BETWEEN THE ADMINISTRATOR AND THE INTERNAL REVENUE SERVICE TO EXPEDITE LOAN PROCESSING.—The Administrator and the Commissioner of Internal Revenue shall, to the maximum extent practicable, ensure that all relevant and allowable tax records for loan approval are shared with loan processors in an expedited manner, upon request by the Administrator.

SEC. 12067. INFORMATION TRACKING AND FOLLOW-UP SYSTEM.

The Small Business Act is amended by inserting after section 37, as added by this Act, the following:

"SEC. 38. INFORMATION TRACKING AND FOLLOW-UP SYSTEM FOR DISASTER ASSISTANCE.

"(a) SYSTEM REQUIRED.—The Administrator shall develop, implement, or maintain a centralized information system to track communications between personnel of the Administration and applicants for disaster assistance. The system shall ensure that whenever an applicant for disaster assistance communicates with such personnel on a matter relating to the application, the following information is recorded:

"(1) The method of communication.

"(2) The date of communication.

"(3) The identity of the personnel.

"(4) A summary of the subject matter of the communication.

"(b) FOLLOW-UP REQUIRED.—The Administrator shall ensure that an applicant for disaster assistance receives, by telephone, mail, or electronic mail, follow-up communications from the Administration at all critical stages of the application process, including the following:

"(1) When the Administration determines that additional information or documentation is required to process the application.

"(2) When the Administration determines whether to approve or deny the loan.

"(3) When the primary contact person managing the loan application has changed.".

SEC. 12068. INCREASED DEFERMENT PERIOD.

(a) IN GENERAL.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (e), as so redesignated, the following:

"(f) ADDITIONAL REQUIREMENTS FOR 7(b) LOANS.—

"(1) INCREASED DEFERMENT AUTHORIZED.—

"(A) IN GENERAL.—In making loans under subsection (b), the Administrator may provide, to the person receiving the loan, an option to defer repayment on the loan.

"(B) PERIOD.—The period of a deferment under subparagraph (A) may not exceed 4 years.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) in section 4(c)—

(A) in paragraph (1), by striking "7(c)(2)" and inserting "7(d)(2)"; and

(B) in paragraph (2)—

(i) by striking "7(c)(2)" and inserting "7(d)(2)"; and

(ii) by striking "7(e),"; and

(2) in section 7(b), in the undesignated matter following paragraph (3)—

(A) by striking "That the provisions of paragraph (1) of subsection (c)" and inserting "That the provisions of paragraph (1) of subsection (d)"; and

(B) by striking "Notwithstanding the provisions of any other law the interest rate on the Administration's share of any loan made under subsection (b) except as provided in subsection (c)," and inserting "Notwithstanding any other provision of law, and except as provided in subsection (d), the interest rate on the Administration's share of any loan made under subsection (b)".

SEC. 12069. DISASTER PROCESSING REDUNDANCY.

The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting after section 38, as added by this Act, the following:

"SEC. 39. DISASTER PROCESSING REDUNDANCY.

"(a) IN GENERAL.—The Administrator shall ensure that the Administration has in place a facility for disaster loan processing that, whenever the Administration's primary facility for disaster loan processing becomes unavailable, is able to take over all disaster loan processing from that primary facility within 2 days.

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

SEC. 12070. NET EARNINGS CLAUSES PROHIBITED.

Section 7 of the Small Business Act (15 U.S.C. 636) is amended by inserting after subsection (f), as added by this Act, the following:

"(g) NET EARNINGS CLAUSES PROHIBITED FOR 7(b) LOANS.—In making loans under subsection (b), the Administrator shall not require the borrower to pay any non-amortized amount for the first five years after repayment begins.".

SEC. 12071. ECONOMIC INJURY DISASTER LOANS IN CASES OF ICE STORMS AND BLIZZARDS.

Section 3(k)(2) of the Small Business Act (15 U.S.C. 632(k)(2)) is amended—

(1) in subparagraph (A) by striking "and";

(2) in subparagraph (B) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(C) ice storms and blizzards.".

SEC. 12072. DEVELOPMENT AND IMPLEMENTATION OF MAJOR DISASTER RESPONSE PLAN.

(a) IN GENERAL.—Not later than 3 months after the date of enactment of this Act, the Administrator shall—

(1) by rule, amend the 2006 Atlantic hurricane season disaster response plan of the Administration (in this section referred to as the "disaster response plan") to apply to major disasters; and

(2) submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives detailing the amendments to the disaster response plan.

(b) CONTENTS.—The report required under subsection (a)(2) shall include—

(1) any updates or modifications made to the disaster response plan since the report regarding the disaster response plan submitted to Congress on July 14, 2006;

(2) a description of how the Administrator plans to use and integrate District Office personnel of the Administration in the response to a major disaster, including information on the use of personnel for loan processing and loan disbursement;

(3) a description of the disaster scalability model of the Administration and on what basis or function the plan is scaled;

(4) a description of how the agency-wide Disaster Oversight Council is structured, which offices comprise its membership, and whether the Associate Deputy Administrator for Entrepreneurial Development of the Administration is a member;

(5) a description of how the Administrator plans to coordinate the disaster efforts of the Administration with State and local government officials, including recommendations on how to better incorporate State initiatives or programs, such as State-administered bridge loan programs, into the disaster response of the Administration;

(6) recommendations, if any, on how the Administration can better coordinate its disaster response operations with the operations of other Federal, State, and local entities;

(7) any surge plan for the disaster loan program of the Administration in effect on or after August 29, 2005 (including surge plans for loss verification, loan processing, mailroom, customer service or call center operations, and a continuity of operations plan);

(8) the number of full-time equivalent employees and job descriptions for the planning and disaster response staff of the Administration;

(9) the in-service and preservice training procedures for disaster response staff of the Administration;

(10) information on the logistical support plans of the Administration (including equipment and staffing needs, and detailed information on how such plans will be scalable depending on the size and scope of the major disaster;

(11) a description of the findings and recommendations of the Administrator, if any, based on a review of the response of the Administration to Hurricane Katrina of 2005, Hurricane Rita of 2005, and Hurricane Wilma of 2005; and

(12) a plan for how the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, will coordinate the provision of accommodations and necessary resources for disaster assistance personnel to effectively perform their responsibilities in the aftermath of a major disaster.

(c) BIENNIAL DISASTER SIMULATION EXERCISE.—

(1) EXERCISE REQUIRED.—The Administrator shall conduct a disaster simulation exercise at least once every 2 fiscal years. The exercise shall include the participation of, at a minimum, not less than 50 percent of the individuals in the disaster reserve corps and shall test, at maximum capacity, all of the information technology and telecommunications systems of the Administration that are vital to the activities of the Administration during such a disaster.

(2) REPORT.—The Administrator shall include a report on the disaster simulation exercises conducted under paragraph (1) each time the Administration submits a report required under section 43 of the Small Business Act, as added by this Act.

SEC. 12073. DISASTER PLANNING RESPONSIBILITIES.

(a) ASSIGNMENT OF SMALL BUSINESS ADMINISTRATION DISASTER PLANNING RESPONSIBILITIES.—The disaster planning function of the Administration shall be assigned to an individual appointed by the Administrator who—

(1) is not an employee of the Office of Disaster Assistance of the Administration;

(2) has proven management ability;

(3) has substantial knowledge in the field of disaster readiness and emergency response; and

(4) has demonstrated significant experience in the area of disaster planning.

(b) RESPONSIBILITIES.—The individual assigned the disaster planning function of the Administration shall report directly and solely to the Administrator and shall be responsible for—

(1) creating, maintaining, and implementing the comprehensive disaster response plan of the Administration described in section 12072;

(2) ensuring there are in-service and pre-service training procedures for the disaster response staff of the Administration;

(3) coordinating and directing the training exercises of the Administration relating to disasters, including disaster simulation exercises and disaster exercises coordinated with other government departments and agencies; and

(4) other responsibilities relevant to disaster planning and readiness, as determined by the Administrator.

(c) COORDINATION.—In carrying out the responsibilities described in subsection (b), the individual assigned the disaster planning function of the Administration shall coordinate with—

(1) the Office of Disaster Assistance of the Administration;

(2) the Administrator of the Federal Emergency Management Agency; and

(3) other Federal, State, and local disaster planning offices, as necessary.

(d) RESOURCES.—The Administrator shall ensure that the individual assigned the disaster planning function of the Administra-

tion has adequate resources to carry out the duties under this section.

(e) REPORT.—Not later than 30 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report containing—

(1) a description of the actions of the Administrator to assign an individual the disaster planning function of the Administration;

(2) information detailing the background and expertise of the individual assigned; and

(3) information on the status of the implementation of the responsibilities described in subsection (b).

SEC. 12074. ASSIGNMENT OF EMPLOYEES OF THE OFFICE OF DISASTER ASSISTANCE AND DISASTER CADRE.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (6), as added by this Act, the following:

"(7) DISASTER ASSISTANCE EMPLOYEES.—

"(A) IN GENERAL.—In carrying out this section, the Administrator may, where practicable, ensure that the number of full-time equivalent employees—

"(i) in the Office of the Disaster Assistance is not fewer than 800; and

"(ii) in the Disaster Cadre of the Administration is not fewer than 1,000.

"(B) REPORT.—In carrying out this subsection, if the number of full-time employees for either the Office of Disaster Assistance or the Disaster Cadre of the Administration is below the level described in subparagraph (A) for that office, not later than 21 days after the date on which that staffing level decreased below the level described in subparagraph (A), the Administrator shall submit to the Committee on Appropriations and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Appropriations and Committee on Small Business of the House of Representatives, a report—

"(i) detailing staffing levels on that date;

"(ii) requesting, if practicable and determined appropriate by the Administrator, additional funds for additional employees; and

"(iii) containing such additional information, as determined appropriate by the Administrator.".

SEC. 12075. COMPREHENSIVE DISASTER RESPONSE PLAN.

The Small Business Act (15 U.S.C. 631 et seq.) is amended inserting after section 39, as added by this Act, the following:

"SEC. 40. COMPREHENSIVE DISASTER RESPONSE PLAN.

"(a) PLAN REQUIRED.—The Administrator shall develop, implement, or maintain a comprehensive written disaster response plan. The plan shall include the following:

"(1) For each region of the Administration, a description of the disasters most likely to occur in that region.

"(2) For each disaster described under paragraph (1)—

"(A) an assessment of the disaster;

"(B) an assessment of the demand for Administration assistance most likely to occur in response to the disaster;

"(C) an assessment of the needs of the Administration, with respect to such resources as information technology, telecommunications, human resources, and office space, to meet the demand referred to in subparagraph (B); and

"(D) guidelines pursuant to which the Administration will coordinate with other Federal agencies and with State and local authorities to best respond to the demand referred to in subparagraph (B) and to best use the resources referred to in that subparagraph.

"(b) COMPLETION; REVISION.—The first plan required by subsection (a) shall be completed not later than 180 days after the date of the enactment of this section. Thereafter, the Administrator shall update the plan on an annual basis and following any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under section 7(b)(9).

"(c) KNOWLEDGE REQUIRED.—The Administrator shall carry out subsections (a) and (b) through an individual with substantial knowledge in the field of disaster readiness and emergency response.

"(d) REPORT.—The Administrator shall include a report on the plan whenever the Administration submits the report required by section 43.".

SEC. 12076. PLANS TO SECURE SUFFICIENT OFFICE SPACE.

The Small Business Act is amended by inserting after section 40, as added by this Act, the following:

"SEC. 41. PLANS TO SECURE SUFFICIENT OFFICE SPACE.

"(a) PLANS REQUIRED.—The Administrator shall develop long-term plans to secure sufficient office space to accommodate an expanded workforce in times of disaster.

"(b) REPORT.—The Administrator shall include a report on the plans developed under subsection (a) each time the Administration submits a report required under section 43.".

SEC. 12077. APPLICANTS THAT HAVE BECOME A MAJOR SOURCE OF EMPLOYMENT DUE TO CHANGED ECONOMIC CIRCUMSTANCES.

Section 7(b)(3)(E) of the Small Business Act (15 U.S.C. 636(b)(3)(E)) is amended by inserting after "constitutes" the following: ", or have become due to changed economic circumstances,".

SEC. 12078. DISASTER LOAN AMOUNTS.

(a) INCREASED LOAN CAPS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (7), as added by this Act, the following:

"(8) INCREASED LOAN CAPS.—

"(A) AGGREGATE LOAN AMOUNTS.—Except as provided in subparagraph (B), and notwithstanding any other provision of law, the aggregate loan amount outstanding and committed to a borrower under this subsection may not exceed $2,000,000.

"(B) WAIVER AUTHORITY.—The Administrator may, at the discretion of the Administrator, increase the aggregate loan amount under subparagraph (A) for loans relating to a disaster to a level established by the Administrator, based

on appropriate economic indicators for the region in which that disaster occurred.".

(b) DISASTER MITIGATION.—

(1) IN GENERAL.—Section 7(b)(1)(A) of the Small Business Act (15 U.S.C. 636(b)(1)(A)) is amended by inserting "of the aggregate costs of such damage or destruction (whether or not compensated for by insurance or otherwise)" after "20 per centum".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to a loan or guarantee made after the date of enactment of this Act.

(c) TECHNICAL AMENDMENTS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended—

(1) in the matter preceding paragraph (1), by striking "the, Administration" and inserting "the Administration"; and

(2) in the undesignated matter at the end—

(A) by striking ", (2), and (4)" and inserting "and (2)"; and

(B) by striking ", (2), or (4)" and inserting "(2)".

SEC. 12079. SMALL BUSINESS BONDING THRESHOLD.

(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law, for any procurement related to a major disaster, the Administrator may, upon such terms and conditions as the Administrator may prescribe, guarantee and enter into commitments to guarantee any surety against loss resulting from a breach of the terms of a bid bond, payment bond, performance bond, or bonds ancillary thereto, by a principal on any total work order or contract amount at the time of bond execution that does not exceed $5,000,000.

(b) INCREASE OF AMOUNT.—Upon request of the head of any Federal agency other than the Administration involved in reconstruction efforts in response to a major disaster, the Administrator may guarantee and enter into a commitment to guarantee any security against loss under subsection (a) on any total work order or contract amount at the time of bond execution that does not exceed $10,000,000.

(c) LIMITATION ON USE OF OTHER FUNDS.—The Administrator may carry out this section only with amounts appropriated in advance specifically to carry out this section.

PART II—DISASTER LENDING

SEC. 12081. ELIGIBILITY FOR ADDITIONAL DISASTER ASSISTANCE.

Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (8), as added by this Act, the following:

"(9) DECLARATION OF ELIGIBILITY FOR ADDITIONAL DISASTER ASSISTANCE.—

"(A) IN GENERAL.—If the President declares a major disaster, the Administrator may declare eligibility for additional disaster assistance in accordance with this paragraph.

"(B) THRESHOLD.—A major disaster for which the Administrator declares eligibility for additional disaster assistance under this paragraph shall—

"(i) have resulted in extraordinary levels of casualties or damage or disruption severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area;

"(ii) be comparable to the description of a catastrophic incident in the National Response Plan of the Administration, or any successor thereto, unless there is no successor to such plan, in which case this clause shall have no force or effect; and

"(iii) be of such size and scope that—

"(I) the disaster assistance programs under the other paragraphs under this subsection are incapable of providing adequate and timely assistance to individuals or business concerns located within the disaster area; or

"(II) a significant number of business concerns outside the disaster area have suffered disaster-related substantial economic injury as a result of the incident.".

SEC. 12082. ADDITIONAL ECONOMIC INJURY DISASTER LOAN ASSISTANCE.

Paragraph (9) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as added by section 12081, is amended by adding at the end the following:

"(C) ADDITIONAL ECONOMIC INJURY DISASTER LOAN ASSISTANCE.—

"(i) IN GENERAL.—If the Administrator declares eligibility for additional disaster assistance under this paragraph, the Administrator may make such loans under this subparagraph (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator determines appropriate to eligible small business concerns located anywhere in the United States.

"(ii) PROCESSING TIME.—

"(I) IN GENERAL.—If the Administrator determines that the average processing time for applications for disaster loans under this subparagraph relating to a specific major disaster is more than 15 days, the Administrator shall give priority to the processing of such applications submitted by eligible small business concerns located inside the disaster area, until the Administrator determines that the average processing time for such applications is not more than 15 days.

"(II) SUSPENSION OF APPLICATIONS FROM OUTSIDE DISASTER AREA.—If the Administrator determines that the average processing time for applications for disaster loans under this subparagraph relating to a specific major disaster is more than

30 days, the Administrator shall suspend the processing of such applications submitted by eligible small business concerns located outside the disaster area, until the Administrator determines that the average processing time for such applications is not more than 15 days.

"(iii) LOAN TERMS.—A loan under this subparagraph shall be made on the same terms as a loan under paragraph (2).

"(D) DEFINITIONS.—In this paragraph—

"(i) the term 'disaster area' means the area for which the applicable major disaster was declared;

"(ii) the term 'disaster-related substantial economic injury' means economic harm to a business concern that results in the inability of the business concern to—

"(I) meet its obligations as it matures;

"(II) meet its ordinary and necessary operating expenses; or

"(III) market, produce, or provide a product or service ordinarily marketed, produced, or provided by the business concern because the business concern relies on materials from the disaster area or sells or markets in the disaster area; and

"(iii) the term 'eligible small business concern' means a small business concern—

"(I) that has suffered disaster-related substantial economic injury as a result of the applicable major disaster; and

"(II)(aa) for which not less than 25 percent of the market share of that small business concern is from business transacted in the disaster area;

"(bb) for which not less than 25 percent of an input into a production process of that small business concern is from the disaster area; or

"(cc) that relies on a provider located in the disaster area for a service that is not readily available elsewhere.".

SEC. 12083. PRIVATE DISASTER LOANS.

(a) IN GENERAL.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by inserting after subsection (b) the following:

"(c) PRIVATE DISASTER LOANS.—

"(1) DEFINITIONS.—In this subsection—

"(A) the term 'disaster area' means any area for which the President declared a major disaster relating to which the Administrator declares eligibility for additional disaster assistance under subsection (b)(9), during the period of that major disaster declaration;

"(B) the term 'eligible individual' means an individual who is eligible for disaster assistance under subsection (b)(1) relating to a major disaster relating to which the Administrator declares eligibility for additional disaster assistance under subsection (b)(9);

"(C) the term 'eligible small business concern' means a business concern that is—

"(i) a small business concern, as defined under this Act; or

"(ii) a small business concern, as defined in section 103 of the Small Business Investment Act of 1958;

"(D) the term 'preferred lender' means a lender participating in the Preferred Lender Program;

"(E) the term 'Preferred Lender Program' has the meaning given that term in subsection (a)(2)(C)(ii); and

"(F) the term 'qualified private lender' means any privately-owned bank or other lending institution that—

"(i) is not a preferred lender; and

"(ii) the Administrator determines meets the criteria established under paragraph (10).

"(2) PROGRAM REQUIRED.—The Administrator shall carry out a program, to be known as the Private Disaster Assistance program, under which the Administration may guarantee timely payment of principal and interest, as scheduled, on any loan made to an eligible small business concern located in a disaster area and to an eligible individual.

"(3) USE OF LOANS.—A loan guaranteed by the Administrator under this subsection may be used for any purpose authorized under subsection (b).

"(4) ONLINE APPLICATIONS.—

"(A) ESTABLISHMENT.—The Administrator may establish, directly or through an agreement with another entity, an online application process for loans guaranteed under this subsection.

"(B) OTHER FEDERAL ASSISTANCE.—The Administrator may coordinate with the head of any other appropriate Federal agency so that any application submitted through an online application process established under this paragraph may be considered for any other Federal assistance program for disaster relief.

"(C) CONSULTATION.—In establishing an online application process under this paragraph, the Administrator shall consult with appropriate persons from the public and private sectors, including private lenders.

"(5) MAXIMUM AMOUNTS.—

"(A) GUARANTEE PERCENTAGE.—The Administrator may guarantee not more than 85 percent of a loan under this subsection.

"(B) LOAN AMOUNT.—The maximum amount of a loan guaranteed under this subsection shall be $2,000,000.

"(6) TERMS AND CONDITIONS.—A loan guaranteed under this subsection shall be made under the same terms and conditions as a loan under subsection (b).

"(7) LENDERS.—

"(A) IN GENERAL.—A loan guaranteed under this subsection made to—

"(i) a qualified individual may be made by a preferred lender; and

"(ii) a qualified small business concern may be made by a qualified private lender or by a preferred lender that also makes loans to qualified individuals.

"(B) COMPLIANCE.—If the Administrator determines that a preferred lender knowingly failed to comply with the underwriting standards for loans guaranteed under this subsection or violated the terms of the standard operating procedure agreement between that preferred lender and the Administration, the Administrator shall do 1 or more of the following:

"(i) Exclude the preferred lender from participating in the program under this subsection.

"(ii) Exclude the preferred lender from participating in the Preferred Lender Program for a period of not more than 5 years.

"(8) FEES.—

"(A) IN GENERAL.—The Administrator may not collect a guarantee fee under this subsection.

"(B) ORIGINATION FEE.—The Administrator may pay a qualified private lender or preferred lender an origination fee for a loan guaranteed under this subsection in an amount agreed upon in advance between the qualified private lender or preferred lender and the Administrator.

"(9) DOCUMENTATION.—A qualified private lender or preferred lender may use its own loan documentation for a loan guaranteed by the Administrator under this subsection, to the extent authorized by the Administrator. The ability of a lender to use its own loan documentation for a loan guaranteed under this subsection shall not be considered part of the criteria for becoming a qualified private lender under the regulations promulgated under paragraph (10).

"(10) IMPLEMENTATION REGULATIONS.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2008, the Administrator shall issue final regulations establishing permanent criteria for qualified private lenders.

"(B) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2008, the Administrator shall submit a report on the progress of the regulations required by subparagraph (A) to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

"(11) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—Amounts necessary to carry out this subsection shall be made available from amounts appropriated to the Administration to carry out subsection (b).

"(B) AUTHORITY TO REDUCE INTEREST RATES AND OTHER TERMS AND CONDITIONS.—Funds appropriated to the Administration to carry out this subsection, may be used by the Administrator to meet the loan terms and conditions specified in paragraph (6).

"(12) PURCHASE OF LOANS.—The Administrator may enter into an agreement with a qualified private lender or preferred lender to purchase any loan guaranteed under this subsection.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any major disaster declared on or after the date of enactment of this Act.

SEC. 12084. IMMEDIATE DISASTER ASSISTANCE PROGRAM.

The Small Business Act is amended by inserting after section 41, as added by this Act, the following:

"SEC. 42. IMMEDIATE DISASTER ASSISTANCE PROGRAM.

"(a) PROGRAM REQUIRED.—The Administrator shall carry out a program, to be known as the Immediate Disaster Assistance program, under which the Administration participates on a deferred (guaranteed) basis in 85 percent of the balance of the financing outstanding at the time of disbursement of the loan if such balance is less than or equal to $25,000 for businesses affected by a disaster.

"(b) ELIGIBILITY REQUIREMENT.—To receive a loan guaranteed under subsection (a), the applicant shall also apply for, and meet basic eligibility standards for, a loan under subsection (b) or (c) of section 7.

"(c) USE OF PROCEEDS.—A person who receives a loan under subsection (b) or (c) of section 7 shall use the proceeds of that loan to repay all loans guaranteed under subsection (a), if any, before using the proceeds for any other purpose.

"(d) LOAN TERMS.—

"(1) NO PREPAYMENT PENALTY.—There shall be no prepayment penalty on a loan guaranteed under subsection (a).

"(2) REPAYMENT.—A person who receives a loan guaranteed under subsection (a) and who is disapproved for a loan under subsection (b) or (c) of section 7, as the case may be, shall repay the loan guaranteed under subsection (a) not later than the date established by the Administrator, which may not be earlier than 10 years after the date on which the loan guaranteed under subsection is disbursed.

"(e) APPROVAL OR DISAPPROVAL.—The Administrator shall ensure that each applicant for a loan under the program receives a decision approving or disapproving of the application within 36 hours after the Administration receives the application.".

SEC. 12085. EXPEDITED DISASTER ASSISTANCE LOAN PROGRAM.

(a) DEFINITION.—In this section, the term "program" means the expedited disaster assistance business loan program established under subsection (b).

(b) CREATION OF PROGRAM.—The Administrator shall take such administrative action as is necessary to establish and implement an expedited disaster assistance business loan program under which the Administration may, on an expedited basis, guarantee timely payment of principal and interest, as scheduled on any loan made to an eligible small business concern under paragraph (9) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act.

(c) CONSULTATION REQUIRED.—In establishing the program, the Administrator shall consult with—

(1) appropriate personnel of the Administration (including District Office personnel of the Administration);

(2) appropriate technical assistance providers (including small business development centers);

(3) appropriate lenders and credit unions;

(4) the Committee on Small Business and Entrepreneurship of the Senate; and

(5) the Committee on Small Business of the House of Representatives.

(d) RULES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall issue rules in final form establishing and implementing the program in accordance with this section. Such rules shall apply as provided for in this section, beginning 90 days after their issuance in final form.

(2) CONTENTS.—The rules promulgated under paragraph (1) shall—

(A) identify whether appropriate uses of funds under the program may include—

(i) paying employees;

(ii) paying bills and other financial obligations;

(iii) making repairs;

(iv) purchasing inventory;

(v) restarting or operating a small business concern in the community in which it was conducting operations prior to the applicable major disaster, or to a neighboring area, county, or parish in the disaster area; or

(vi) covering additional costs until the small business concern is able to obtain funding through insurance claims, Federal assistance programs, or other sources; and

(B) set the terms and conditions of any loan made under the program, subject to paragraph (3).

(3) TERMS AND CONDITIONS.—A loan guaranteed by the Administration under this section—

(A) shall be for not more than $150,000;

(B) shall be a short-term loan, not to exceed 180 days, except that the Administrator may extend such term as the Administrator determines necessary or appropriate on a case-by-case basis;

(C) shall have an interest rate not to exceed 300 basis points above the interest rate established by the Board of Governors of the Federal Reserve System that 1 bank charges another for reserves that are lent on an overnight basis on the date the loan is made;

(D) shall have no prepayment penalty;

(E) may only be made to a borrower that meets the requirements for a loan under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as amended by this Act;

(F) may be refinanced as part of any subsequent disaster assistance provided under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as amended by this Act;

(G) may receive expedited loss verification and loan processing, if the applicant is—

(i) a major source of employment in the disaster area (which shall be determined in the same manner as under section 7(b)(3)(B) of the Small Business Act (15 U.S.C. 636(b)(3)(B))); or

(ii) vital to recovery efforts in the region (including providing debris removal services, manufactured housing, or building materials); and

(H) shall be subject to such additional terms as the Administrator determines necessary or appropriate.

(e) REPORT TO CONGRESS.—Not later than 5 months after the date of enactment of this Act, the Administrator shall report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives on the progress of the Administrator in establishing the program.

(f) AUTHORIZATION.—There are authorized to be appropriated to the Administrator such sums as are necessary to carry out this section.

SEC. 12086. GULF COAST DISASTER LOAN REFINANCING PROGRAM.

(a) IN GENERAL.—The Administrator may carry out a program to refinance Gulf Coast disaster loans (in this section referred to as the "program").

(b) TERMS.—The terms of a Gulf Coast disaster loan refinanced under the program shall be identical to the terms of the original loan, except that the Administrator may provide an option to defer repayment on the loan. A deferment under the program shall end not later than 4 years after the date on which the initial disbursement under the original loan was made.

(c) AMOUNT.—The amount of a Gulf Coast disaster loan refinanced under the program shall not exceed the amount of the original loan.

(d) DISCLOSURE OF ACCRUED INTEREST.—If the Administrator provides an option to defer repayment under the program, the Administrator shall disclose the accrued interest that must be paid under the option.

(e) DEFINITION.—In this section, the term "Gulf Coast disaster loan" means a loan—

(1) made under section 7(b) of the Small Business Act (15 U.S.C. 636(b));

(2) in response to Hurricane Katrina of 2005, Hurricane Rita of 2005, or Hurricane Wilma of 2005; and

(3) to a small business concern located in a county or parish designated by the Administrator as a disaster area by reason of a hurricane described in paragraph (2) under disaster declaration 10176, 10177, 10178, 10179, 10180, 10181, 10203, 10204, 10205, 10206, 10222, or 10223.

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

PART III—MISCELLANEOUS

SEC. 12091. REPORTS ON DISASTER ASSISTANCE.

(a) MONTHLY ACCOUNTING REPORT TO CONGRESS.—

(1) REPORTING REQUIREMENTS.—Not later than the fifth business day of each month during the applicable period for a major disaster, the Administrator shall submit to the Committee on Small Business and Entrepreneurship and the Com-

mittee on Appropriations of the Senate and to the Committee on Small Business and the Committee on Appropriations of the House of Representatives a report on the operation of the disaster loan program authorized under section 7 of the Small Business Act (15 U.S.C. 636) for that major disaster during the preceding month.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include—

(A) the daily average lending volume, in number of loans and dollars, and the percent by which each category has increased or decreased since the previous report under paragraph (1);

(B) the weekly average lending volume, in number of loans and dollars, and the percent by which each category has increased or decreased since the previous report under paragraph (1);

(C) the amount of funding spent over the month for loans, both in appropriations and program level, and the percent by which each category has increased or decreased since the previous report under paragraph (1);

(D) the amount of funding available for loans, both in appropriations and program level, and the percent by which each category has increased or decreased since the previous report under paragraph (1), noting the source of any additional funding;

(E) an estimate of how long the available funding for such loans will last, based on the spending rate;

(F) the amount of funding spent over the month for staff, along with the number of staff, and the percent by which each category has increased or decreased since the previous report under paragraph (1);

(G) the amount of funding spent over the month for administrative costs, and the percent by which such spending has increased or decreased since the previous report under paragraph (1);

(H) the amount of funding available for salaries and expenses combined, and the percent by which such funding has increased or decreased since the previous report under paragraph (1), noting the source of any additional funding; and

(I) an estimate of how long the available funding for salaries and expenses will last, based on the spending rate.

(b) WEEKLY DISASTER UPDATES TO CONGRESS FOR PRESIDENTIALLY DECLARED DISASTERS.—

(1) IN GENERAL.—Each week during a disaster update period, the Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives a report on the operation of the disaster loan program of the Administration for the area in which the President declared a major disaster.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include—

(A) the number of Administration staff performing loan processing, field inspection, and other duties for the de-

clared disaster, and the allocations of such staff in the disaster field offices, disaster recovery centers, workshops, and other Administration offices nationwide;

(B) the daily number of applications received from applicants in the relevant area, as well as a breakdown of such figures by State;

(C) the daily number of applications pending application entry from applicants in the relevant area, as well as a breakdown of such figures by State;

(D) the daily number of applications withdrawn by applicants in the relevant area, as well as a breakdown of such figures by State;

(E) the daily number of applications summarily declined by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(F) the daily number of applications declined by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(G) the daily number of applications in process from applicants in the relevant area, as well as a breakdown of such figures by State;

(H) the daily number of applications approved by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(I) the daily dollar amount of applications approved by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(J) the daily amount of loans dispersed, both partially and fully, by the Administration to applicants in the relevant area, as well as a breakdown of such figures by State;

(K) the daily dollar amount of loans disbursed, both partially and fully, from the relevant area, as well as a breakdown of such figures by State;

(L) the number of applications approved, including dollar amount approved, as well as applications partially and fully disbursed, including dollar amounts, since the last report under paragraph (1); and

(M) the declaration date, physical damage closing date, economic injury closing date, and number of counties included in the declaration of a major disaster.

(c) PERIODS WHEN ADDITIONAL DISASTER ASSISTANCE IS MADE AVAILABLE.—

(1) IN GENERAL.—During any period for which the Administrator declares eligibility for additional disaster assistance under paragraph (9) of section 7(b) of the Small Business Act (15 U.S.C. 632(b)), as amended by this Act, the Administrator shall, on a monthly basis, submit to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives a report on the disaster assistance operations of the Administration with respect to the applicable major disaster.

(2) CONTENTS.—Each report submitted under paragraph (1) shall specify—

(A) the number of applications for disaster assistance distributed;

(B) the number of applications for disaster assistance received;

(C) the average time for the Administration to approve or disapprove an application for disaster assistance;

(D) the amount of disaster loans approved;

(E) the average time for initial disbursement of disaster loan proceeds; and

(F) the amount of disaster loan proceeds disbursed.

(d) NOTICE OF THE NEED FOR SUPPLEMENTAL FUNDS.—On the same date that the Administrator notifies any committee of the Senate or the House of Representatives that supplemental funding is necessary for the disaster loan program of the Administration in any fiscal year, the Administrator shall notify in writing the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the need for supplemental funds for that loan program.

(e) REPORT ON CONTRACTING.—

(1) IN GENERAL.—Not later than 6 months after the date on which the President declares a major disaster, and every 6 months thereafter until the date that is 18 months after the date on which the major disaster was declared, the Administrator shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives regarding Federal contracts awarded as a result of that major disaster.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include—

(A) the total number of contracts awarded as a result of that major disaster;

(B) the total number of contracts awarded to small business concerns as a result of that major disaster;

(C) the total number of contracts awarded to women and minority-owned businesses as a result of that major disaster; and

(D) the total number of contracts awarded to local businesses as a result of that major disaster.

(f) REPORT ON LOAN APPROVAL RATE.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives detailing how the Administration can improve the processing of applications under the disaster loan program of the Administration.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) recommendations, if any, regarding—

(i) staffing levels during a major disaster;

(ii) how to improve the process for processing, approving, and disbursing loans under the disaster loan program of the Administration, to ensure that the maximum assistance is provided to victims in a timely manner;

(iii) the viability of using alternative methods for assessing the ability of an applicant to repay a loan, including the credit score of the applicant on the day before the date on which the disaster for which the applicant is seeking assistance was declared;

(iv) methods, if any, for the Administration to expedite loss verification and loan processing of disaster loans during a major disaster for businesses affected by, and located in the area for which the President declared, the major disaster that are a major source of employment in the area or are vital to recovery efforts in the region (including providing debris removal services, manufactured housing, or building materials);

(v) legislative changes, if any, needed to implement findings from the Accelerated Disaster Response Initiative of the Administration; and

(vi) a description of how the Administration plans to integrate and coordinate the response to a major disaster with the technical assistance programs of the Administration; and

(B) the plans of the Administrator for implementing any recommendation made under subparagraph (A).

(g) REPORTS ON DISASTER ASSISTANCE.—The Small Business Act is amended by inserting after section 42, as added by this Act, the following:

"SEC. 43. ANNUAL REPORTS ON DISASTER ASSISTANCE.

"Not later than 45 days after the end of a fiscal year, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the disaster assistance operations of the Administration for that fiscal year. The report shall—

"(1) specify the number of Administration personnel involved in such operations;

"(2) describe any material changes to those operations, such as changes to technologies used or to personnel responsibilities;

"(3) describe and assess the effectiveness of the Administration in responding to disasters during that fiscal year, including a description of the number and amounts of loans made for damage and for economic injury; and

"(4) describe the plans of the Administration for preparing to respond to disasters during the next fiscal year.".

TITLE XIII—COMMODITY FUTURES

SEC. 13001. SHORT TITLE.

This title may be cited as the "CFTC Reauthorization Act of 2008".

Subtitle A—General Provisions

SEC. 13101. COMMISSION AUTHORITY OVER AGREEMENTS, CONTRACTS OR TRANSACTIONS IN FOREIGN CURRENCY.

(a) IN GENERAL.—Section 2(c)(2) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)) is amended by striking subparagraphs (B) and (C) and inserting the following:

"(B) AGREEMENTS, CONTRACTS, AND TRANSACTIONS IN RETAIL FOREIGN CURRENCY.—

"(i) This Act applies to, and the Commission shall have jurisdiction over, an agreement, contract, or transaction in foreign currency that—

"(I) is a contract of sale of a commodity for future delivery (or an option on such a contract) or an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a))); and

"(II) is offered to, or entered into with, a person that is not an eligible contract participant, unless the counterparty, or the person offering to be the counterparty, of the person is—

"(aa) a financial institution;

"(bb)(AA) a broker or dealer registered under section 15(b) (except paragraph (11) thereof) or 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b), 78o–5); or

"(BB) an associated person of a broker or dealer registered under section 15(b) (except paragraph (11) thereof) or 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b), 78o–5) concerning the financial or securities activities of which the broker or dealer makes and keeps records under section 15C(b) or 17(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5(b), 78q(h));

"(cc)(AA) a futures commission merchant that is primarily or substantially engaged in the business activities described in section 1a(20) of this Act, is registered under this Act, is not a person described in item (bb) of this subclause, and maintains adjusted net capital equal to or in excess of the dollar amount that applies for purposes of clause (ii) of this subparagraph; or

"(BB) an affiliated person of a futures commission merchant that is primarily or substantially engaged in the business activities described in section 1a(20) of this Act, is registered under this Act, and is not a person described in item (bb) of this subclause, if the affiliated person maintains adjusted net capital equal to or in excess of the dollar amount that applies for purposes of clause (ii) of this subparagraph and is not a person described in such item (bb), and the futures commission merchant makes and keeps records under section 4f(c)(2)(B) of this Act concerning the futures and other financial activities of the affiliated person;

"(dd) an insurance company described in section 1a(12)(A)(ii) of this Act, or a regulated

subsidiary or affiliate of such an insurance company;

"(ee) a financial holding company (as defined in section 2 of the Bank Holding Company Act of 1956);

"(ff) an investment bank holding company (as defined in section 17(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(i))); or

"(gg) a retail foreign exchange dealer that maintains adjusted net capital equal to or in excess of the dollar amount that applies for purposes of clause (ii) of this subparagraph and is registered in such capacity with the Commission, subject to such terms and conditions as the Commission shall prescribe, and is a member of a futures association registered under section 17.

"(ii) The dollar amount that applies for purposes of this clause is—

"(I) $10,000,000, beginning 120 days after the date of the enactment of this clause;

"(II) $15,000,000, beginning 240 days after such date of enactment; and

"(III) $20,000,000, beginning 360 days after such date of enactment.

"(iii) Notwithstanding items (cc) and (gg) of clause (i)(II) of this subparagraph, agreements, contracts, or transactions described in clause (i) of this subparagraph shall be subject to subsection (a)(1)(B) of this section and sections 4(b), 4b, 4c(b), 4o, 6(c) and 6(d) (except to the extent that sections 6(c) and 6(d) prohibit manipulation of the market price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any market), 6c, 6d, 8(a), 13(a), and 13(b) if the agreements, contracts, or transactions are offered, or entered into, by a person that is registered as a futures commission merchant or retail foreign exchange dealer, or an affiliated person of a futures commission merchant registered under this Act that is not also a person described in any of item (aa), (bb), (dd), (ee), or (ff) of clause (i)(II) of this subparagraph.

"(iv)(I) Notwithstanding items (cc) and (gg) of clause (i)(II), a person, unless registered in such capacity as the Commission by rule, regulation, or order shall determine and a member of a futures association registered under section 17, shall not—

"(aa) solicit or accept orders from any person that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of clause (i)(II);

"(bb) exercise discretionary trading authority or obtain written authorization to exercise discretionary trading authority over any account for or

on behalf of any person that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of clause (i)(II); or

"(cc) operate or solicit funds, securities, or property for any pooled investment vehicle that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of clause (i)(II).

"(II) Subclause (I) of this clause shall not apply to—

"(aa) any person described in any of item (aa), (bb), (dd), (ee), or (ff) of clause (i)(II);

"(bb) any such person's associated persons; or

"(cc) any person who would be exempt from registration if engaging in the same activities in connection with transactions conducted on or subject to the rules of a contract market or a derivatives transaction execution facility.

"(III) Notwithstanding items (cc) and (gg) of clause (i)(II), the Commission may make, promulgate, and enforce such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions of, or to accomplish any of the purposes of, this Act in connection with the activities of persons subject to subclause (I).

"(IV) Subclause (III) of this clause shall not apply to—

"(aa) any person described in any of item (aa) through (ff) of clause (i)(II);

"(bb) any such person's associated persons; or

"(cc) any person who would be exempt from registration if engaging in the same activities in connection with transactions conducted on or subject to the rules of a contract market or a derivatives transaction execution facility.

"(v) Notwithstanding items (cc) and (gg) of clause (i)(II), the Commission may make, promulgate, and enforce such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions of, or to accomplish any of the purposes of, this Act in connection with agreements, contracts, or transactions described in clause (i) which are offered, or entered into, by a person described in item (cc) or (gg) of clause (i)(II).

"(C)(i)(I) This subparagraph shall apply to any agreement, contract, or transaction in foreign currency that is—

"(aa) offered to, or entered into with, a person that is not an eligible contract participant (except that this subparagraph shall not apply if the counterparty, or the person offering to be the

counterparty, of the person that is not an eligible contract participant is a person described in any of item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II)); and

"(bb) offered, or entered into, on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis.

"(II) Subclause (I) of this clause shall not apply to—

"(aa) a security that is not a security futures product; or

"(bb) a contract of sale that—

"(AA) results in actual delivery within 2 days; or

"(BB) creates an enforceable obligation to deliver between a seller and buyer that have the ability to deliver and accept delivery, respectively, in connection with their line of business.

"(ii)(I) Agreements, contracts, or transactions described in clause (i) of this subparagraph shall be subject to subsection (a)(1)(B) of this section and sections 4(b), 4b, 4c(b), 4o, 6(c) and 6(d) (except to the extent that sections 6(c) and 6(d) prohibit manipulation of the market price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any market), 6c, 6d, 8(a), 13(a), and 13(b).

"(II) Subclause (I) of this clause shall not apply to—

"(aa) any person described in any of item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II); or

"(bb) any such person's associated persons.

"(III) The Commission may make, promulgate, and enforce such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions of or to accomplish any of the purposes of this Act in connection with agreements, contracts, or transactions described in clause (i) of this subparagraph if the agreements, contracts, or transactions are offered, or entered into, by a person that is not described in item (aa) through (ff) of subparagraph (B)(i)(II).

"(iii)(I) A person, unless registered in such capacity as the Commission by rule, regulation, or order shall determine and a member of a futures association registered under section 17, shall not—

"(aa) solicit or accept orders from any person that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) of this subparagraph entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II);

"(bb) exercise discretionary trading authority or obtain written authorization to exercise written trading authority over any account for or on behalf of any person that is not an eligible contract participant in connection with agreements, contracts, or transactions de-

scribed in clause (i) of this subparagraph entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II); or

"(cc) operate or solicit funds, securities, or property for any pooled investment vehicle that is not an eligible contract participant in connection with agreements, contracts, or transactions described in clause (i) of this subparagraph entered into with or to be entered into with a person who is not described in item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II).

"(II) Subclause (I) of this clause shall not apply to—

"(aa) any person described in item (aa), (bb), (dd), (ee), or (ff) of subparagraph (B)(i)(II);

"(bb) any such person's associated persons; or

"(cc) any person who would be exempt from registration if engaging in the same activities in connection with transactions conducted on or subject to the rules of a contract market or a derivatives transaction execution facility.

"(III) The Commission may make, promulgate, and enforce such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions of, or to accomplish any of the purposes of, this Act in connection with the activities of persons subject to subclause (I).

"(IV) Subclause (III) of this clause shall not apply to—

"(aa) any person described in item (aa) through (ff) of subparagraph (B)(i)(II);

"(bb) any such person's associated persons; or

"(cc) any person who would be exempt from registration if engaging in the same activities in connection with transactions conducted on or subject to the rules of a contract market or a derivatives transaction execution facility.

"(iv) Sections 4(b) and 4b shall apply to any agreement, contract, or transaction described in clause (i) of this subparagraph as if the agreement, contract, or transaction were a contract of sale of a commodity for future delivery.

"(v) This subparagraph shall not be construed to limit any jurisdiction that the Commission may otherwise have under any other provision of this Act over an agreement, contract, or transaction that is a contract of sale of a commodity for future delivery.

"(vi) This subparagraph shall not be construed to limit any jurisdiction that the Commission or the Securities and Exchange Commission may otherwise have under any other provision of this Act with respect to security futures products and persons effecting transactions in security futures products.".

(b) EFFECTIVE DATE.—The following provisions of the Commodity Exchange Act, as amended by subsection (a) of this section, shall be effective 120 days after the date of the enactment of this Act or at such other time as the Commodity Futures Trading Commission shall determine:

(1) Subparagraphs (B)(i)(II)(gg), (B)(iv), and (C)(iii) of section 2(c)(2).

(2) The provisions of section 2(c)(2)(B)(i)(II)(cc) that set forth adjusted net capital requirements, and the provisions of such section that require a futures commission merchant to be primarily or substantially engaged in certain business activities.

SEC. 13102. ANTI-FRAUD AUTHORITY OVER PRINCIPAL-TO-PRINCIPAL TRANSACTIONS.

Section 4b of the Commodity Exchange Act (7 U.S.C. Section 6b) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

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

"SEC. 4b. CONTRACTS DESIGNED TO DEFRAUD OR MISLEAD.

"(a) UNLAWFUL ACTIONS.—It shall be unlawful—

"(1) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity in interstate commerce or for future delivery that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person; or

"(2) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, or other agreement, contract, or transaction subject to paragraphs (1) and (2) of section 5a(g), that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market—

"(A) to cheat or defraud or attempt to cheat or defraud the other person;

"(B) willfully to make or cause to be made to the other person any false report or statement or willfully to enter or cause to be entered for the other person any false record;

"(C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of paragraph (2), with the other person; or

"(D)(i) to bucket an order if the order is either represented by the person as an order to be executed, or is required to be executed, on or subject to the rules of a designated contract market; or

"(ii) to fill an order by offset against the order or orders of any other person, or willfully and knowingly and without the prior consent of the other person to become the buyer in respect to any selling order of the other person, or become the seller in respect to any buying order of the other person, if the order is either represented by the person as an order to be executed, or is required to be executed, on or subject to the rules of a designated contract market unless the order is executed in accordance with the rules of the designated contract market.

"(b) CLARIFICATION.—Subsection (a)(2) of this section shall not obligate any person, in or in connection with a transaction in a contract of sale of a commodity for future delivery, or other agreement, contract or transaction subject to paragraphs (1) and (2) of section 5a(g), with another person, to disclose to the other person nonpublic information that may be material to the market price, rate, or level of the commodity or transaction, except as necessary to make any statement made to the other person in or in connection with the transaction not misleading in any material respect.".

SEC. 13103. CRIMINAL AND CIVIL PENALTIES.

(a) ENFORCEMENT POWERS OF THE COMMISSION.—Section 6(c) of the Commodity Exchange Act (7 U.S.C. 9, 15) is amended in clause (3) of the 10th sentence—

(1) by inserting "(A)" after "assess such person"; and

(2) by inserting after "each such violation" the following: ", or (B) in any case of manipulation or attempted manipulation in violation of this subsection, subsection (d) of this section, or section 9(a)(2), a civil penalty of not more than the greater of $1,000,000 or triple the monetary gain to the person for each such violation,".

(b) NONENFORCEMENT OF RULES OF GOVERNMENT OR OTHER VIOLATIONS.—Section 6b of such Act (7 U.S.C. 13a) is amended—

(1) in the first sentence, by inserting before the period at the end the following: ", or, in any case of manipulation or attempted manipulation in violation of section 6(c), 6(d), or 9(a)(2), a civil penalty of not more than $1,000,000 for each such violation"; and

(2) in the second sentence, by inserting before the period at the end the following: ", except that if the failure or refusal to obey or comply with the order involved any offense under section 9(a)(2), the registered entity, director, officer, agent, or employee shall be guilty of a felony and, on conviction, shall be subject to penalties under section 9(a)(2)".

(c) ACTION TO ENJOIN OR RESTRAIN VIOLATIONS.—Section 6c(d) of such Act (7 U.S.C. 13a–1(d)) is amended by striking all that precedes paragraph (2) and inserting the following:

"(d) CIVIL PENALTIES.—

"(1) IN GENERAL.—In any action brought under this section, the Commission may seek and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation—

"(A) a civil penalty in the amount of not more than the greater of $100,000 or triple the monetary gain to the person for each violation; or

"(B) in any case of manipulation or attempted manipulation in violation of section 6(c), 6(d), or 9(a)(2), a civil penalty in the amount of not more than the greater of $1,000,000 or triple the monetary gain to the person for each violation.".

(d) VIOLATIONS GENERALLY.—Section 9(a) of such Act (7 U.S.C. 13(a)) is amended in the matter preceding paragraph (1)—

(1) by striking "(or $500,000 in the case of a person who is an individual)"; and

(2) by striking "five years" and inserting "10 years".

SEC. 13104. AUTHORIZATION OF APPROPRIATIONS.

Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are authorized to be appropriated such sums as are necessary to carry out this Act for each of the fiscal years 2008 through 2013.".

SEC. 13105. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 4a(e) of the Commodity Exchange Act (7 U.S.C. 6a(e)) is amended—

(1) by inserting "or certified by a registered entity pursuant to section 5c(c)(1)" after "approved by the Commission" ; and

(2) by striking "section 9(c)" and inserting "section 9(a)(5)".

(b) Section 4f(c)(4)(B)(i) of such Act (7 U.S.C. 6f(c)(4)(B)(i)) is amended by striking "compiled" and inserting "complied".

(c) Section 4k of such Act (7 U.S.C. 6k) is amended by redesignating the second paragraph (5) as paragraph (6).

(d) The Commodity Exchange Act is amended—

(1) by redesignating the first section 4p (7 U.S.C. 6o–1), as added by section 121 of the Commodity Futures Modernization Act of 2000, as section 4q; and

(2) by moving such section to after the second section 4p, as added by section 206 of Public Law 93–446.

(e) Subsections (a)(1) and (d)(1) of section 5c of such Act (7 U.S.C. 7a–2(a)(1), (d)(1)) are each amended by striking "5b(d)(2)" and inserting "5b(c)(2)".

(f) Sections 5c(f) and 17(r) of such Act (7 U.S.C. 7a–2(f), 21(r)) are each amended by striking "4d(3)" and inserting "4d(c)".

(g) Section 8(a)(1) of such Act (7 U.S.C. 12(a)(1)) is amended in the matter following subparagraph (B)—

(1) by striking "commenced" in the 2nd place it appears; and

(2) by inserting "commenced" after "in a judicial proceeding".

(h) Section 9 of such Act (7 U.S.C. 13) is amended—

(1) in subsection (f)(1), by striking the period and inserting "; or"; and

(2) by redesignating subsection (f) as subsection (e).

(i) Section 22(a)(2) of such Act (7 U.S.C. 25(a)(2)) is amended by striking "5b(b)(1)(E)" and inserting "5b(c)(2)(H)".

(j) Section 1a(33)(A) of such Act (7 U.S.C. 1a(33)(A)) is amended by striking "transactions" and all that follows and inserting "transactions—

"(i) by accepting bids or offers made by other participants that are open to multiple partipants in the facility or system; or

"(ii) through the interaction of multiple bids or multiple offers within a system with a pre-determined non-discretionary automated trade matching and execution algorithm.".

(k) Section 14(d) of such Act (7 U.S.C. 18(d)) is amended—

(1) by inserting "(1)" before "If"; and

(2) by adding after and below the end the following:

"(2) A reparation award shall be directly enforceable in district court as if it were a judgment pursuant to section 1963 of title 28, United States Code. This paragraph shall operate

retroactively from the effective date of its enactment, and shall apply to all reparation awards for which a proceeding described in paragraph (1) is commenced within 3 years of the date of the Commission's order.".

SEC. 13106. PORTFOLIO MARGINING AND SECURITY INDEX ISSUES.

(a) The Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Securities and Exchange Commission, and the Chairman of the Commodity Futures Trading Commission shall work to ensure that the Securities and Exchange Commission (SEC), the Commodity Futures Trading Commission (CFTC), or both, as appropriate, have taken the actions required under subsection (b).

(b) The SEC, the CFTC, or both, as appropriate, shall take action under their existing authorities to permit—

(1) by September 30, 2009, risk-based portfolio margining for security options and security futures products (as defined in section 1a(32) of the Commodity Exchange Act); and

(2) by June 30, 2009, the trading of futures on certain security indexes by resolving issues related to foreign security indexes.

Subtitle B—Significant Price Discovery Contracts on Exempt Commercial Markets

SEC. 13201. SIGNIFICANT PRICE DISCOVERY CONTRACTS.

(a) DEFINITIONS.—Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended—

(1) by redesignating paragraph (33) as paragraph (34); and

(2) by inserting after paragraph (32) the following:

"(33) SIGNIFICANT PRICE DISCOVERY CONTRACT.—The term 'significant price discovery contract' means an agreement, contract, or transaction subject to section 2(h)(7).".

(b) STANDARDS APPLICABLE TO SIGNIFICANT PRICE DISCOVERY CONTRACTS.—Section 2(h) of such Act (7 U.S.C. 2(h)) is amended by adding at the end the following:

"(7) SIGNIFICANT PRICE DISCOVERY CONTRACTS.—

"(A) IN GENERAL.—An agreement, contract, or transaction conducted in reliance on the exemption in paragraph (3) shall be subject to the provisions of subparagraphs (B) through (D), under such rules and regulations as the Commission shall promulgate, provided that the Commission determines, in its discretion, that the agreement, contract, or transaction performs a significant price discovery function as described in subparagraph (B).

"(B) SIGNIFICANT PRICE DISCOVERY DETERMINATION.—In making a determination whether an agreement, contract, or transaction performs a significant price discovery function, the Commission shall consider, as appropriate:

"(i) PRICE LINKAGE.—The extent to which the agreement, contract, or transaction uses or otherwise relies on a daily or final settlement price, or other major price parameter, of a contract or contracts listed for trading on or subject to the rules of a designated contract market or a derivatives transaction execution facility, or a significant price discovery contract traded

on an electronic trading facility, to value a position, transfer or convert a position, cash or financially settle a position, or close out a position.

"(ii) ARBITRAGE.—The extent to which the price for the agreement, contract, or transaction is sufficiently related to the price of a contract or contracts listed for trading on or subject to the rules of a designated contract market or derivatives transaction execution facility, or a significant price discovery contract or contracts trading on or subject to the rules of an electronic trading facility, so as to permit market participants to effectively arbitrage between the markets by simultaneously maintaining positions or executing trades in the contracts on a frequent and recurring basis.

"(iii) MATERIAL PRICE REFERENCE.—The extent to which, on a frequent and recurring basis, bids, offers, or transactions in a commodity are directly based on, or are determined by referencing, the prices generated by agreements, contracts, or transactions being traded or executed on the electronic trading facility.

"(iv) MATERIAL LIQUIDITY.—The extent to which the volume of agreements, contracts, or transactions in the commodity being traded on the electronic trading facility is sufficient to have a material effect on other agreements, contracts, or transactions listed for trading on or subject to the rules of a designated contract market, a derivatives transaction execution facility, or an electronic trading facility operating in reliance on the exemption in paragraph (3).

"(v) OTHER MATERIAL FACTORS.—Such other material factors as the Commission specifies by rule as relevant to determine whether an agreement, contract, or transaction serves a significant price discovery function.

"(C) CORE PRINCIPLES APPLICABLE TO SIGNIFICANT PRICE DISCOVERY CONTRACTS.—

"(i) IN GENERAL.—An electronic trading facility on which significant price discovery contracts are traded or executed shall, with respect to those contracts, comply with the core principles specified in this subparagraph.

"(ii) CORE PRINCIPLES.—The electronic trading facility shall have reasonable discretion (including discretion to account for differences between cleared and uncleared significant price discovery contracts) in establishing the manner in which it complies with the following core principles:

"(I) CONTRACTS NOT READILY SUSCEPTIBLE TO MANIPULATION.—The electronic trading facility shall list only significant price discovery contracts that are not readily susceptible to manipulation.

"(II) MONITORING OF TRADING.—The electronic trading facility shall monitor trading in significant price discovery contracts to prevent market manipulation, price distortion, and disruptions of

the delivery or cash-settlement process through market surveillance, compliance, and disciplinary practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions.

"(III) ABILITY TO OBTAIN INFORMATION.—The electronic trading facility shall—

"(aa) establish and enforce rules that will allow the electronic trading facility to obtain any necessary information to perform any of the functions described in this subparagraph;

"(bb) provide the information to the Commission upon request; and

"(cc) have the capacity to carry out such international information-sharing agreements as the Commission may require.

"(IV) POSITION LIMITATIONS OR ACCOUNTABILITY.—The electronic trading facility shall adopt, where necessary and appropriate, position limitations or position accountability for speculators in significant price discovery contracts, taking into account positions in other agreements, contracts, and transactions that are treated by a derivatives clearing organization, whether registered or not registered, as fungible with such significant price discovery contracts to reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month.

"(V) EMERGENCY AUTHORITY.—The electronic trading facility shall adopt rules to provide for the exercise of emergency authority, in consultation or cooperation with the Commission, where necessary and appropriate, including the authority—

"(aa) to liquidate open positions in a significant price discovery contract; and

"(bb) to suspend or curtail trading in a significant price discovery contract.

"(VI) DAILY PUBLICATION OF TRADING INFORMATION.—The electronic trading facility shall make public daily information on price, trading volume, and other trading data to the extent appropriate for significant price discovery contracts

"(VII) COMPLIANCE WITH RULES.—The electronic trading facility shall monitor and enforce compliance with any rules of the electronic trading facility applicable to significant price discovery contracts, including the terms and conditions of the contracts and any limitations on access to the electronic trading facility with respect to the contracts.

"(VIII) CONFLICT OF INTEREST.—The electronic trading facility, with respect to significant price discovery contracts, shall—

"(aa) establish and enforce rules to minimize conflicts of interest in its decision-making process; and

"(bb) establish a process for resolving the conflicts of interest.

"(IX) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this Act, the electronic trading facility, with respect to significant price discovery contracts, shall endeavor to avoid—

"(aa) adopting any rules or taking any actions that result in any unreasonable restraints of trade; or

"(bb) imposing any material anticompetitive burden on trading on the electronic trading facility.

"(D) IMPLEMENTATION.—

"(i) CLEARING.—The Commission shall take into consideration differences between cleared and uncleared significant price discovery contracts when reviewing the implementation of the core principles by an electronic trading facility.

"(ii) REVIEW.—As part of the Commission's continual monitoring and surveillance activities, the Commission shall, not less frequently than annually, evaluate, as appropriate, all the agreements, contracts, or transactions conducted on an electronic trading facility in reliance on the exemption provided in paragraph (3) to determine whether they serve a significant price discovery function as described in subparagraph (B) of this paragraph.".

SEC. 13202. LARGE TRADER REPORTING.

(a) REPORTING AND RECORDKEEPING.—Section 4g(a) of the Commodity Exchange Act (7 U.S.C. 6g(a)) is amended by inserting ", and in any significant price discovery contract traded or executed on an electronic trading facility or any agreement, contract, or transaction that is treated by a derivatives clearing organization, whether registered or not registered, as fungible with a significant price discovery contract" after "elsewhere".

(b) REPORTS OF POSITIONS EQUAL TO OR IN EXCESS OF TRADING LIMITS.—Section 4i of such Act (7 U.S.C. 6i) is amended—

(1) by inserting ", or any significant price discovery contract traded or executed on an electronic trading facility or any agreement, contract, or transaction that is treated by a derivatives clearing organization, whether registered or not registered, as fungible with a significant price discovery contract" after "subject to the rules of any contract market or derivatives transaction execution facility"; and

(2) in the matter following paragraph (2), by inserting "or electronic trading facility" after "subject to the rules of any other board of trade".

SEC. 13203. CONFORMING AMENDMENTS.

(a) Section 1a(12)(A)(x) of the Commodity Exchange Act (7 U.S.C. 1a(12)(A)(x)) is amended by inserting "(other than an elec-

tronic trading facility with respect to a significant price discovery contract)" after "registered entity".

(b) Section 1a(29) of such Act (7 U.S.C. 1a(29)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(E) with respect to a contract that the Commission determines is a significant price discovery contract, any electronic trading facility on which the contract is executed or traded.".

(c) Section 2(a)(1)(A) of such Act (7 U.S.C. 2(a)(1)(A)) is amended by inserting after "future delivery" the following: "(including significant price discovery contracts)".

(d) Section 2(h)(3) of such Act (7 U.S.C. 2(h)(3)) is amended by striking "paragraph (4)" and inserting "paragraphs (4) and (7)".

(e) Section 2(h)(4) of such Act (7 U.S.C. 2(h)(4)) is amended—

(1) in subparagraph (B), by inserting "and, for a significant price discovery contract, requiring large trader reporting," after "proscribing fraud";

(2) by striking "and" at the end of subparagraph (C); and

(3) by striking subparagraph (D) and inserting the following:

"(D) such rules, regulations, and orders as the Commission may issue to ensure timely compliance with any of the provisions of this Act applicable to a significant price discovery contract traded on or executed on any electronic trading facility; and

"(E) such other provisions of this Act as are applicable by their terms to significant price discovery contracts or to registered entities or electronic trading facilities with respect to significant price discovery contracts.".

(f) Section 2(h)(5)(B)(iii)(I) of such Act (7 U.S.C. 2(h)(5)(B)(iii)(I)) is amended by inserting "or to make the determination described in subparagraph (B) of paragraph (7)" after "paragraph (4)".

(g) Section 4a of such Act (7 U.S.C. 6a) is amended—

(1) in subsection (a)—

(A) in the first sentence, by inserting ", or on electronic trading facilities with respect to a significant price discovery contract" after "derivatives transaction execution facilities"; and

(B) in the second sentence, by inserting ", or on an electronic trading facility with respect to a significant price discovery contract," after "derivatives transaction execution facility"; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting "or electronic trading facility with respect to a significant price discovery contract" after "facility or facilities"; and

(B) in paragraph (2), by inserting "or electronic trading facility with respect to a significant price discovery contract" after "derivatives transaction execution facility"; and

(3) in subsection (e)—

(A) in the first sentence—

(i) by inserting "or by any electronic trading facility" after "registered by the Commission";

(ii) by inserting "or on an electronic trading facility" after "derivatives transaction execution facility" the second place it appears; and

(iii) by inserting "or electronic trading facility" before "or such board of trade" each place it appears; and

(B) in the second sentence, by inserting "or electronic trading facility with respect to a significant price discovery contract" after "registered by the Commission".

(h) Section 5a(d) of such Act (7 U.S.C. 7a(d)(1)) is amended—

(1) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10); and

(2) by inserting after paragraph (3) the following:

"(4) POSITION LIMITATIONS OR ACCOUNTABILITY.—To reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month, the derivatives transaction execution facility shall adopt position limits or position accountability for speculators, where necessary and appropriate for a contract, agreement or transaction with an underlying commodity that has a physically deliverable supply.".

(i) Section 5c(a) of such Act (7 U.S.C. 7a–2(a)) is amended in paragraph (1) by inserting ", and section 2(h)(7) with respect to significant price discovery contracts," after ", and 5b(d)(2)".

(j) Section 5c(b) of such Act (7 U.S.C. 7a–2(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—A contract market, derivatives transaction execution facility, or electronic trading facility with respect to a significant price discovery contract may comply with any applicable core principle through delegation of any relevant function to a registered futures association or a registered entity that is not an electronic trading facility.";

(2) in paragraph (2), by striking "contract market or derivatives transaction execution facility" and inserting "contract market, derivatives transaction execution facility, or electronic trading facility"; and

(3) in paragraph (3), by striking "contract market or derivatives transaction execution facility" each place it appears and inserting "contract market, derivatives transaction execution facility, or electronic trading facility".

(k) Section 5c(d)(1) of such Act (7 U.S.C. 7a–2(d)(1)) is amended by inserting "or 2(h)(7)(C) with respect to a significant price discovery contract traded or executed on an electronic trading facility," after "5b(d)(2)".

(l) Section 5e of such Act (7 U.S.C. 7b) is amended by inserting ", or revocation of the right of an electronic trading facility to rely on the exemption set forth in section 2(h)(3) with respect to a significant price discovery contract," after "revocation of designation as a registered entity".

(m) Section 6(b) of the Commodity Exchange Act (7 U.S.C. 8(b)) is amended by striking the first sentence and all that follows through "hearing on the record: Provided," and inserting the following:

"The Commission is authorized to suspend for a period not to exceed 6 months or to revoke the designation or registration of any

contract market or derivatives transaction execution facility, or to revoke the right of an electronic trading facility to rely on the exemption set forth in section 2(h)(3) with respect to a significant price discovery contract, on a showing that the contract market or derivatives transaction execution facility is not enforcing or has not enforced its rules of government, made a condition of its designation or registration as set forth in sections 5 through 5b or section 5f, or that the contract market or derivatives transaction execution facility or electronic trading facility, or any director, officer, agent, or employee thereof, otherwise is violating or has violated any of the provisions of this Act or any of the rules, regulations, or orders of the Commission thereunder. Such suspension or revocation shall only be made after a notice to the officers of the contract market or derivatives transaction execution facility or electronic trading facility affected and upon a hearing on the record: Provided,".

(n) Section 22(b)(1) of such Act (7 U.S.C. 25(b)(1)) is amended by inserting "section 2(h)(7) or" before "sections 5".

SEC. 13204. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in this section, this subtitle shall become effective on the date of enactment of this Act.

(b) SIGNIFICANT PRICE DISCOVERY STANDARDS RULEMAKING.—

(1) The Commodity Futures Trading Commission shall—

(A) not later than 180 days after the date of the enactment of this Act, issue a proposed rule regarding the implementation of section 2(h)(7) of the Commodity Exchange Act; and

(B) not later than 270 days after the date of enactment of this Act, issue a final rule regarding the implementation.

(2) In its rulemaking pursuant to paragraph (1) of this subsection, the Commission shall include the standards, terms, and conditions under which an electronic trading facility will have the responsibility to notify the Commission that an agreement, contract, or transaction conducted in reliance on the exemption provided in section 2(h)(3) of the Commodity Exchange Act may perform a price discovery function.

(c) SIGNIFICANT PRICE DISCOVERY DETERMINATIONS.—With respect to any electronic trading facility operating on the effective date of the final rule issued pursuant to subsection (b)(1), the Commission shall complete a review of the agreements, contracts, and transactions of the facility not later than 180 days after that effective date to determine whether any such agreement, contract, or transaction performs a significant price discovery function.

TITLE XIV—MISCELLANEOUS

Subtitle A—Socially Disadvantaged Producers and Limited Resource Producers

SEC. 14001. IMPROVED PROGRAM DELIVERY BY DEPARTMENT OF AGRICULTURE ON INDIAN RESERVATIONS.

Section 2501(g)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(g)(1)) is amended—

(1) in the first sentence—

(A) by striking "Agricultural Stabilization and Conservation Service, Soil Conservation Service, and Farmers

Home Administration offices" and inserting "Farm Service Agency and Natural Resources Conservation Service"; and

(B) by inserting "where there has been a need demonstrated" after "include"; and

(2) by striking the second sentence.

SEC. 14002. FORECLOSURE.

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

(1) by inserting "(a)" after "SEC. 331A."; and

(2) by adding at the end the following:

"(b) MORATORIUM.—

"(1) IN GENERAL.—Subject to the other provisions of this subsection, effective beginning on the date of the enactment of this subsection, there shall be in effect a moratorium, with respect to farmer program loans made under subtitle A, B, or C, on all acceleration and foreclosure proceedings instituted by the Department of Agriculture against any farmer or rancher who—

"(A) has pending against the Department a claim of program discrimination that is accepted by the Department as valid; or

"(B) files a claim of program discrimination that is accepted by the Department as valid.

"(2) WAIVER OF INTEREST AND OFFSETS.—During the period of the moratorium, the Secretary shall waive the accrual of interest and offsets on all farmer program loans made under subtitle A, B, or C for which loan acceleration or foreclosure proceedings have been suspended under paragraph (1).

"(3) TERMINATION OF MORATORIUM.—The moratorium shall terminate with respect to a claim of discrimination by a farmer or rancher on the earlier of—

"(A) the date the Secretary resolves the claim; or

"(B) if the farmer or rancher appeals the decision of the Secretary on the claim to a court of competent jurisdiction, the date that the court renders a final decision on the claim.

"(4) FAILURE TO PREVAIL.—If a farmer or rancher does not prevail on a claim of discrimination described in paragraph (1), the farmer or rancher shall be liable for any interest and offsets that accrued during the period that loan acceleration or foreclosure proceedings have been suspended under paragraph (1).".

(b) FORECLOSURE REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Inspector General of the Department of Agriculture (referred to in this subsection as the "Inspector General") shall determine whether decisions of the Department to implement foreclosure proceedings with respect to farmer program loans made under subtitle A, B, or C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922 et seq.) to socially disadvantaged farmers or ranchers during the 5-year period preceding the date of the enactment of this Act were consistent and in conformity with the applicable laws (including regulations) governing loan foreclosures.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Inspector General shall submit to the

Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the determination of the Inspector General under paragraph (1).

SEC. 14003. RECEIPT FOR SERVICE OR DENIAL OF SERVICE FROM CERTAIN DEPARTMENT OF AGRICULTURE AGENCIES.

Section 2501A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279–1) is amended by adding at the end the following new subsection:

"(e) RECEIPT FOR SERVICE OR DENIAL OF SERVICE.—In any case in which a current or prospective producer or landowner, in person or in writing, requests from the Farm Service Agency, the Natural Resources Conservation Service, or an agency of the Rural Development Mission Area any benefit or service offered by the Department to agricultural producers or landowners and, at the time of the request, also requests a receipt, the Secretary shall issue, on the date of the request, a receipt to the producer or landowner that contains—

"(1) the date, place, and subject of the request; and

"(2) the action taken, not taken, or recommended to the producer or landowner.".

SEC. 14004. OUTREACH AND TECHNICAL ASSISTANCE FOR SOCIALLY DISADVANTAGED FARMERS OR RANCHERS.

(a) OUTREACH AND TECHNICAL ASSISTANCE PROGRAM.—

(1) PROGRAM REQUIREMENTS.—Paragraph (2) of section 2501(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(a)) is amended to read as follows:

"(2) REQUIREMENTS.—The outreach and technical assistance program under paragraph (1) shall be used exclusively—

"(A) to enhance coordination of the outreach, technical assistance, and education efforts authorized under agriculture programs; and

"(B) to assist the Secretary in—

"(i) reaching current and prospective socially disadvantaged farmers or ranchers in a linguistically appropriate manner; and

"(ii) improving the participation of those farmers and ranchers in Department programs, as reported under section 2501A.".

(2) GRANTS AND CONTRACTS UNDER PROGRAM.—Section 2501(a)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(a)(3)) is amended—

(A) in subparagraph (A), by striking "entity to provide information" and inserting "entity that has demonstrated an ability to carry out the requirements described in paragraph (2) to provide outreach"; and

(B) by adding at the end the following new subparagraph:

"(D) REPORT.—The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and make publicly available, an annual report that includes a list of the following:

"(i) The recipients of funds made available under the program.

"(ii) The activities undertaken and services provided.

"(iii) The number of current and prospective socially disadvantaged farmers or ranchers served and outcomes of such service.

"(iv) The problems and barriers identified by entities in trying to increase participation by current and prospective socially disadvantaged farmers or ranchers.".

(3) FUNDING AND LIMITATION ON USE OF FUNDS.—Section 2501(a)(4) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(a)(4)) is amended—

(A) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—

"(i) $15,000,000 for fiscal year 2009; and

"(ii) $20,000,000 for each of fiscal years 2010 through 2012.".

(B) by adding at the end the following new subparagraph:

"(C) LIMITATION ON USE OF FUNDS FOR ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amounts made available under subparagraph (A) for a fiscal year may be used for expenses related to administering the program under this section.".

(b) ELIGIBLE ENTITY DEFINED.—Section 2501(e)(5)(A)(ii) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)(5)(A)(ii)) is amended by striking "work with socially disadvantaged farmers or ranchers during the 2-year period" and inserting "work with, and on behalf of, socially disadvantaged farmers or ranchers during the 3-year period".

SEC. 14005. ACCURATE DOCUMENTATION IN THE CENSUS OF AGRICULTURE AND CERTAIN STUDIES.

Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279) is amended by adding at the end the following:

"(h) ACCURATE DOCUMENTATION.—The Secretary shall ensure, to the maximum extent practicable, that the Census of Agriculture and studies carried out by the Economic Research Service accurately document the number, location, and economic contributions of socially disadvantaged farmers or ranchers in agricultural production.".

SEC. 14006. TRANSPARENCY AND ACCOUNTABILITY FOR SOCIALLY DISADVANTAGED FARMERS OR RANCHERS.

Section 2501A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279–1) is amended by striking subsection (c) and inserting the following new subsections:

"(c) COMPILATION OF PROGRAM PARTICIPATION DATA.—

"(1) ANNUAL REQUIREMENT.—For each county and State in the United States, the Secretary of Agriculture (referred to in this section as the 'Secretary') shall annually compile program application and participation rate data regarding socially disadvantaged farmers or ranchers by computing for each program

of the Department of Agriculture that serves agricultural producers and landowners—

"(A) raw numbers of applicants and participants by race, ethnicity, and gender, subject to appropriate privacy protections, as determined by the Secretary; and

"(B) the application and participation rate, by race, ethnicity, and gender, as a percentage of the total participation rate of all agricultural producers and landowners.

"(2) AUTHORITY TO COLLECT DATA.—The heads of the agencies of the Department of Agriculture shall collect and transmit to the Secretary any data, including data on race, gender, and ethnicity, that the Secretary determines to be necessary to carry out paragraph (1).

"(3) REPORT.—Using the technologies and systems of the National Agricultural Statistics Service, the Secretary shall compile and present the data compiled under paragraph (1) for each program described in that paragraph in a manner that includes the raw numbers and participation rates for—

"(A) the entire United States;

"(B) each State; and

"(C) each county in each State.

"(4) PUBLIC AVAILABILITY OF REPORT.—The Secretary shall maintain and make readily available to the public, via website and otherwise in electronic and paper form, the report described in paragraph (3).

"(d) LIMITATIONS ON USE OF DATA.—

"(1) PRIVACY PROTECTIONS.—In carrying out this section, the Secretary shall not disclose the names or individual data of any program participant.

"(2) AUTHORIZED USES.—The data under this section shall be used exclusively for the purposes described in subsection (a).

"(3) LIMITATION.—Except as otherwise provided, the data under this section shall not be used for the evaluation of individual applications for assistance.".

SEC. 14007. OVERSIGHT AND COMPLIANCE.

The Secretary, acting through the Assistant Secretary for Civil Rights of the Department of Agriculture, shall use the reports described in subsection (c) of section 2501A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279–1), as amended by section 14006, in the conduct of oversight and evaluation of civil rights compliance.

SEC. 14008. MINORITY FARMER ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Agriculture shall establish an advisory committee, to be known as the "Advisory Committee on Minority Farmers" (in this section referred to as the "Committee").

(b) DUTIES.—The Committee shall provide advice to the Secretary on—

(1) the implementation of section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279);

(2) methods of maximizing the participation of minority farmers and ranchers in Department of Agriculture programs; and

(3) civil rights activities within the Department as such activities relate to participants in such programs.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Committee shall be composed of not more than 15 members, who shall be appointed by the Secretary, and shall include—

(A) not less than four socially disadvantaged farmers or ranchers (as defined in section 2501(e)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)(2)));

(B) not less than two representatives of nonprofit organizations with a history of working with minority farmers and ranchers;

(C) not less than two civil rights professionals;

(D) not less than two representatives of institutions of higher education with demonstrated experience working with minority farmers and ranchers; and

(E) such other persons as the Secretary considers appropriate.

(2) EX-OFFICIO MEMBERS.—The Secretary may appoint such employees of the Department of Agriculture as the Secretary considers appropriate to serve as ex-officio members of the Committee.

SEC. 14009. NATIONAL APPEALS DIVISION.

Section 280 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7000) is amended—

(1) by striking "On the return" and inserting the following: "(a) IN GENERAL.—On the return"; and

(2) by adding at the end the following:

"(b) REPORTS.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this subsection, and every 180 days thereafter, the head of each agency shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and publish on the website of the Department, a report that includes—

"(A) a description of all cases returned to the agency during the period covered by the report pursuant to a final determination of the Division;

"(B) the status of implementation of each final determination; and

"(C) if the final determination has not been implemented—

"(i) the reason that the final determination has not been implemented; and

"(ii) the projected date of implementation of the final determination.

"(2) UPDATES.—Each month, the head of each agency shall publish on the website of the Department any updates to the reports submitted under paragraph (1).".

SEC. 14010. REPORT OF CIVIL RIGHTS COMPLAINTS, RESOLUTIONS, AND ACTIONS.

Each year, the Secretary shall—

(1) prepare a report that describes, for each agency of the Department of Agriculture—

(A) the number of civil rights complaints filed that relate to the agency, including whether a complaint is a program complaint or an employment complaint;

(B) the length of time the agency took to process each civil rights complaint;

(C) the number of proceedings brought against the agency, including the number of complaints described in paragraph (1) that were resolved with a finding of discrimination; and

(D) the number and type of personnel actions taken by the agency following resolution of civil rights complaints;

(2) submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a copy of the report; and

(3) make the report available to the public by posting the report on the website of the Department.

SEC. 14011. SENSE OF CONGRESS RELATING TO CLAIMS BROUGHT BY SOCIALLY DISADVANTAGED FARMERS OR RANCHERS.

It is the sense of Congress that all pending claims and class actions brought against the Department of Agriculture by socially disadvantaged farmers or ranchers (as defined in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)), including Native American, Hispanic, and female farmers or ranchers, based on racial, ethnic, or gender discrimination in farm program participation should be resolved in an expeditious and just manner.

SEC. 14012. DETERMINATION ON MERITS OF PIGFORD CLAIMS.

(a) DEFINITIONS.—In this section:

(1) CONSENT DECREE.—The term "consent decree" means the consent decree in the case of Pigford v. Glickman, approved by the United States District Court for the District of Columbia on April 14, 1999.

(2) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(3) PIGFORD CLAIM.—The term "Pigford claim" means a discrimination complaint, as defined by section 1(h) of the consent decree and documented under section 5(b) of the consent decree.

(4) PIGFORD CLAIMANT.—The term "Pigford claimant" means an individual who previously submitted a late-filing request under section 5(g) of the consent decree.

(b) DETERMINATION ON MERITS.—Any Pigford claimant who has not previously obtained a determination on the merits of a Pigford claim may, in a civil action brought in the United States District Court for the District of Columbia, obtain that determination.

(c) LIMITATION.—

(1) IN GENERAL.—Subject to paragraph (2), all payments or debt relief (including any limitation on foreclosure under subsection (h)) shall be made exclusively from funds made available under subsection (i).

(2) MAXIMUM AMOUNT.—The total amount of payments and debt relief pursuant to actions commenced under subsection (b) shall not exceed $100,000,000.

(d) INTENT OF CONGRESS AS TO REMEDIAL NATURE OF SECTION.—It is the intent of Congress that this section be liberally construed so as to effectuate its remedial purpose of giving a full determination on the merits for each Pigford claim previously denied that determination.

(e) LOAN DATA.—

(1) REPORT TO PERSON SUBMITTING PETITION.—

(A) IN GENERAL.—Not later than 120 days after the Secretary receives notice of a complaint filed by a claimant under subsection (b), the Secretary shall provide to the claimant a report on farm credit loans and noncredit benefits, as appropriate, made within the claimant's county (or if no documents are found, within an adjacent county as determined by the claimant), by the Department during the period beginning on January 1 of the year preceding the period covered by the complaint and ending on December 31 of the year following the period.

(B) REQUIREMENTS.—A report under subparagraph (A) shall contain information on all persons whose application for a loan or benefit was accepted, including—

(i) the race of the applicant;

(ii) the date of application;

(iii) the date of the loan or benefit decision, as appropriate;

(iv) the location of the office making the loan or benefit decision, as appropriate;

(v) all data relevant to the decisionmaking process for the loan or benefit, as appropriate; and

(vi) all data relevant to the servicing of the loan or benefit, as appropriate.

(2) NO PERSONALLY IDENTIFIABLE INFORMATION.—The reports provided pursuant to paragraph (1) shall not contain any information that would identify any person who applied for a loan from the Department.

(3) REPORTING DEADLINE.—

(A) IN GENERAL.—The Secretary shall—

(i) provide to claimants the reports required under paragraph (1) as quickly as practicable after the Secretary receives notice of a complaint filed by a claimant under subsection (b); and

(ii) devote such resources of the Department as are necessary to make providing the reports expeditiously a high priority of the Department.

(B) EXTENSION.—A court may extend the deadline for providing the report required in a particular case under paragraph (1) if the Secretary establishes that meeting the deadline is not feasible and demonstrates a continuing effort and commitment to provide the required report expeditiously.

(f) EXPEDITED RESOLUTIONS AUTHORIZED.—

(1) IN GENERAL.—Any person filing a complaint under this section for discrimination in the application for, or making or

servicing of, a farm loan, at the discretion of the person, may seek liquidated damages of $50,000, discharge of the debt that was incurred under, or affected by, the 1 or more programs that were the subject of the 1 or more discrimination claims that are the subject of the person's complaint, and a tax payment in the amount equal to 25 percent of the liquidated damages and loan principal discharged, in which case—

(A) if only such damages, debt discharge, and tax payment are sought, the complainant shall be able to prove the case of the complainant by substantial evidence (as defined in section 1(l) of the consent decree); and

(B) the court shall decide the case based on a review of documents submitted by the complainant and defendant relevant to the issues of liability and damages.

(2) NONCREDIT CLAIMS.—

(A) STANDARD.—In any case in which a claimant asserts a noncredit claim under a benefit program of the Department, the court shall determine the merits of the claim in accordance with section 9(b)(i) of the consent decree.

(B) RELIEF.—A claimant who prevails on a claim of discrimination involving a noncredit benefit program of the Department shall be entitled to a payment by the Department in a total amount of $3,000, without regard to the number of such claims on which the claimant prevails.

(g) ACTUAL DAMAGES.—A claimant who files a claim under this section for discrimination under subsection (b) but not under subsection (f) and who prevails on the claim shall be entitled to actual damages sustained by the claimant.

(h) LIMITATION ON FORECLOSURES.—Notwithstanding any other provision of law, during the pendency of a Pigford claim, the Secretary may not begin acceleration on or foreclosure of a loan if—

(1) the borrower is a Pigford claimant; and

(2) makes a prima facie case in an appropriate administrative proceeding that the acceleration or foreclosure is related to a Pigford claim.

(i) FUNDING.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available for payments and debt relief in satisfaction of claims against the United States under subsection (b) and for any actions under subsection (g) $100,000,000 for fiscal year 2008, to remain available until expended.

(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under paragraph (1), there are authorized to be appropriated such sums as are necessary to carry out this section.

(j) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act and every 180 days thereafter until the funds made available under subsection (i) are depleted, the Secretary shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that describes the status of available funds under subsection (i) and the number of pending claims under subsection (f).

(2) DEPLETION OF FUNDS REPORT.—In addition to the reports required under paragraph (1), the Secretary shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that notifies the Committees when 75 percent of the funds made available under subsection (i)(1) have been depleted.

(k) TERMINATION OF AUTHORITY.—The authority to file a claim under this section terminates 2 years after the date of the enactment of this Act.

SEC. 14013. OFFICE OF ADVOCACY AND OUTREACH.

(a) IN GENERAL.—The Department of Agriculture Reorganization Act of 1994 is amended by inserting after section 226A (7 U.S.C. 6933) the following:

"SEC. 226B. OFFICE OF ADVOCACY AND OUTREACH.

"(a) DEFINITIONS.—In this section:

"(1) BEGINNING FARMER OR RANCHER.—The term 'beginning farmer or rancher' has the meaning given the term in section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)).

"(2) OFFICE.—The term 'Office' means the Office of Advocacy and Outreach established under this section.

"(3) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term 'socially disadvantaged farmer or rancher' has the meaning given the term in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)).

"(b) ESTABLISHMENT AND PURPOSE.—

"(1) IN GENERAL.—The Secretary shall establish within the executive operations of the Department an office to be known as the 'Office of Advocacy and Outreach'—

"(A) to improve access to programs of the Department; and

"(B) to improve the viability and profitability of—

"(i) small farms and ranches;

"(ii) beginning farmers or ranchers; and

"(iii) socially disadvantaged farmers or ranchers.

"(2) DIRECTOR.—The Office shall be headed by a Director, to be appointed by the Secretary from among the competitive service.

"(c) DUTIES.—The duties of the Office shall be to ensure small farms and ranches, beginning farmers or ranchers, and socially disadvantaged farmers or ranchers access to, and equitable participation in, programs and services of the Department by—

"(1) establishing and monitoring the goals and objectives of the Department to increase participation in programs of the Department by small, beginning, or socially disadvantaged farmers or ranchers;

"(2) assessing the effectiveness of Department outreach programs;

"(3) developing and implementing a plan to coordinate outreach activities and services provided by the Department;

"(4) providing input to the agencies and offices on programmatic and policy decisions;

"(5) measuring outcomes of the programs and activities of the Department on small farms and ranches, beginning farmers

or ranchers, and socially disadvantaged farmers or ranchers programs;

"(6) recommending new initiatives and programs to the Secretary; and

"(7) carrying out any other related duties that the Secretary determines to be appropriate.

"(d) SOCIALLY DISADVANTAGED FARMERS GROUP.—

"(1) ESTABLISHMENT.—The Secretary shall establish within the Office the Socially Disadvantaged Farmers Group.

"(2) OUTREACH AND ASSISTANCE.—The Socially Disadvantaged Farmers Group—

"(A) shall carry out section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279); and

"(B) in the case of activities described in section 2501(a) of that Act, may conduct such activities through other agencies and offices of the Department.

"(3) SOCIALLY DISADVANTAGED FARMERS AND FARMWORKERS.—The Socially Disadvantaged Farmers Group shall oversee the operations of—

"(A) the Advisory Committee on Minority Farmers established under section 14009 of the Food, Conservation, and Energy Act of 2008; and

"(B) the position of Farmworker Coordinator established under subsection (f).

"(4) OTHER DUTIES.—

"(A) IN GENERAL.—The Socially Disadvantaged Farmers Group may carry out other duties to improve access to, and participation in, programs of the Department by socially disadvantaged farmers or ranchers, as determined by the Secretary.

"(B) OFFICE OF OUTREACH AND DIVERSITY.—The Office of Advocacy and Outreach shall carry out the functions and duties of the Office of Outreach and Diversity carried out by the Assistant Secretary for Civil Rights as such functions and duties existed immediately before the date of the enactment of this section.

"(e) SMALL FARMS AND BEGINNING FARMERS AND RANCHERS GROUP.—

"(1) ESTABLISHMENT.—The Secretary shall establish within the Office the Small Farms and Beginning Farmers and Ranchers Group.

"(2) DUTIES.—

"(A) OVERSEE OFFICES.—The Small Farms and Beginning Farmers and Ranchers Group shall oversee the operations of the Office of Small Farms Coordination established by Departmental Regulation 9700–1 (August 3, 2006).

"(B) BEGINNING FARMER AND RANCHER DEVELOPMENT PROGRAM.—The Small Farms and Beginning Farmers and Ranchers Group shall consult with the National Institute for Food and Agriculture on the administration of the beginning farmer and rancher development program established under section 7405 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3319f).

"(C) ADVISORY COMMITTEE FOR BEGINNING FARMERS AND RANCHERS.—The Small Farms and Beginning Farmers and Ranchers Group shall coordinate the activities of the Group with the Advisory Committee for Beginning Farmers and Ranchers established under section 5(b) of the Agricultural Credit Improvement Act of 1992 (7 U.S.C. 1621 note; Public Law 102–554).

"(D) OTHER DUTIES.—The Small Farms and Beginning Farmers and Ranchers Group may carry out other duties to improve access to, and participation in, programs of the Department by small farms and ranches and beginning farmers or ranchers, as determined by the Secretary.

"(f) FARMWORKER COORDINATOR.—

"(1) ESTABLISHMENT.—The Secretary shall establish within the Office the position of Farmworker Coordinator (referred to in this subsection as the 'Coordinator').

"(2) DUTIES.—The Secretary shall delegate to the Coordinator responsibility for the following:

"(A) Assisting in administering the program established by section 2281 of the Food, Agriculture, Conservation, and Trade Act of 1990 (42 U.S.C. 5177a).

"(B) Serving as a liaison to community-based nonprofit organizations that represent and have demonstrated experience serving low-income migrant and seasonal farmworkers.

"(C) Coordinating with the Department, other Federal agencies, and State and local governments to ensure that farmworker needs are assessed and met during declared disasters and other emergencies.

"(D) Consulting within the Office and with other entities to better integrate farmworker perspectives, concerns, and interests into the ongoing programs of the Department.

"(E) Consulting with appropriate institutions on research, program improvements, or agricultural education opportunities that assist low-income and migrant seasonal farmworkers.

"(F) Assisting farmworkers in becoming agricultural producers or landowners.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2009 through 2012.".

(b) CONFORMING AMENDMENT.—Section 296(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7014(b)), as amended by section 7511(b), is further amended—

(1) in paragraph (5), by striking "; or" and inserting ";";

(2) in paragraph (6), by striking the period and inserting "; or"; and

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

"(7) the authority of the Secretary to establish in the Department the Office of Advocacy and Outreach in accordance with section 226B.".

Subtitle B—Agricultural Security

SEC. 14101. SHORT TITLE.

This subtitle may be cited as the "Agricultural Security Improvement Act of 2008".

SEC. 14102. DEFINITIONS.

In this subtitle:

(1) AGENT.—The term "agent" means a nuclear, biological, chemical, or radiological substance that causes agricultural disease or the adulteration of products regulated by the Secretary of Agriculture under any provision of law.

(2) AGRICULTURAL BIOSECURITY.—The term "agricultural biosecurity" means protection from an agent that poses a threat to—

(A) plant or animal health;

(B) public health as it relates to the adulteration of products regulated by the Secretary of Agriculture under any provision of law that is caused by exposure to an agent; or

(C) the environment as it relates to agriculture facilities, farmland, and air and water within the immediate vicinity of an area associated with an agricultural disease or outbreak.

(3) AGRICULTURAL COUNTERMEASURE.—The term "agricultural countermeasure"—

(A) means a product, practice, or technology that is intended to enhance or maintain the agricultural biosecurity of the United States; and

(B) does not include a product, practice, or technology used solely in response to a human medical incident or public health emergency not related to agriculture.

(4) AGRICULTURAL DISEASE.—The term "agricultural disease" has the meaning given the term by the Secretary.

(5) AGRICULTURAL DISEASE EMERGENCY.—The term "agricultural disease emergency" means an incident of agricultural disease that requires prompt action to prevent significant damage to people, plants, or animals.

(6) AGROTERRORIST ACT.—The term "agroterrorist act" means an act that—

(A) causes or attempts to cause—

(i) damage to agriculture; or

(ii) injury to a person associated with agriculture; and

(B) is committed or appears to be committed with the intent to—

(i) intimidate or coerce a civilian population; or

(ii) disrupt the agricultural industry in order to influence the policy of a government by intimidation or coercion.

(7) ANIMAL.—The term "animal" has the meaning given the term in section 10403 of the Animal Health Protection Act of 2002 (7 U.S.C. 8302).

(8) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(9) DEVELOPMENT.—The term "development" means—

(A) research leading to the identification of products or technologies intended for use as agricultural countermeasures to protect animal health;

(B) the formulation, production, and subsequent modification of those products or technologies;

(C) the conduct of in vitro and in vivo studies;

(D) the conduct of field, efficacy, and safety studies;

(E) the preparation of an application for marketing approval for submission to an applicable agency; or

(F) other actions taken by an applicable agency in a case in which an agricultural countermeasure is procured or used prior to issuance of a license or other form of Federal Government approval.

(10) PLANT.—The term "plant" has the meaning given the term in section 411 of the Plant Protection Act of 2000 (7 U.S.C. 7702).

(11) QUALIFIED AGRICULTURAL COUNTERMEASURE.—The term "qualified agricultural countermeasure" means an agricultural countermeasure that the Secretary, in consultation with the Secretary of Homeland Security, determines to be a priority in order to address an agricultural biosecurity threat.

CHAPTER 1—AGRICULTURAL SECURITY

SEC. 14111. OFFICE OF HOMELAND SECURITY.

(a) ESTABLISHMENT.—There is established within the Department the Office of Homeland Security (in this section referred to as the "Office").

(b) DIRECTOR.—The Office shall be headed by a Director of Homeland Security, who shall be appointed by the Secretary.

(c) RESPONSIBILITIES.—The Director of Homeland Security shall—

(1) coordinate all homeland security activities of the Department, including integration and coordination of interagency emergency response plans for—

(A) agricultural disease emergencies;

(B) agroterrorist acts; and

(C) other threats to agricultural biosecurity;

(2) act as the primary liaison on behalf of the Department with other Federal departments and agencies on the coordination of efforts and interagency activities pertaining to agricultural biosecurity; and

(3) advise the Secretary on policies, regulations, processes, budget, and actions pertaining to homeland security.

SEC. 14112. AGRICULTURAL BIOSECURITY COMMUNICATION CENTER.

(a) ESTABLISHMENT.—The Secretary shall establish a communication center within the Department to—

(1) collect and disseminate information and prepare for an agricultural disease emergency, agroterrorist act, or other threat to agricultural biosecurity; and

(2) coordinate activities described in paragraph (1) among agencies and offices within the Department.

(b) RELATION TO EXISTING DHS COMMUNICATION SYSTEMS.—

(1) CONSISTENCY AND COORDINATION.—The communication center established under subsection (a) shall, to the maximum

extent practicable, share and coordinate the dissemination of timely information with the Department of Homeland Security and other communication systems of appropriate Federal departments and agencies.

(2) AVOIDING REDUNDANCIES.—Paragraph (1) shall not be construed to impede, conflict with, or duplicate the communications activities performed by the Secretary of Homeland Security under any provision of law.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2008 through 2012.

SEC. 14113. ASSISTANCE TO BUILD LOCAL CAPACITY IN AGRICULTURAL BIOSECURITY PLANNING, PREPAREDNESS, AND RESPONSE.

(a) ADVANCED TRAINING PROGRAMS.—

(1) GRANT ASSISTANCE.—The Secretary shall establish a competitive grant program to support the development and expansion of advanced training programs in agricultural biosecurity planning and response for food science professionals and veterinarians.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subsection for each of fiscal years 2008 through 2012.

(b) ASSESSMENT OF RESPONSE CAPABILITY.—

(1) GRANT AND LOAN ASSISTANCE.—The Secretary shall establish a competitive grant and low-interest loan assistance program to assist States in assessing agricultural disease response capability.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $25,000,000 for each of fiscal years 2008 through 2012.

CHAPTER 2—OTHER PROVISIONS

SEC. 14121. RESEARCH AND DEVELOPMENT OF AGRICULTURAL COUNTERMEASURES.

(a) GRANT PROGRAM.—

(1) COMPETITIVE GRANT PROGRAM.—The Secretary shall establish a competitive grant program to encourage basic and applied research and the development of qualified agricultural countermeasures.

(2) WAIVER IN EMERGENCIES.—The Secretary may waive the requirement under paragraph (1) that a grant be provided on a competitive basis if—

(A) the Secretary has declared a plant or animal disease emergency under the Plant Protection Act (7 U.S.C. 7701 et seq.) or the Animal Health Protection Act (7 U.S.C. 8301 et seq.); and

(B) waiving the requirement would lead to the rapid development of a qualified agricultural countermeasure, as determined by the Secretary.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 2008 through 2012.

SEC. 14122. AGRICULTURAL BIOSECURITY GRANT PROGRAM.

(a) COMPETITIVE GRANT PROGRAM.—The Secretary shall establish a competitive grant program to promote the development of teaching programs in agriculture, veterinary medicine, and disciplines closely allied to the food and agriculture system to increase the number of trained individuals with an expertise in agricultural biosecurity.

(b) ELIGIBILITY.—The Secretary may award a grant under this section only to an entity that is—

(1) an accredited school of veterinary medicine; or

(2) a department of an institution of higher education with a primary focus on—

(A) comparative medicine;

(B) veterinary science; or

(C) agricultural biosecurity.

(c) PREFERENCE.—The Secretary shall give preference in awarding grants based on the ability of an applicant—

(1) to increase the number of veterinarians or individuals with advanced degrees in food and agriculture disciplines who are trained in agricultural biosecurity practice areas;

(2) to increase research capacity in areas of agricultural biosecurity; or

(3) to fill critical agricultural biosecurity shortage situations outside of the Federal Government.

(d) USE OF FUNDS.—

(1) IN GENERAL.—Amounts received under this section shall be used by a grantee to pay—

(A) costs associated with the acquisition of equipment and other capital costs relating to the expansion of food, agriculture, and veterinary medicine teaching programs in agricultural biosecurity;

(B) capital costs associated with the expansion of academic programs that offer postgraduate training for veterinarians or concurrent training for veterinary students in specific areas of specialization; or

(C) other capacity and infrastructure program costs that the Secretary considers appropriate.

(2) LIMITATION.—Funds received under this section may not be used for the construction, renovation, or rehabilitation of a building or facility.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated sums as are necessary to carry out this section for each of fiscal years 2008 through 2012, to remain available until expended.

Subtitle C—Other Miscellaneous Provisions

SEC. 14201. COTTON CLASSIFICATION SERVICES.

Section 3a of the Act of March 3, 1927 (7 U.S.C. 473a), is amended to read as follows:

"SEC. 3a. COTTON CLASSIFICATION SERVICES.

"(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the 'Secretary') shall—

"(1) make cotton classification services available to producers of cotton; and

"(2) provide for the collection of classification fees from participating producers or agents that voluntarily agree to collect and remit the fees on behalf of producers.

"(b) FEES.—

"(1) USE OF FEES.—Classification fees collected under subsection (a)(2) and the proceeds from the sales of samples submitted under this section shall, to the maximum extent practicable, be used to pay the cost of the services provided under this section, including administrative and supervisory costs.

"(2) ANNOUNCEMENT OF FEES.—The Secretary shall announce a uniform classification fee and any applicable surcharge for classification services not later than June 1 of the year in which the fee applies.

"(c) CONSULTATION.—

"(1) IN GENERAL.—In establishing the amount of fees under this section, the Secretary shall consult with representatives of the United States cotton industry.

"(2) EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to consultations with representatives of the United States cotton industry under this section.

"(d) CREDITING OF FEES.—Any fees collected under this section and under section 3d, late payment penalties, the proceeds from the sales of samples, and interest earned from the investment of such funds shall—

"(1) be credited to the current appropriation account that incurs the cost of services provided under this section and section 3d; and

"(2) remain available without fiscal year limitation to pay the expenses of the Secretary in providing those services.

"(e) INVESTMENT OF FUNDS.—Funds described in subsection (d) may be invested—

"(1) by the Secretary in insured or fully collateralized, interest-bearing accounts; or

"(2) at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.

"(f) LEASE AGREEMENTS.—Notwithstanding any other provision of law, the Secretary may enter into long-term lease agreements that exceed 5 years or may take title to property (including through purchase agreements) for the purpose of obtaining offices to be used for the classification of cotton in accordance with this Act, if the Secretary determines that action would best effectuate the purposes of this Act.

"(g) AUTHORIZATION OF APPROPRIATIONS.—To the extent that financing is not available from fees and the proceeds from the sales of samples, there are authorized to be appropriated such sums as are necessary to carry out this section.".

SEC. 14202. DESIGNATION OF STATES FOR COTTON RESEARCH AND PROMOTION.

Section 17(f) of the Cotton Research and Promotion Act (7 U.S.C. 2116(f)) is amended—

(1) by striking "(f) The term" and inserting the following: "(f) COTTON-PRODUCING STATE.—

"(1) IN GENERAL.—The term";

(2) by striking "more, and the term" and all that follows through the end of the subsection and inserting the following: "more.

"(2) INCLUSIONS.—The term 'cotton-producing State' includes—

"(A) any combination of States described in paragraph (1); and

"(B) effective beginning with the 2008 crop of cotton, the States of Kansas, Virginia, and Florida.".

SEC. 14203. GRANTS TO REDUCE PRODUCTION OF METHAMPHETAMINES FROM ANHYDROUS AMMONIA.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a producer of agricultural commodities;

(B) a cooperative association, a majority of the members of which produce or process agricultural commodities; or

(C) a person in the trade or business of—

(i) selling an agricultural product (including an agricultural chemical) at retail, predominantly to farmers and ranchers; or

(ii) aerial and ground application of an agricultural chemical.

(2) NURSE TANK.—The term "nurse tank" shall be considered to be a cargo tank (within the meaning of section 173.315(m) of title 49, Code of Federal Regulations, as in effect as of the date of the enactment of this Act).

(b) GRANT AUTHORITY.—The Secretary may make a grant to an eligible entity to enable the eligible entity to obtain and add to an anhydrous ammonia fertilizer nurse tank a physical lock or a substance to reduce the amount of methamphetamine that can be produced from any anhydrous ammonia removed from the nurse tank.

(c) GRANT AMOUNT.—The amount of a grant made under this section to an eligible entity shall be the product obtained by multiplying—

(1) an amount not less than $40 and not more than $60, as determined by the Secretary; and

(2) the number of fertilizer nurse tanks of the eligible entity.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to make grants under this section $15,000,000 for the period of fiscal years 2008 through 2012.

SEC. 14204. GRANTS TO IMPROVE SUPPLY, STABILITY, SAFETY, AND TRAINING OF AGRICULTURAL LABOR FORCE.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term "eligible entity" means an entity described in section 379C(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008q(a)).

(b) GRANTS.—

(1) IN GENERAL.—To assist agricultural employers and farmworkers by improving the supply, stability, safety, and training of the agricultural labor force, the Secretary may provide grants to eligible entities for use in providing services to assist farmworkers who are citizens or otherwise legally present in the United States in securing, retaining, upgrading, or returning from agricultural jobs.

(2) ELIGIBLE SERVICES.—The services referred to in paragraph (1) include—

(A) agricultural labor skills development;

(B) the provision of agricultural labor market information;

(C) transportation;

(D) short-term housing while in transit to an agricultural worksite;

(E) workplace literacy and assistance with English as a second language;

(F) health and safety instruction, including ways of safeguarding the food supply of the United States; and

(G) such other services as the Secretary determines to be appropriate.

(c) LIMITATION ON ADMINISTRATIVE EXPENSES.—Not more than 15 percent of the funds made available to carry out this section for a fiscal year may be used to pay for administrative expenses.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

SEC. 14205. AMENDMENT TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.

Section 1113(k) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(k)) is amended—

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

"(k) DISCLOSURE NECESSARY FOR PROPER ADMINISTRATION OF PROGRAMS OF CERTAIN GOVERNMENT AUTHORITIES.—"; and

(2) by striking paragraph (2) and inserting the following:

"(2) Nothing in this title shall apply to the disclosure by the financial institution of information contained in the financial records of any customer to any Government authority that certifies, disburses, or collects payments, where the disclosure of such information is necessary to, and such information is used solely for the purpose of—

"(A) verification of the identity of any person or proper routing and delivery of funds in connection with the issuance of a Federal payment or collection of funds by a Government authority; or

"(B) the investigation or recovery of an improper Federal payment or collection of funds or an improperly negotiated Treasury check.

"(3) Notwithstanding any other provision of law, a request authorized by paragraph (1) or (2) (and the information contained therein) may be used by the financial institution or its agents solely for the purpose of providing information contained in the financial records of the customer to the Government authority requesting the information, and the financial institution and its agents shall be barred from redisclosure of such information. Any Government authority receiving information pursuant to paragraph (1) or (2) may not disclose or use the information, except for the purposes set forth in such paragraph.".

SEC. 14206. REPORT ON STORED QUANTITIES OF PROPANE.

(a) REPORT.—

(1) IN GENERAL.—Not later than 240 days after the date of the enactment of this Act, the Secretary of Homeland Security (referred to in this section as the "Secretary") shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report describing the effect of interim or final regulations issued by the Secretary pursuant to section 550(a) of the Department of Homeland Security Appropriations Act, 2007 (6 U.S.C. 121 note; Public Law 109–295), with respect to possession of quantities of propane that meet or exceed the screening threshold quantity for propane established in the final rule under that section.

(2) INCLUSIONS.—The report under paragraph (1) shall include a description of—

(A) the number of facilities that completed a top screen consequence assessment due to possession of quantities of propane that meet or exceed the listed screening threshold quantity for propane;

(B) the number of agricultural facilities that completed the top screen consequence assessment due to possession of quantities of propane that meet or exceed the listed screening threshold quantity for propane;

(C) the number of propane facilities initially determined to be high risk by the Secretary;

(D) the number of propane facilities—

(i) required to complete a security vulnerability assessment or a site security plan; or

(ii) that submit to the Secretary an alternative security program;

(E) the number of propane facilities that file an appeal of a finding under the final rule described in paragraph (1); and

(F) to the extent available, the average cost of—

(i) completing a top screen consequence assessment requirement;

(ii) completing a security vulnerability assessment; and

(iii) completing and implementing a site security plan; and

(3) FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(b) EDUCATIONAL OUTREACH.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall conduct educational outreach activities for rural facilities that may be required to complete a top screen consequence assessment due to possession of propane in a quantity that meets or exceeds the listed screening threshold quantity for propane.

SEC. 14207. PROHIBITIONS ON DOG FIGHTING VENTURES.

(a) IN GENERAL.—Section 26 of the Animal Welfare Act (7 U.S.C. 2156) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ", if any animal in the venture was moved in interstate or foreign commerce"; and

(B) in the heading of paragraph (2), by striking "STATE" and inserting "STATE";

(2) in subsection (b)—

(A) by striking "(b) It shall be" and inserting the following:

"(b) BUYING, SELLING, DELIVERING, POSSESSING, TRAINING, OR TRANSPORTING ANIMALS FOR PARTICIPATION IN ANIMAL FIGHTING VENTURE.—It shall be"; and

(B) by striking "transport, deliver" and all that follows through "participate" and inserting "possess, train, transport, deliver, or receive any animal for purposes of having the animal participate";

(3) in subsection (c)—

(A) by striking "(c) It shall be" and inserting the following:

"(c) USE OF POSTAL SERVICE OR OTHER INTERSTATE INSTRUMENTALITY FOR PROMOTING OR FURTHERING ANIMAL FIGHTING VENTURE.—It shall be"; and

(B) by inserting "advertising an animal, or an instrument described in subsection (e), for use in an animal fighting venture," after "for purposes of";

(4) in subsection (d), by striking "(d) Notwithstanding" and inserting the following:

"(d) VIOLATION OF STATE LAW.—Notwithstanding";

(5) in subsection (e), by striking "(e) It shall be" and inserting the following:

"(e) BUYING, SELLING, DELIVERING, OR TRANSPORTING SHARP INSTRUMENTS FOR USE IN ANIMAL FIGHTING VENTURE.—It shall be";

(6) in subsection (f)—

(A) by striking "(f) The Secretary" and inserting the following:

"(f) INVESTIGATION OF VIOLATIONS BY SECRETARY; ASSISTANCE BY OTHER FEDERAL AGENCIES; ISSUANCE OF SEARCH WARRANT; FORFEITURE; COSTS RECOVERABLE IN FORFEITURE OR CIVIL ACTION.—The Secretary"; and

(B) in the last sentence—

(i) by striking "by the United States";

(ii) by inserting "(1)" after "owner of the animals"; and

(iii) by striking "proceeding or in" and inserting "proceeding, or (2) in";

(7) in subsection (g)—

(A) by striking "(g) For purposes of" and inserting the following:

"(g) DEFINITIONS.—In";

(B) in paragraph (1), by striking "any event" and all that follows through "entertainment" and inserting "any event, in or affecting interstate or foreign commerce, that involves a fight conducted or to be conducted between at least 2 animals for purposes of sport, wagering, or entertainment,";

(C) by striking paragraph (2);

(D) in paragraph (5)—

(i) by striking "dog or other"; and

(ii) by striking "; and" and inserting a period; and

(E) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

(8) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively;

(9) in subsection (i) (as so redesignated), by striking "(i)(1) The provisions" and inserting the following:

"(i) CONFLICT WITH STATE LAW.—

"(1) IN GENERAL.—The provisions";

(10) in subsection (j) (as so redesignated), by striking "(j) The criminal" and inserting the following:

"(j) CRIMINAL PENALTIES.—The criminal"; and

(11) in subsection (g)(6), by striking "(6) the conduct" and inserting the following:

"(h) RELATIONSHIP TO OTHER PROVISIONS.—The conduct".

(b) ENFORCEMENT OF ANIMAL FIGHTING PROHIBITIONS.—Section 49 of title 18, United States Code, is amended by striking "3 years" and inserting "5 years".

SEC. 14208. DEPARTMENT OF AGRICULTURE CONFERENCE TRANSPARENCY.

(a) REPORT.—

(1) REQUIREMENT.—Not later than September 30 of each year, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on conferences sponsored or held by the Department of Agriculture or attended by employees of the Department of Agriculture.

(2) CONTENTS.—Each report under paragraph (1) shall contain—

(A) for each conference sponsored or held by the Department or attended by employees of the Department—

(i) the name of the conference;

(ii) the location of the conference;

(iii) the number of Department of Agriculture employees attending the conference; and

(iv) the costs (including travel expenses) relating to such conference; and

(B) for each conference sponsored or held by the Department of Agriculture for which the Department awarded a procurement contract, a description of the contracting procedures related to such conference.

(3) EXCLUSIONS.—The requirement in paragraph (1) shall not apply to any conference—

(A) for which the cost to the Federal Government was less than $10,000; or

(B) outside of the United States that is attended by the Secretary or the Secretary's designee as an official representative of the United States government.

(b) AVAILABILITY OF REPORT.—Each report submitted in accordance with subsection (a) shall be posted in a searchable format on a Department of Agriculture website that is available to the public.

(c) DEFINITION OF CONFERENCE.—In this section, the term "conference"—

(1) means a meeting that—

(A) is held for consultation, education, awareness, or discussion;

(B) includes participants from at least one agency of the Department of Agriculture;

(C) is held in whole or in part at a facility outside of an agency of the Department of Agriculture; and

(D) involves costs associated with travel and lodging for some participants; and

(2) does not include any training program that is continuing education or a curriculum-based educational program, provided that such training program is held independent of a conference of a non-governmental organization.

SEC. 14209. FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AMENDMENTS.

(a) PAYMENT OF EXPENSES.—Section 17(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136o(d)) is amended—

(1) by striking "The Administrator" and inserting the following:

"(1) IN GENERAL.—The Administrator"; and

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

"(2) DEPARTMENT OF STATE EXPENSES.—Any expenses incurred by an employee of the Environmental Protection Agency who participates in any international technical, economic, or policy review board, committee, or other official body that is meeting in relation to an international treaty shall be paid by the Department of State.".

(b) CONTAINER RECYCLING.—Section 19(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136q(a)) is amended by adding at the end the following new paragraph:

"(4) CONTAINER RECYCLING.—The Secretary may promulgate a regulation for the return and recycling of disposable pesticide containers used for the distribution or sale of registered pesticide products in interstate commerce. Any such regulation requiring recycling of disposable pesticide containers shall not apply to antimicrobial pesticides (as defined in section 2) or other pesticide products intended for non-agricultural uses.".

SEC. 14210. IMPORTATION OF LIVE DOGS.

(a) IN GENERAL.—The Animal Welfare Act is amended by adding after section 17 (7 U.S.C. 2147) the following:

"SEC. 18. IMPORTATION OF LIVE DOGS.

"(a) DEFINITIONS.—In this section:

"(1) IMPORTER.—The term 'importer' means any person who, for purposes of resale, transports into the United States puppies from a foreign country.

"(2) RESALE.—The term 'resale' includes any transfer of ownership or control of an imported dog of less than 6 months of age to another person, for more than de minimis consideration.

"(b) REQUIREMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no person shall import a dog into the United States for purposes of resale unless, as determined by the Secretary, the dog—

"(A) is in good health;

"(B) has received all necessary vaccinations; and

"(C) is at least 6 months of age, if imported for resale.

"(2) EXCEPTION.—

"(A) IN GENERAL.—The Secretary, by regulation, shall provide an exception to any requirement under paragraph (1) in any case in which a dog is imported for—

"(i) research purposes; or

"(ii) veterinary treatment.

"(B) LAWFUL IMPORTATION INTO HAWAII.—Paragraph (1)(C) shall not apply to the lawful importation of a dog into the State of Hawaii from the British Isles, Australia, Guam, or New Zealand in compliance with the applicable regulations of the State of Hawaii and the other requirements of this section, if the dog is not transported out of the State of Hawaii for purposes of resale at less than 6 months of age.

"(c) IMPLEMENTATION AND REGULATIONS.—The Secretary, the Secretary of Health and Human Services, the Secretary of Commerce, and the Secretary of Homeland Security shall promulgate such regulations as the Secretaries determine to be necessary to implement and enforce this section.

"(d) ENFORCEMENT.—An importer that fails to comply with this section shall—

"(1) be subject to penalties under section 19; and

"(2) provide for the care (including appropriate veterinary care), forfeiture, and adoption of each applicable dog, at the expense of the importer.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the date of the enactment of this Act.

SEC. 14211. PERMANENT DEBARMENT FROM PARTICIPATION IN DEPARTMENT OF AGRICULTURE PROGRAMS FOR FRAUD.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of Agriculture shall permanently debar an individual, organization, corporation, or other entity convicted of a felony for knowingly defrauding the United States in connection with any program administered by the Department of Agriculture from any subsequent participation in Department of Agriculture programs.

(b) EXCEPTIONS.—

(1) SECRETARY DETERMINATION.—The Secretary may reduce a debarment under subsection (a) to a period of not less than 10 years if the Secretary considers it appropriate.

(2) FOOD ASSISTANCE.—A debarment under subsection (a) shall not apply with respect to participation in domestic food assistance programs (as defined by the Secretary).

SEC. 14212. PROHIBITION ON CLOSURE OR RELOCATION OF COUNTY OFFICES FOR THE FARM SERVICE AGENCY.

(a) TEMPORARY PROHIBITION.—

(1) IN GENERAL.—Subject to paragraph (2), until the date that is two years after the date of the enactment of this Act, the Secretary of Agriculture may not close or relocate a county or field office of the Farm Service Agency.

(2) EXCEPTION.—Paragraph (1) shall not apply to—

(A) an office that is located not more than 20 miles from another office of the Farm Service Agency; or

(B) the relocation of an office within the same county in the course of routine leasing operations.

(b) LIMITATION ON CLOSURE; NOTICE.—

(1) LIMITATION.—After the period referred to in subsection (a)(1), the Secretary shall, before closing any office of the Farm Service Agency that is located more than 20 miles from another office of the Farm Service Agency, to the maximum extent practicable, first close any offices of the Farm Service Agency that—

(A) are located less than 20 miles from another office of the Farm Service Agency; and

(B) have two or fewer permanent full-time employees.

(2) NOTICE.—After the period referred to in subsection (a)(1), the Secretary of Agriculture may not close a county or field office of the Farm Service Agency unless—

(A) not later than 30 days after the Secretary proposes to close such office, the Secretary holds a public meeting regarding the proposed closure in the county in which such office is located; and

(B) after the public meeting referred to in subparagraph (A), but not less than 90 days before the date on which the Secretary approves the closure of such office, the Secretary notifies the Committee on Agriculture and the Committee on Appropriations of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate, each Senator representing the State in which the office proposed to be closed is located, and the member of the House of Representatives who represents the Congressional district in which the office proposed to be closed is located of the proposed closure of such office.

SEC. 14213. USDA GRADUATE SCHOOL.

(a) IN GENERAL.—Section 921 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2279b) is amended—

(1) in the heading, to read as follows:

"SEC. 921. DEPARTMENT OF AGRICULTURE EDUCATIONAL, TRAINING, AND PROFESSIONAL DEVELOPMENT ACTIVITIES."; and

(2) by striking subsection (b) and inserting the following new subsection:

"(b) OPERATION AS NONAPPROPRIATED FUND INSTRUMENTALITY.—

"(1) CEASE OPERATIONS.—Not later than October 1, 2009, the Secretary of Agriculture shall cease to maintain or operate a nonappropriated fund instrumentality of the United States to develop, administer, or provide educational training and professional development activities, including educational activities for Federal agencies, Federal employees, non-profit organizations, other entities, and members of the general public.

"(2) TRANSITION.—

"(A) IN GENERAL.—The Secretary of Agriculture is authorized to use funds available to the Department of Agriculture and such resources of the Department as the Secretary considers appropriate (including the assignment of such employees of the Department as the Secretary considers appropriate) to assist the General Administrative

Board of the Graduate School in the conversion of the Graduate School to an entity that is non-governmental and not a nonappropriated fund instrumentality of the United States, including such privatization activities not otherwise inconsistent with law or regulation.

"(B) TERMINATION OF AUTHORITY.—The authority under paragraph (1) shall terminate on the earlier of—

"(i) the completion of the transition of the Graduate School to an entity that is non-governmental and not a nonappropriated fund instrumentality of the United States, as determined by the Secretary; or

"(ii) September 30, 2009.".

(b) PROCUREMENT PROCEDURES.—Notwithstanding the amendments made by subsection (a), effective on the date of the enactment of this Act, the Graduate School of the Department of Agriculture shall be subject to Federal procurement laws and regulations in the same manner and subject to the same requirements as a private entity providing services to the Federal Government.

SEC. 14214. FINES FOR VIOLATIONS OF THE ANIMAL WELFARE ACT.

Section 19(b) of the Animal Welfare Act (7 U.S.C. 2149(b)) is amended in the first sentence by striking "not more than $2,500 for each such violation" and inserting "not more than $10,000 for each such violation".

SEC. 14215. DEFINITION OF CENTRAL FILING SYSTEM.

Section 1324(c)(2) of the Food Security Act of 1985 (7 U.S.C. 1631(c)(2)) is amended—

(1) in subparagraph (C)(ii)(II), by inserting after "such debtors" the following: ", except that the numerical list containing social security or taxpayer identification numbers may be encrypted for security purposes if the Secretary of State provides a method by which an effective search of the encrypted numbers may be conducted to determine whether the farm product at issue is subject to 1 or more liens"; and

(2) in subparagraph (E)—

(A) by striking "paragraph (C)" and inserting "subparagraph (C)"; and

(B) by inserting before the semicolon at the end the following: "except that—

"(i) the distribution of the portion of the master list may be in electronic, written, or printed form; and

"(ii) if social security or taxpayer identification numbers on the master list are encrypted, the Secretary of State may distribute the master list only—

"(I) by compact disc or other electronic media that contains—

"(aa) the recorded list of debtor names; and

"(bb) an encryption program that enables the buyer, commission merchant, and selling agent to enter a social security number for matching against the recorded list of encrypted social security or taxpayer identification numbers; and

"(II) on the written request of the buyer, commission merchant, or selling agent, by paper copy of the list to the requestor".

SEC. 14216. CONSIDERATION OF PROPOSED RECOMMENDATIONS OF STUDY ON USE OF CATS AND DOGS IN FEDERAL RESEARCH.

(a) IN GENERAL.—The Secretary of Agriculture shall—

(1) review—

(A) any independent reviews conducted by a nationally recognized panel of experts of the use of Class B dogs and cats in federally supported research to determine how frequently such dogs and cats are used in research by the National Institutes of Health; and

(B) any recommendations proposed by such panel outlining the parameters of such use; and

(2) submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on how recommendations referred to in paragraph (1)(B) can be applied within the Department of Agriculture to ensure such dogs and cats are treated in accordance with regulations of the Department of Agriculture.

(b) CLASS B DOGS AND CATS DEFINED.—In this section, the term "Class B dogs and cats" means dogs and cats obtained from a Class "B" licensee, as such term is defined in section 1.1 of title 9, Code of Federal Regulations.

SEC. 14217. REGIONAL ECONOMIC AND INFRASTRUCTURE DEVELOPMENT.

(a) IN GENERAL.—Title 40, United States Code, is amended—

(1) by redesignating subtitle V as subtitle VI; and

(2) by inserting after subtitle IV the following:

"Subtitle V—Regional Economic and Infrastructure Development

"Chapter
"151. GENERAL PROVISIONS 15101
"153. REGIONAL COMMISSIONS 15301
"155. FINANCIAL ASSISTANCE 15501
"157. ADMINISTRATIVE PROVISIONS 15701

"CHAPTER 1—GENERAL PROVISIONS

"Sec.
"15101. Definitions.

"§ 15101. Definitions

"In this subtitle, the following definitions apply:

"(1) COMMISSION.—The term 'Commission' means a Commission established under section 15301.

"(2) LOCAL DEVELOPMENT DISTRICT.—The term 'local development district' means an entity that—

"(A)(i) is an economic development district that is—

"(I) in existence on the date of the enactment of this chapter; and

"(II) located in the region; or

"(ii) if an entity described in clause (i) does not exist—

"(I) is organized and operated in a manner that ensures broad-based community participation and an effective opportunity for local officials, community leaders, and the public to contribute to the development and implementation of programs in the region;

"(II) is governed by a policy board with at least a simple majority of members consisting of—

"(aa) elected officials; or

"(bb) designees or employees of a general purpose unit of local government that have been appointed to represent the unit of local government; and

"(III) is certified by the Governor or appropriate State officer as having a charter or authority that includes the economic development of counties, portions of counties, or other political subdivisions within the region; and

"(B) has not, as certified by the Federal Cochairperson—

"(i) inappropriately used Federal grant funds from any Federal source; or

"(ii) appointed an officer who, during the period in which another entity inappropriately used Federal grant funds from any Federal source, was an officer of the other entity.

"(3) FEDERAL GRANT PROGRAM.—The term 'Federal grant program' means a Federal grant program to provide assistance in carrying out economic and community development activities.

"(4) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(5) NONPROFIT ENTITY.—The term 'nonprofit entity' means any organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under 501(a) of that Code that has been formed for the purpose of economic development.

"(6) REGION.—The term 'region' means the area covered by a Commission as described in subchapter II of chapter 157.

"CHAPTER 2—REGIONAL COMMISSIONS

"Sec.
"15301. Establishment, membership, and employees.
"15302. Decisions.
"15303. Functions.
"15304. Administrative powers and expenses.
"15305. Meetings.
"15306. Personal financial interests.
"15307. Tribal participation.
"15308. Annual report.

"§ 15301. Establishment, membership, and employees

"(a) ESTABLISHMENT.—There are established the following regional Commissions:

"(1) The Southeast Crescent Regional Commission.

"(2) The Southwest Border Regional Commission.

"(3) The Northern Border Regional Commission.

"(b) MEMBERSHIP.—

"(1) FEDERAL AND STATE MEMBERS.—Each Commission shall be composed of the following members:

"(A) A Federal Cochairperson, to be appointed by the President, by and with the advice and consent of the Senate.

"(B) The Governor of each participating State in the region of the Commission.

"(2) ALTERNATE MEMBERS.—

"(A) ALTERNATE FEDERAL COCHAIRPERSON.—The President shall appoint an alternate Federal Cochairperson for each Commission. The alternate Federal Cochairperson, when not actively serving as an alternate for the Federal Cochairperson, shall perform such functions and duties as are delegated by the Federal Cochairperson.

"(B) STATE ALTERNATES.—The State member of a participating State may have a single alternate, who shall be appointed by the Governor of the State from among the members of the Governor's cabinet or personal staff.

"(C) VOTING.—An alternate member shall vote in the case of the absence, death, disability, removal, or resignation of the Federal or State member for which the alternate member is an alternate.

"(3) COCHAIRPERSONS.—A Commission shall be headed by—

"(A) the Federal Cochairperson, who shall serve as a liaison between the Federal Government and the Commission; and

"(B) a State Cochairperson, who shall be a Governor of a participating State in the region and shall be elected by the State members for a term of not less than 1 year.

"(4) CONSECUTIVE TERMS.—A State member may not be elected to serve as State Cochairperson for more than 2 consecutive terms.

"(c) COMPENSATION.—

"(1) FEDERAL COCHAIRPERSONS.—Each Federal Cochairperson shall be compensated by the Federal Government at level III of the Executive Schedule as set out in section 5314 of title 5.

"(2) ALTERNATE FEDERAL COCHAIRPERSONS.—Each Federal Cochairperson's alternate shall be compensated by the Federal Government at level V of the Executive Schedule as set out in section 5316 of title 5.

"(3) STATE MEMBERS AND ALTERNATES.—Each State member and alternate shall be compensated by the State that they represent at the rate established by the laws of that State.

"(d) EXECUTIVE DIRECTOR AND STAFF.—

"(1) IN GENERAL.—A Commission shall appoint and fix the compensation of an executive director and such other personnel as are necessary to enable the Commission to carry out its duties. Compensation under this paragraph may not exceed the maximum rate of basic pay established for the Senior Executive Service under section 5382 of title 5, including any applicable

locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of that title.

"(2) EXECUTIVE DIRECTOR.—The executive director shall be responsible for carrying out the administrative duties of the Commission, directing the Commission staff, and such other duties as the Commission may assign.

"(e) NO FEDERAL EMPLOYEE STATUS.—No member, alternate, officer, or employee of a Commission (other than the Federal Cochairperson, the alternate Federal Cochairperson, staff of the Federal Cochairperson, and any Federal employee detailed to the Commission) shall be considered to be a Federal employee for any purpose.

"§ 15302. Decisions

"(a) REQUIREMENTS FOR APPROVAL.—Except as provided in section 15304(c)(3), decisions by the Commission shall require the affirmative vote of the Federal Cochairperson and a majority of the State members (exclusive of members representing States delinquent under section 15304(c)(3)(C)).

"(b) CONSULTATION.—In matters coming before the Commission, the Federal Cochairperson shall, to the extent practicable, consult with the Federal departments and agencies having an interest in the subject matter.

"(c) QUORUMS.—A Commission shall determine what constitutes a quorum for Commission meetings; except that—

"(1) any quorum shall include the Federal Cochairperson or the alternate Federal Cochairperson; and

"(2) a State alternate member shall not be counted toward the establishment of a quorum.

"(d) PROJECTS AND GRANT PROPOSALS.—The approval of project and grant proposals shall be a responsibility of each Commission and shall be carried out in accordance with section 15503.

"§ 15303. Functions

"A Commission shall—

"(1) assess the needs and assets of its region based on available research, demonstration projects, investigations, assessments, and evaluations of the region prepared by Federal, State, and local agencies, universities, local development districts, and other nonprofit groups;

"(2) develop, on a continuing basis, comprehensive and coordinated economic and infrastructure development strategies to establish priorities and approve grants for the economic development of its region, giving due consideration to other Federal, State, and local planning and development activities in the region;

"(3) not later than one year after the date of the enactment of this section, and after taking into account State plans developed under section 15502, establish priorities in an economic and infrastructure development plan for its region, including 5-year regional outcome targets;

"(4)(A) enhance the capacity of, and provide support for, local development districts in its region; or

"(B) if no local development district exists in an area in a participating State in the region, foster the creation of a local development district;

"(5) encourage private investment in industrial, commercial, and other economic development projects in its region;

"(6) cooperate with and assist State governments with the preparation of economic and infrastructure development plans and programs for participating States;

"(7) formulate and recommend to the Governors and legislatures of States that participate in the Commission forms of interstate cooperation and, where appropriate, international cooperation; and

"(8) work with State and local agencies in developing appropriate model legislation to enhance local and regional economic development.

"§ 15304. Administrative powers and expenses

"(a) POWERS.—In carrying out its duties under this subtitle, a Commission may—

"(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute a description of the proceedings and reports on actions by the Commission as the Commission considers appropriate;

"(2) authorize, through the Federal or State Cochairperson or any other member of the Commission designated by the Commission, the administration of oaths if the Commission determines that testimony should be taken or evidence received under oath;

"(3) request from any Federal, State, or local agency such information as may be available to or procurable by the agency that may be of use to the Commission in carrying out the duties of the Commission;

"(4) adopt, amend, and repeal bylaws and rules governing the conduct of business and the performance of duties by the Commission;

"(5) request the head of any Federal agency, State agency, or local government to detail to the Commission such personnel as the Commission requires to carry out its duties, each such detail to be without loss of seniority, pay, or other employee status;

"(6) provide for coverage of Commission employees in a suitable retirement and employee benefit system by making arrangements or entering into contracts with any participating State government or otherwise providing retirement and other employee coverage;

"(7) accept, use, and dispose of gifts or donations or services or real, personal, tangible, or intangible property;

"(8) enter into and perform such contracts, cooperative agreements, or other transactions as are necessary to carry out Commission duties, including any contracts or cooperative agreements with a department, agency, or instrumentality of the United States, a State (including a political subdivision, agency, or instrumentality of the State), or a person, firm, association, or corporation; and

"(9) maintain a government relations office in the District of Columbia and establish and maintain a central office at such location in its region as the Commission may select.

"(b) FEDERAL AGENCY COOPERATION.—A Federal agency shall—

"(1) cooperate with a Commission; and

"(2) provide, to the extent practicable, on request of the Federal Cochairperson, appropriate assistance in carrying out this subtitle, in accordance with applicable Federal laws (including regulations).

"(c) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—Subject to paragraph (2), the administrative expenses of a Commission shall be paid—

"(A) by the Federal Government, in an amount equal to 50 percent of the administrative expenses of the Commission; and

"(B) by the States participating in the Commission, in an amount equal to 50 percent of the administrative expenses.

"(2) EXPENSES OF THE FEDERAL COCHAIRPERSON.—All expenses of the Federal Cochairperson, including expenses of the alternate and staff of the Federal Cochairperson, shall be paid by the Federal Government.

"(3) STATE SHARE.—

"(A) IN GENERAL.—Subject to subparagraph (B), the share of administrative expenses of a Commission to be paid by each State of the Commission shall be determined by a unanimous vote of the State members of the Commission.

"(B) NO FEDERAL PARTICIPATION.—The Federal Cochairperson shall not participate or vote in any decision under subparagraph (A).

"(C) DELINQUENT STATES.—During any period in which a State is more than 1 year delinquent in payment of the State's share of administrative expenses of the Commission under this subsection—

"(i) no assistance under this subtitle shall be provided to the State (including assistance to a political subdivision or a resident of the State) for any project not approved as of the date of the commencement of the delinquency; and

"(ii) no member of the Commission from the State shall participate or vote in any action by the Commission.

"(4) EFFECT ON ASSISTANCE.—A State's share of administrative expenses of a Commission under this subsection shall not be taken into consideration when determining the amount of assistance provided to the State under this subtitle.

"§ 15305. Meetings

"(a) INITIAL MEETING.—Each Commission shall hold an initial meeting not later than 180 days after the date of the enactment of this section.

"(b) ANNUAL MEETING.—Each Commission shall conduct at least 1 meeting each year with the Federal Cochairperson and at least a majority of the State members present.

"(c) ADDITIONAL MEETINGS.—Each Commission shall conduct additional meetings at such times as it determines and may conduct such meetings by electronic means.

"§ 15306. Personal financial interests

"(a) CONFLICTS OF INTEREST.—

"(1) NO ROLE ALLOWED.—Except as permitted by paragraph (2), an individual who is a State member or alternate, or an officer or employee of a Commission, shall not participate personally and substantially as a member, alternate, officer, or employee of the Commission, through decision, approval, disapproval, recommendation, request for a ruling, or other determination, contract, claim, controversy, or other matter in which, to the individual's knowledge, any of the following has a financial interest:

"(A) The individual.

"(B) The individual's spouse, minor child, or partner.

"(C) An organization (except a State or political subdivision of a State) in which the individual is serving as an officer, director, trustee, partner, or employee.

"(D) Any person or organization with whom the individual is negotiating or has any arrangement concerning prospective employment.

"(2) EXCEPTION.—Paragraph (1) shall not apply if the individual, in advance of the proceeding, application, request for a ruling or other determination, contract, claim controversy, or other particular matter presenting a potential conflict of interest—

"(A) advises the Commission of the nature and circumstances of the matter presenting the conflict of interest;

"(B) makes full disclosure of the financial interest; and

"(C) receives a written decision of the Commission that the interest is not so substantial as to be considered likely to affect the integrity of the services that the Commission may expect from the individual.

"(3) VIOLATION.—An individual violating this subsection shall be fined under title 18, imprisoned for not more than 1 year, or both.

"(b) STATE MEMBER OR ALTERNATE.—A State member or alternate member may not receive any salary, or any contribution to, or supplementation of, salary, for services on a Commission from a source other than the State of the member or alternate.

"(c) DETAILED EMPLOYEES.—

"(1) IN GENERAL.—No person detailed to serve a Commission shall receive any salary, or any contribution to, or supplementation of, salary, for services provided to the Commission from any source other than the State, local, or intergovernmental department or agency from which the person was detailed to the Commission.

"(2) VIOLATION.—Any person that violates this subsection shall be fined under title 18, imprisoned not more than 1 year, or both.

"(d) FEDERAL COCHAIRMAN, ALTERNATE TO FEDERAL COCHAIRMAN, AND FEDERAL OFFICERS AND EMPLOYEES.—The Federal Cochairman, the alternate to the Federal Cochairman, and any Fed-

eral officer or employee detailed to duty with the Commission are not subject to this section but remain subject to sections 202 through 209 of title 18.

"(e) RESCISSION.—A Commission may declare void any contract, loan, or grant of or by the Commission in relation to which the Commission determines that there has been a violation of any provision under subsection (a)(1), (b), or (c), or any of the provisions of sections 202 through 209 of title 18.

"§ 15307. Tribal participation

"Governments of Indian tribes in the region of the Southwest Border Regional Commission shall be allowed to participate in matters before that Commission in the same manner and to the same extent as State agencies and instrumentalities in the region.

"§ 15308. Annual report

"(a) IN GENERAL.—Not later than 90 days after the last day of each fiscal year, each Commission shall submit to the President and Congress a report on the activities carried out by the Commission under this subtitle in the fiscal year.

"(b) CONTENTS.—The report shall include—

"(1) a description of the criteria used by the Commission to designate counties under section 15702 and a list of the counties designated in each category;

"(2) an evaluation of the progress of the Commission in meeting the goals identified in the Commission's economic and infrastructure development plan under section 15303 and State economic and infrastructure development plans under section 15502; and

"(3) any policy recommendations approved by the Commission.

"CHAPTER 3—FINANCIAL ASSISTANCE

"Sec.
"15501. Economic and infrastructure development grants.
"15502. Comprehensive economic and infrastructure development plans.
"15503. Approval of applications for assistance.
"15504. Program development criteria.
"15505. Local development districts and organizations.
"15506. Supplements to Federal grant programs.

"§ 15501. Economic and infrastructure development grants

"(a) IN GENERAL.—A Commission may make grants to States and local governments, Indian tribes, and public and nonprofit organizations for projects, approved in accordance with section 15503—

"(1) to develop the transportation infrastructure of its region;

"(2) to develop the basic public infrastructure of its region;

"(3) to develop the telecommunications infrastructure of its region;

"(4) to assist its region in obtaining job skills training, skills development and employment-related education, entrepreneurship, technology, and business development;

"(5) to provide assistance to severely economically distressed and underdeveloped areas of its region that lack financial re-

sources for improving basic health care and other public services;

"(6) to promote resource conservation, tourism, recreation, and preservation of open space in a manner consistent with economic development goals;

"(7) to promote the development of renewable and alternative energy sources; and

"(8) to otherwise achieve the purposes of this subtitle.

"(b) ALLOCATION OF FUNDS.—A Commission shall allocate at least 40 percent of any grant amounts provided by the Commission in a fiscal year for projects described in paragraphs (1) through (3) of subsection (a).

"(c) SOURCES OF GRANTS.—Grant amounts may be provided entirely from appropriations to carry out this subtitle, in combination with amounts available under other Federal grant programs, or from any other source.

"(d) MAXIMUM COMMISSION CONTRIBUTIONS.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Commission may contribute not more than 50 percent of a project or activity cost eligible for financial assistance under this section from amounts appropriated to carry out this subtitle.

"(2) DISTRESSED COUNTIES.—The maximum Commission contribution for a project or activity to be carried out in a county for which a distressed county designation is in effect under section 15702 may be increased to 80 percent.

"(3) SPECIAL RULE FOR REGIONAL PROJECTS.—A Commission may increase to 60 percent under paragraph (1) and 90 percent under paragraph (2) the maximum Commission contribution for a project or activity if—

"(A) the project or activity involves 3 or more counties or more than one State; and

"(B) the Commission determines in accordance with section 15302(a) that the project or activity will bring significant interstate or multicounty benefits to a region.

"(e) MAINTENANCE OF EFFORT.—Funds may be provided by a Commission for a program or project in a State under this section only if the Commission determines that the level of Federal or State financial assistance provided under a law other than this subtitle, for the same type of program or project in the same area of the State within region, will not be reduced as a result of funds made available by this subtitle.

"(f) NO RELOCATION ASSISTANCE.—Financial assistance authorized by this section may not be used to assist a person or entity in relocating from one area to another.

"§ 15502. Comprehensive economic and infrastructure development plans

"(a) STATE PLANS.—In accordance with policies established by a Commission, each State member of the Commission shall submit a comprehensive economic and infrastructure development plan for the area of the region represented by the State member.

"(b) CONTENT OF PLAN.—A State economic and infrastructure development plan shall reflect the goals, objectives, and priorities

identified in any applicable economic and infrastructure development plan developed by a Commission under section 15303.

"(c) CONSULTATION WITH INTERESTED LOCAL PARTIES.—In carrying out the development planning process (including the selection of programs and projects for assistance), a State shall—

"(1) consult with local development districts, local units of government, and local colleges and universities; and

"(2) take into consideration the goals, objectives, priorities, and recommendations of the entities described in paragraph (1).

"(d) PUBLIC PARTICIPATION.—

"(1) IN GENERAL.—A Commission and applicable State and local development districts shall encourage and assist, to the maximum extent practicable, public participation in the development, revision, and implementation of all plans and programs under this subtitle.

"(2) GUIDELINES.—A Commission shall develop guidelines for providing public participation, including public hearings.

"§ 15503. Approval of applications for assistance

"(a) EVALUATION BY STATE MEMBER.—An application to a Commission for a grant or any other assistance for a project under this subtitle shall be made through, and evaluated for approval by, the State member of the Commission representing the applicant.

"(b) CERTIFICATION.—An application to a Commission for a grant or other assistance for a project under this subtitle shall be eligible for assistance only on certification by the State member of the Commission representing the applicant that the application for the project—

"(1) describes ways in which the project complies with any applicable State economic and infrastructure development plan;

"(2) meets applicable criteria under section 15504;

"(3) adequately ensures that the project will be properly administered, operated, and maintained; and

"(4) otherwise meets the requirements for assistance under this subtitle.

"(c) VOTES FOR DECISIONS.—On certification by a State member of a Commission of an application for a grant or other assistance for a specific project under this section, an affirmative vote of the Commission under section 15302 shall be required for approval of the application.

"§ 15504. Program development criteria

"In considering programs and projects to be provided assistance by a Commission under this subtitle, and in establishing a priority ranking of the requests for assistance provided to the Commission, the Commission shall follow procedures that ensure, to the maximum extent practicable, consideration of—

"(1) the relationship of the project or class of projects to overall regional development;

"(2) the per capita income and poverty and unemployment and outmigration rates in an area;

"(3) the financial resources available to the applicants for assistance seeking to carry out the project, with emphasis on ensuring that projects are adequately financed to maximize the probability of successful economic development;

"(4) the importance of the project or class of projects in relation to the other projects or classes of projects that may be in competition for the same funds;

"(5) the prospects that the project for which assistance is sought will improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income, or the economic development of the area to be served by the project; and

"(6) the extent to which the project design provides for detailed outcome measurements by which grant expenditures and the results of the expenditures may be evaluated.

"§ 15505. Local development districts and organizations

"(a) GRANTS TO LOCAL DEVELOPMENT DISTRICTS.—Subject to the requirements of this section, a Commission may make grants to a local development district to assist in the payment of development planning and administrative expenses.

"(b) CONDITIONS FOR GRANTS.—

"(1) MAXIMUM AMOUNT.—The amount of a grant awarded under this section may not exceed 80 percent of the administrative and planning expenses of the local development district receiving the grant.

"(2) MAXIMUM PERIOD FOR STATE AGENCIES.—In the case of a State agency certified as a local development district, a grant may not be awarded to the agency under this section for more than 3 fiscal years.

"(3) LOCAL SHARE.—The contributions of a local development district for administrative expenses may be in cash or in kind, fairly evaluated, including space, equipment, and services.

"(c) DUTIES OF LOCAL DEVELOPMENT DISTRICTS.—A local development district shall—

"(1) operate as a lead organization serving multicounty areas in the region at the local level;

"(2) assist the Commission in carrying out outreach activities for local governments, community development groups, the business community, and the public;

"(3) serve as a liaison between State and local governments, nonprofit organizations (including community-based groups and educational institutions), the business community, and citizens; and

"(4) assist the individuals and entities described in paragraph (3) in identifying, assessing, and facilitating projects and programs to promote the economic development of the region.

"§ 15506. Supplements to Federal grant programs

"(a) FINDING.—Congress finds that certain States and local communities of the region, including local development districts, may be unable to take maximum advantage of Federal grant programs for which the States and communities are eligible because—

"(1) they lack the economic resources to provide the required matching share; or

"(2) there are insufficient funds available under the applicable Federal law with respect to a project to be carried out in the region.

"(b) FEDERAL GRANT PROGRAM FUNDING.—A Commission, with the approval of the Federal Cochairperson, may use amounts made available to carry out this subtitle—

"(1) for any part of the basic Federal contribution to projects or activities under the Federal grant programs authorized by Federal laws; and

"(2) to increase the Federal contribution to projects and activities under the programs above the fixed maximum part of the cost of the projects or activities otherwise authorized by the applicable law.

"(c) CERTIFICATION REQUIRED.—For a program, project, or activity for which any part of the basic Federal contribution to the project or activity under a Federal grant program is proposed to be made under subsection (b), the Federal contribution shall not be made until the responsible Federal official administering the Federal law authorizing the Federal contribution certifies that the program, project, or activity meets the applicable requirements of the Federal law and could be approved for Federal contribution under that law if amounts were available under the law for the program, project, or activity.

"(d) LIMITATIONS IN OTHER LAWS INAPPLICABLE.—Amounts provided pursuant to this subtitle are available without regard to any limitations on areas eligible for assistance or authorizations for appropriation in any other law.

"(e) FEDERAL SHARE.—The Federal share of the cost of a project or activity receiving assistance under this section shall not exceed 80 percent.

"(f) MAXIMUM COMMISSION CONTRIBUTION.—Section 15501(d), relating to limitations on Commission contributions, shall apply to a program, project, or activity receiving assistance under this section.

"CHAPTER 4—ADMINISTRATIVE PROVISIONS

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec. 15701. Consent of States.
"Sec. 15702. Distressed counties and areas.
"Sec. 15703. Counties eligible for assistance in more than one region.
"Sec. 15704. Inspector General; records.
"Sec. 15705. Biannual meetings of representatives of all Commissions.

"SUBCHAPTER II—DESIGNATION OF REGIONS

"Sec. 15731. Southeast Crescent Regional Commission.
"Sec. 15732. Southwest Border Regional Commission.
"Sec. 15733. Northern Border Regional Commission.

"SUBCHAPTER III—AUTHORIZATION OF APPROPRIATIONS

"Sec. 15751. Authorization of appropriations.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 15701. Consent of States

"This subtitle does not require a State to engage in or accept a program under this subtitle without its consent.

"§ 15702. Distressed counties and areas

"(a) DESIGNATIONS.—Not later than 90 days after the date of the enactment of this section, and annually thereafter, each Commission shall make the following designations:

"(1) DISTRESSED COUNTIES.—The Commission shall designate as distressed counties those counties in its region that are the most severely and persistently economically distressed and underdeveloped and have high rates of poverty, unemployment, or outmigration.

"(2) TRANSITIONAL COUNTIES.—The Commission shall designate as transitional counties those counties in its region that are economically distressed and underdeveloped or have recently suffered high rates of poverty, unemployment, or outmigration.

"(3) ATTAINMENT COUNTIES.—The Commission shall designate as attainment counties, those counties in its region that are not designated as distressed or transitional counties under this subsection.

"(4) ISOLATED AREAS OF DISTRESS.—The Commission shall designate as isolated areas of distress, areas located in counties designated as attainment counties under paragraph (3) that have high rates of poverty, unemployment, or outmigration.

"(b) ALLOCATION.—A Commission shall allocate at least 50 percent of the appropriations made available to the Commission to carry out this subtitle for programs and projects designed to serve the needs of distressed counties and isolated areas of distress in the region.

"(c) ATTAINMENT COUNTIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), funds may not be provided under this subtitle for a project located in a county designated as an attainment county under subsection (a).

"(2) EXCEPTIONS.—

"(A) ADMINISTRATIVE EXPENSES OF LOCAL DEVELOPMENT DISTRICTS.—The funding prohibition under paragraph (1) shall not apply to grants to fund the administrative expenses of local development districts under section 15505.

"(B) MULTICOUNTY AND OTHER PROJECTS.—A Commission may waive the application of the funding prohibition under paragraph (1) with respect to—

"(i) a multicounty project that includes participation by an attainment county; and

"(ii) any other type of project, if a Commission determines that the project could bring significant benefits to areas of the region outside an attainment county.

"(3) ISOLATED AREAS OF DISTRESS.—For a designation of an isolated area of distress to be effective, the designation shall be supported—

"(A) by the most recent Federal data available; or

"(B) if no recent Federal data are available, by the most recent data available through the government of the State in which the isolated area of distress is located.

"§ 15703. Counties eligible for assistance in more than one region

"(a) LIMITATION.—A political subdivision of a State may not receive assistance under this subtitle in a fiscal year from more than one Commission.

"(b) SELECTION OF COMMISSION.—A political subdivision included in the region of more than one Commission shall select the Commission with which it will participate by notifying, in writing, the Federal Cochairperson and the appropriate State member of that Commission.

"(c) CHANGES IN SELECTIONS.—The selection of a Commission by a political subdivision shall apply in the fiscal year in which the selection is made, and shall apply in each subsequent fiscal year unless the political subdivision, at least 90 days before the first day of the fiscal year, notifies the Cochairpersons of another Commission in writing that the political subdivision will participate in that Commission and also transmits a copy of such notification to the Cochairpersons of the Commission in which the political subdivision is currently participating.

"(d) INCLUSION OF APPALACHIAN REGIONAL COMMISSION.—In this section, the term 'Commission' includes the Appalachian Regional Commission established under chapter 143.

"§ 15704. Inspector General; records

"(a) APPOINTMENT OF INSPECTOR GENERAL.—There shall be an Inspector General for the Commissions appointed in accordance with section 3(a) of the Inspector General Act of 1978 (5 U.S.C. App.). All of the Commissions shall be subject to a single Inspector General.

"(b) RECORDS OF A COMMISSION.—

"(1) IN GENERAL.—A Commission shall maintain accurate and complete records of all its transactions and activities.

"(2) AVAILABILITY.—All records of a Commission shall be available for audit and examination by the Inspector General (including authorized representatives of the Inspector General).

"(c) RECORDS OF RECIPIENTS OF COMMISSION ASSISTANCE.—

"(1) IN GENERAL.—A recipient of funds from a Commission under this subtitle shall maintain accurate and complete records of transactions and activities financed with the funds and report to the Commission on the transactions and activities.

"(2) AVAILABILITY.—All records required under paragraph (1) shall be available for audit by the Commission and the Inspector General (including authorized representatives of the Commission and the Inspector General).

"(d) ANNUAL AUDIT.—The Inspector General shall audit the activities, transactions, and records of each Commission on an annual basis.

"§ 15705. Biannual meetings of representatives of all Commissions

"(a) IN GENERAL.—Representatives of each Commission, the Appalachian Regional Commission, and the Denali Commission shall meet biannually to discuss issues confronting regions suffering from

chronic and contiguous distress and successful strategies for promoting regional development.

"(b) CHAIR OF MEETINGS.—The chair of each meeting shall rotate among the Commissions, with the Appalachian Regional Commission to host the first meeting.

"SUBCHAPTER II—DESIGNATION OF REGIONS

"§ 15731. Southeast Crescent Regional Commission

"The region of the Southeast Crescent Regional Commission shall consist of all counties of the States of Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Florida not already served by the Appalachian Regional Commission or the Delta Regional Authority.

"§ 15732. Southwest Border Regional Commission

"The region of the Southwest Border Regional Commission shall consist of the following political subdivisions:

"(1) ARIZONA.—The counties of Cochise, Gila, Graham, Greenlee, La Paz, Maricopa, Pima, Pinal, Santa Cruz, and Yuma in the State of Arizona.

"(2) CALIFORNIA.—The counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura in the State of California.

"(3) NEW MEXICO.—The counties of Catron, Chaves, Dona Ana, Eddy, Grant, Hidalgo, Lincoln, Luna, Otero, Sierra, and Socorro in the State of New Mexico.

"(4) TEXAS.—The counties of Atascosa, Bandera, Bee, Bexar, Brewster, Brooks, Cameron, Coke, Concho, Crane, Crockett, Culberson, Dimmit, Duval, Ector, Edwards, El Paso, Frio, Gillespie, Glasscock, Hidalgo, Hudspeth, Irion, Jeff Davis, Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy, Kerr, Kimble, Kinney, Kleberg, La Salle, Live Oak, Loving, Mason, Maverick, McMullen, Medina, Menard, Midland, Nueces, Pecos, Presidio, Reagan, Real, Reeves, San Patricio, Shleicher, Sutton, Starr, Sterling, Terrell, Tom Green Upton, Uvalde, Val Verde, Ward, Webb, Willacy, Wilson, Winkler, Zapata, and Zavala in the State of Texas.

"§ 15733. Northern Border Regional Commission

"The region of the Northern Border Regional Commission shall include the following counties:

"(1) MAINE.—The counties of Androscoggin, Aroostook, Franklin, Hancock, Kennebec, Knox, Oxford, Penobscot, Piscataquis, Somerset, Waldo, and Washington in the State of Maine.

"(2) NEW HAMPSHIRE.—The counties of Carroll, Coos, Grafton, and Sullivan in the State of New Hampshire.

"(3) NEW YORK.—The counties of Cayuga, Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Jefferson, Lewis, Madison, Oneida, Oswego, Seneca, and St. Lawrence in the State of New York.

"(4) VERMONT.—The counties of Caledonia, Essex, Franklin, Grand Isle, Lamoille, and Orleans in the State of Vermont.

"SUBCHAPTER III—AUTHORIZATION OF APPROPRIATIONS

"§ 15751. Authorization of appropriations

"(a) IN GENERAL.—There is authorized to be appropriated to each Commission to carry out this subtitle $30,000,000 for each of fiscal years 2008 through 2012.

"(b) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the funds made available to a Commission in a fiscal year under this section may be used for administrative expenses.".

(b) CLERICAL AMENDMENT TO TABLE OF SUBTITLES.—The table of subtitles for chapter 40, United States Code, is amended by striking the item relating to subtitle V and inserting the following:

"V. REGIONAL ECONOMIC AND INFRASTRUCTURE DEVELOPMENT ...15101
"VI. MISCELLANEOUS .....17101".

(c) CONFORMING AMENDMENTS TO INSPECTOR GENERAL ACT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by striking "or the President of the Export-Import Bank;" and inserting "the President of the Export-Import Bank; or the Federal Cochairpersons of the Commissions established under section 15301 of title 40, United States Code;"; and

(2) in paragraph (2), by striking "or the Export-Import Bank," and inserting "the Export-Import Bank, or the Commissions established under section 15301 of title 40, United States Code,".

(d) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

SEC. 14218. COORDINATOR FOR CHRONICALLY UNDERSERVED RURAL AREAS.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a Coordinator for Chronically Underserved Rural Areas (in this section referred to as the "Coordinator"), to be located in the Rural Development Mission Area.

(b) MISSION.—The mission of the Coordinator shall be to direct Department of Agriculture resources to high need, high poverty rural areas.

(c) DUTIES.—The Coordinator shall consult with other offices in directing technical assistance, strategic regional planning, at the State and local level, for developing rural economic development that leverages the resources of State and local governments and non-profit and community development organizations.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as necessary to carry out this section for fiscal years 2008 through 2012.

SEC. 14219. ELIMINATION OF STATUTE OF LIMITATIONS APPLICABLE TO COLLECTION OF DEBT BY ADMINISTRATIVE OFFSET.

(a) ELIMINATION.—Section 3716(e) of title 31, United States Code, is amended to read as follows:

"(e)(1) Notwithstanding any other provision of law, regulation, or administrative limitation, no limitation on the period within which an offset may be initiated or taken pursuant to this section shall be effective.

"(2) This section does not apply when a statute explicitly prohibits using administrative offset or setoff to collect the claim or type of claim involved.".

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply to any debt outstanding on or after the date of the enactment of this Act.

SEC. 14220. AVAILABILITY OF EXCESS AND SURPLUS COMPUTERS IN RURAL AREAS.

In addition to any other authority, the Secretary of Agriculture may make available to an organization excess or surplus computers or other technical equipment of the Department of Agriculture for the purposes of distribution to a city, town, or local government entity in a rural area (as defined in section 343(a)(13)(A) of the Consolidated Farm and Rural Development Act).

SEC. 14221. REPEAL OF SECTION 3068 OF THE WATER RESOURCES DEVELOPMENT ACT OF 2007.

Effective upon the date of enactment of this Act, section 3068 of the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1123), and the item relating to section 3068 in the table of contents of that Act, are repealed.

SEC. 14222. DOMESTIC FOOD ASSISTANCE PROGRAMS.

(a) DEFINITION OF SECTION 32.—In this section, the term "section 32" means section 32 of the Act of August 24, 1935 (7 U.S.C. 612c).

(b) TRANSFER TO FOOD AND NUTRITION SERVICE.—

(1) IN GENERAL.—Amounts made available for a fiscal year to carry out section 32 in excess of the maximum amount calculated under paragraph (2) shall be transferred to the Secretary, acting through the Administrator of the Food and Nutrition Service, to be used to carry out the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(2) MAXIMUM AMOUNT.—The maximum amount calculated under this paragraph for a fiscal year is the sum of—

(A)(i) in the case of fiscal year 2009, $1,173,000,000;
(ii) in the case of fiscal year 2010, $1,199,000,000;
(iii) in the case of fiscal year 2011, $1,215,000,000;
(iv) in the case of fiscal year 2012, $1,231,000,000;
(v) in the case of fiscal year 2013, $1,248,000,000;
(vi) in the case of fiscal year 2014, $1,266,000,000;
(vii) in the case of fiscal year 2015, $1,284,000,000;
(viii) in the case of fiscal year 2016, $1,303,000,000;
(ix) in the case of fiscal year 2017, $1,322,000,000; and
(x) for fiscal year 2018 and each fiscal year thereafter, the amount made available for the preceding fiscal year, as adjusted to reflect changes for the 12-month period ending on the preceding November 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor; and

(B) any transfers for the fiscal year from section 32 to the Department of Commerce under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.).

(c) FRESH FRUIT AND VEGETABLE PROGRAM.—Of amounts made available to carry out section 32 under subsection (b)(2)(A), the Secretary shall transfer for use to carry out the fresh fruit and vege-

table program under section 19 of the Richard B. Russell National School Lunch Act the amounts specified in subsection (i) of that section.

(d) WHOLE GRAIN PRODUCTS.—Of amounts made available to carry out section 32 under subsection (b)(2)(A), the Secretary shall use to carry out section 4305 $4,000,000 for fiscal year 2009.

(e) MAINTENANCE OF FUNDING.—The funding provided under subsections (c) and (d) shall supplement (and not supplant) other Federal funding (including section 32 funding) for programs carried out under—

(1) the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), except for section 19 of that Act;

(2) the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.); and

(3) section 27 of the Food Stamp Act of 1977 (7 U.S.C. 2036).

SEC. 14223. TECHNICAL CORRECTION.

Section 923(1)(B) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2206a(1)(B)) is amended by striking "as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b))" and inserting "as defined in section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5))".

TITLE XV—TRADE AND TAX PROVISIONS

SEC. 15001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Heartland, Habitat, Harvest, and Horticulture Act of 2008".

(b) AMENDMENTS TO 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Supplemental Agricultural Disaster Assistance From the Agricultural Disaster Relief Trust Fund

SEC. 15101. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.

(a) IN GENERAL.—The Trade Act of 1974 (19 U.S.C. 2101 et seq.) is amended by adding at the end the following:

"TITLE IX—SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE

"SEC. 901. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.

"(a) DEFINITIONS.—In this section:

"(1) ACTUAL PRODUCTION HISTORY YIELD.—The term 'actual production history yield' means the weighted average of the actual production history for each insurable commodity or noninsurable commodity, as calculated under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or the noninsured crop disaster assistance program, respectively.

"(2) ADJUSTED ACTUAL PRODUCTION HISTORY YIELD.—The term 'adjusted actual production history yield' means—

"(A) in the case of an eligible producer on a farm that has at least 4 years of actual production history yields for

an insurable commodity that are established other than pursuant to section 508(g)(4)(B) of the Federal Crop Insurance Act (7 U.S.C. 1508(g)(4)(B)), the actual production history for the eligible producer without regard to any yields established under that section;

"(B) in the case of an eligible producer on a farm that has less than 4 years of actual production history yields for an insurable commodity, of which 1 or more were established pursuant to section 508(g)(4)(B) of that Act, the actual production history for the eligible producer as calculated without including the lowest of the yields established pursuant to section 508(g)(4)(B) of that Act; and

"(C) in all other cases, the actual production history of the eligible producer on a farm.

"(3) ADJUSTED NONINSURED CROP DISASTER ASSISTANCE PROGRAM YIELD.—The term 'adjusted noninsured crop disaster assistance program yield' means—

"(A) in the case of an eligible producer on a farm that has at least 4 years of production history under the noninsured crop disaster assistance program that are not replacement yields, the noninsured crop disaster assistance program yield without regard to any replacement yields;

"(B) in the case of an eligible producer on a farm that less than 4 years of production history under the noninsured crop disaster assistance program that are not replacement yields, the noninsured crop disaster assistance program yield as calculated without including the lowest of the replacement yields; and

"(C) in all other cases, the production history of the eligible producer on the farm under the noninsured crop disaster assistance program.

"(4) COUNTER-CYCLICAL PROGRAM PAYMENT YIELD.—The term 'counter-cyclical program payment yield' means the weighted average payment yield established under section 1102 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7912), section 1102 of the Food, Conservation, and Energy Act of 2008, or a successor section.

"(5) DISASTER COUNTY.—

"(A) IN GENERAL.—The term 'disaster county' means a county included in the geographic area covered by a qualifying natural disaster declaration.

"(B) INCLUSION.—The term 'disaster county' includes—

"(i) a county contiguous to a county described in subparagraph (A); and

"(ii) any farm in which, during a calendar year, the total loss of production of the farm relating to weather is greater than 50 percent of the normal production of the farm, as determined by the Secretary.

"(6) ELIGIBLE PRODUCER ON A FARM.—

"(A) IN GENERAL.—The term 'eligible producer on a farm' means an individual or entity described in subparagraph (B) that, as determined by the Secretary, assumes the production and market risks associated with the agricultural production of crops or livestock.

"(B) DESCRIPTION.—An individual or entity referred to in subparagraph (A) is—

"(i) a citizen of the United States;

"(ii) a resident alien;

"(iii) a partnership of citizens of the United States; or

"(iv) a corporation, limited liability corporation, or other farm organizational structure organized under State law.

"(7) FARM.—

"(A) IN GENERAL.—The term 'farm' means, in relation to an eligible producer on a farm, the sum of all crop acreage in all counties that is planted or intended to be planted for harvest by the eligible producer.

"(B) AQUACULTURE.—In the case of aquaculture, the term 'farm' means, in relation to an eligible producer on a farm, all fish being produced in all counties that are intended to be harvested for sale by the eligible producer.

"(C) HONEY.—In the case of honey, the term 'farm' means, in relation to an eligible producer on a farm, all bees and beehives in all counties that are intended to be harvested for a honey crop by the eligible producer.

"(8) FARM-RAISED FISH.—The term 'farm-raised fish' means any aquatic species that is propagated and reared in a controlled environment.

"(9) INSURABLE COMMODITY.—The term 'insurable commodity' means an agricultural commodity (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

"(10) LIVESTOCK.—The term 'livestock' includes—

"(A) cattle (including dairy cattle);

"(B) bison;

"(C) poultry;

"(D) sheep;

"(E) swine;

"(F) horses; and

"(G) other livestock, as determined by the Secretary.

"(11) NONINSURABLE COMMODITY.—The term 'noninsurable commodity' means a crop for which the eligible producers on a farm are eligible to obtain assistance under the noninsured crop assistance program.

"(12) NONINSURED CROP ASSISTANCE PROGRAM.—The term 'noninsured crop assistance program' means the program carried out under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

"(13) QUALIFYING NATURAL DISASTER DECLARATION.—The term 'qualifying natural disaster declaration' means a natural disaster declared by the Secretary for production losses under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)).

"(14) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(15) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—The term 'socially disadvantaged farmer or rancher' has the mean-

ing given the term in section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)).

"(16) STATE.—The term 'State' means—

"(A) a State;

"(B) the District of Columbia;

"(C) the Commonwealth of Puerto Rico; and

"(D) any other territory or possession of the United States.

"(17) TRUST FUND.—The term 'Trust Fund' means the Agricultural Disaster Relief Trust Fund established under section 902.

"(18) UNITED STATES.—The term 'United States' when used in a geographical sense, means all of the States.

"(b) SUPPLEMENTAL REVENUE ASSISTANCE PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall use such sums as are necessary from the Trust Fund to make crop disaster assistance payments to eligible producers on farms in disaster counties that have incurred crop production losses or crop quality losses, or both, during the crop year.

"(2) AMOUNT.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall provide crop disaster assistance payments under this section to an eligible producer on a farm in an amount equal to 60 percent of the difference between—

"(i) the disaster assistance program guarantee, as described in paragraph (3); and

"(ii) the total farm revenue for a farm, as described in paragraph (4).

"(B) LIMITATION.—The disaster assistance program guarantee for a crop used to calculate the payments for a farm under subparagraph (A)(i) may not be greater than 90 percent of the sum of the expected revenue, as described in paragraph (5) for each of the crops on a farm, as determined by the Secretary.

"(3) SUPPLEMENTAL REVENUE ASSISTANCE PROGRAM GUARANTEE.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the supplemental assistance program guarantee shall be the sum obtained by adding—

"(i) for each insurable commodity on the farm, 115 percent of the product obtained by multiplying—

"(I) a payment rate for the commodity that is equal to the price election for the commodity elected by the eligible producer;

"(II) the payment acres for the commodity that is equal to the number of acres planted, or prevented from being planted, to the commodity;

"(III) the payment yield for the commodity that is equal to the percentage of the crop insurance yield elected by the producer of the higher of—

"(aa) the adjusted actual production history yield; or

"(bb) the counter-cyclical program payment yield for each crop; and

"(ii) for each noninsurable commodity on a farm, 120 percent of the product obtained by multiplying—

"(I) a payment rate for the commodity that is equal to 100 percent of the noninsured crop assistance program established price for the commodity;

"(II) the payment acres for the commodity that is equal to the number of acres planted, or prevented from being planted, to the commodity; and

"(III) the payment yield for the commodity that is equal to the higher of—

"(aa) the adjusted noninsured crop assistance program yield guarantee; or

"(bb) the counter-cyclical program payment yield for each crop.

"(B) ADJUSTMENT INSURANCE GUARANTEE.—Notwithstanding subparagraph (A), in the case of an insurable commodity for which a plan of insurance provides for an adjustment in the guarantee, such as in the case of prevented planting, the adjusted insurance guarantee shall be the basis for determining the disaster assistance program guarantee for the insurable commodity.

"(C) ADJUSTED ASSISTANCE LEVEL.—Notwithstanding subparagraph (A), in the case of a noninsurable commodity for which the noninsured crop assistance program provides for an adjustment in the level of assistance, such as in the case of unharvested crops, the adjusted assistance level shall be the basis for determining the disaster assistance program guarantee for the noninsurable commodity.

"(D) EQUITABLE TREATMENT FOR NON-YIELD BASED POLICIES.—The Secretary shall establish equitable treatment for non-yield based policies and plans of insurance, such as the Adjusted Gross Revenue Lite insurance program.

"(4) FARM REVENUE.—

"(A) IN GENERAL.—For purposes of this subsection, the total farm revenue for a farm, shall equal the sum obtained by adding—

"(i) the estimated actual value for each crop produced on a farm by using the product obtained by multiplying—

"(I) the actual crop acreage harvested by an eligible producer on a farm;

"(II) the estimated actual yield of the crop production; and

"(III) subject to subparagraphs (B) and (C), to the extent practicable, the national average market price received for the marketing year, as determined by the Secretary;

"(ii) 15 percent of amount of any direct payments made to the producer under sections 1103 and 1303 of the Food, Conservation, and Energy Act of 2008 or successor sections;

"(iii) the total amount of any counter-cyclical payments made to the producer under sections 1104 and 1304 of the Food, Conservation, and Energy Act of

2008 or successor sections or of any average crop revenue election payments made to the producer under section 1105 of that Act;

"(iv) the total amount of any loan deficiency payments, marketing loan gains, and marketing certificate gains made to the producer under subtitles B and C of the Food, Conservation, and Energy Act of 2008 or successor subtitles;

"(v) the amount of payments for prevented planting on a farm;

"(vi) the amount of crop insurance indemnities received by an eligible producer on a farm for each crop on a farm;

"(vii) the amount of payments an eligible producer on a farm received under the noninsured crop assistance program for each crop on a farm; and

"(viii) the value of any other natural disaster assistance payments provided by the Federal Government to an eligible producer on a farm for each crop on a farm for the same loss for which the eligible producer is seeking assistance.

"(B) ADJUSTMENT.—The Secretary shall adjust the average market price received by the eligible producer on a farm—

"(i) to reflect the average quality discounts applied to the local or regional market price of a crop or mechanically harvested forage due to a reduction in the intrinsic characteristics of the production resulting from adverse weather, as determined annually by the State office of the Farm Service Agency; and

"(ii) to account for a crop the value of which is reduced due to excess moisture resulting from a disaster-related condition.

"(C) MAXIMUM AMOUNT FOR CERTAIN CROPS.—With respect to a crop for which an eligible producer on a farm receives assistance under the noninsured crop assistance program, the national average market price received during the marketing year shall be an amount not more than 100 percent of the price of the crop established under the noninsured crop assistance program.

"(5) EXPECTED REVENUE.—The expected revenue for each crop on a farm shall equal the sum obtained by adding—

"(A) the product obtained by multiplying—

"(i) the greatest of—

"(I) the adjusted actual production history yield of the eligible producer on a farm; and

"(II) the counter-cyclical program payment yield;

"(ii) the acreage planted or prevented from being planted for each crop; and

"(iii) 100 percent of the insurance price guarantee; and

"(B) the product obtained by multiplying—

"(i) 100 percent of the adjusted noninsured crop assistance program yield; and

"(ii) 100 percent of the noninsured crop assistance program price for each of the crops on a farm.

"(c) LIVESTOCK INDEMNITY PAYMENTS.—

"(1) PAYMENTS.—The Secretary shall use such sums as are necessary from the Trust Fund to make livestock indemnity payments to eligible producers on farms that have incurred livestock death losses in excess of the normal mortality due to adverse weather, as determined by the Secretary, during the calendar year, including losses due to hurricanes, floods, blizzards, disease, wildfires, extreme heat, and extreme cold.

"(2) PAYMENT RATES.—Indemnity payments to an eligible producer on a farm under paragraph (1) shall be made at a rate of 75 percent of the market value of the applicable livestock on the day before the date of death of the livestock, as determined by the Secretary.

"(d) LIVESTOCK FORAGE DISASTER PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) COVERED LIVESTOCK.—

"(i) IN GENERAL.—The term 'covered livestock' means livestock of an eligible livestock producer that, during the 60 days prior to the beginning date of a qualifying drought or fire condition, as determined by the Secretary, the eligible livestock producer—

"(I) owned;

"(II) leased;

"(III) purchased;

"(IV) entered into a contract to purchase;

"(V) is a contract grower; or

"(VI) sold or otherwise disposed of due to qualifying drought conditions during—

"(aa) the current production year; or

"(bb) subject to paragraph (3)(B)(ii), 1 or both of the 2 production years immediately preceding the current production year.

"(ii) EXCLUSION.—The term 'covered livestock' does not include livestock that were or would have been in a feedlot, on the beginning date of the qualifying drought or fire condition, as a part of the normal business operation of the eligible livestock producer, as determined by the Secretary.

"(B) DROUGHT MONITOR.—The term 'drought monitor' means a system for classifying drought severity according to a range of abnormally dry to exceptional drought, as defined by the Secretary.

"(C) ELIGIBLE LIVESTOCK PRODUCER.—

"(i) IN GENERAL.—The term 'eligible livestock producer' means an eligible producer on a farm that—

"(I) is an owner, cash or share lessee, or contract grower of covered livestock that provides the pastureland or grazing land, including cash-leased pastureland or grazing land, for the livestock;

"(II) provides the pastureland or grazing land for covered livestock, including cash-leased pastureland or grazing land that is physically located in a county affected by drought;

"(III) certifies grazing loss; and

"(IV) meets all other eligibility requirements established under this subsection.

"(ii) EXCLUSION.—The term 'eligible livestock producer' does not include an owner, cash or share lessee, or contract grower of livestock that rents or leases pastureland or grazing land owned by another person on a rate-of-gain basis.

"(D) NORMAL CARRYING CAPACITY.—The term 'normal carrying capacity', with respect to each type of grazing land or pastureland in a county, means the normal carrying capacity, as determined under paragraph (3)(D)(i), that would be expected from the grazing land or pastureland for livestock during the normal grazing period, in the absence of a drought or fire that diminishes the production of the grazing land or pastureland.

"(E) NORMAL GRAZING PERIOD.—The term 'normal grazing period', with respect to a county, means the normal grazing period during the calendar year for the county, as determined under paragraph (3)(D)(i).

"(2) PROGRAM.—The Secretary shall use such sums as are necessary from the Trust Fund to provide compensation for losses to eligible livestock producers due to grazing losses for covered livestock due to—

"(A) a drought condition, as described in paragraph (3); or

"(B) fire, as described in paragraph (4).

"(3) ASSISTANCE FOR LOSSES DUE TO DROUGHT CONDITIONS.—

"(A) ELIGIBLE LOSSES.—

"(i) IN GENERAL.—An eligible livestock producer may receive assistance under this subsection only for grazing losses for covered livestock that occur on land that—

"(I) is native or improved pastureland with permanent vegetative cover; or

"(II) is planted to a crop planted specifically for the purpose of providing grazing for covered livestock.

"(ii) EXCLUSIONS.—An eligible livestock producer may not receive assistance under this subsection for grazing losses that occur on land used for haying or grazing under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

"(B) MONTHLY PAYMENT RATE.—

"(i) IN GENERAL.—Except as provided in clause (ii), the payment rate for assistance under this paragraph for 1 month shall, in the case of drought, be equal to 60 percent of the lesser of—

"(I) the monthly feed cost for all covered livestock owned or leased by the eligible livestock producer, as determined under subparagraph (C); or

"(II) the monthly feed cost calculated by using the normal carrying capacity of the eligible grazing land of the eligible livestock producer.

"(ii) PARTIAL COMPENSATION.—In the case of an eligible livestock producer that sold or otherwise disposed of covered livestock due to drought conditions in 1 or both of the 2 production years immediately preceding the current production year, as determined by the Secretary, the payment rate shall be 80 percent of the payment rate otherwise calculated in accordance with clause (i).

"(C) MONTHLY FEED COST.—

"(i) IN GENERAL.—The monthly feed cost shall equal the product obtained by multiplying—

"(I) 30 days;

"(II) a payment quantity that is equal to the feed grain equivalent, as determined under clause (ii); and

"(III) a payment rate that is equal to the corn price per pound, as determined under clause (iii).

"(ii) FEED GRAIN EQUIVALENT.—For purposes of clause (i)(I), the feed grain equivalent shall equal—

"(I) in the case of an adult beef cow, 15.7 pounds of corn per day; or

"(II) in the case of any other type of weight of livestock, an amount determined by the Secretary that represents the average number of pounds of corn per day necessary to feed the livestock.

"(iii) CORN PRICE PER POUND.—For purposes of clause (i)(II), the corn price per pound shall equal the quotient obtained by dividing—

"(I) the higher of—

"(aa) the national average corn price per bushel for the 12-month period immediately preceding March 1 of the year for which the disaster assistance is calculated; or

"(bb) the national average corn price per bushel for the 24-month period immediately preceding that March 1; by

"(II) 56.

"(D) NORMAL GRAZING PERIOD AND DROUGHT MONITOR INTENSITY.—

"(i) FSA COUNTY COMMITTEE DETERMINATIONS.—

"(I) IN GENERAL.—The Secretary shall determine the normal carrying capacity and normal grazing period for each type of grazing land or pastureland in the county served by the applicable committee.

"(II) CHANGES.—No change to the normal carrying capacity or normal grazing period established for a county under subclause (I) shall be made unless the change is requested by the appropriate State and county Farm Service Agency committees.

"(ii) DROUGHT INTENSITY.—

"(I) D2.—An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having a D2 (severe drought) intensity in any area of the county for at least 8 consecutive weeks during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph in an amount equal to 1 monthly payment using the monthly payment rate determined under subparagraph (B).

"(II) D3.—An eligible livestock producer that owns or leases grazing land or pastureland that is physically located in a county that is rated by the U.S. Drought Monitor as having at least a D3 (extreme drought) intensity in any area of the county at any time during the normal grazing period for the county, as determined by the Secretary, shall be eligible to receive assistance under this paragraph—

"(aa) in an amount equal to 2 monthly payments using the monthly payment rate determined under subparagraph (B); or

"(bb) if the county is rated as having a D3 (extreme drought) intensity in any area of the county for at least 4 weeks during the normal grazing period for the county, or is rated as having a D4 (exceptional drought) intensity in any area of the county at any time during the normal grazing period, in an amount equal to 3 monthly payments using the monthly payment rate determined under subparagraph (B).

"(4) ASSISTANCE FOR LOSSES DUE TO FIRE ON PUBLIC MANAGED LAND.—

"(A) IN GENERAL.—An eligible livestock producer may receive assistance under this paragraph only if—

"(i) the grazing losses occur on rangeland that is managed by a Federal agency; and

"(ii) the eligible livestock producer is prohibited by the Federal agency from grazing the normal permitted livestock on the managed rangeland due to a fire.

"(B) PAYMENT RATE.—The payment rate for assistance under this paragraph shall be equal to 50 percent of the monthly feed cost for the total number of livestock covered by the Federal lease of the eligible livestock producer, as determined under paragraph (3)(C).

"(C) PAYMENT DURATION.—

"(i) IN GENERAL.—Subject to clause (ii), an eligible livestock producer shall be eligible to receive assistance under this paragraph for the period—

"(I) beginning on the date on which the Federal agency excludes the eligible livestock producer from using the managed rangeland for grazing; and

"(II) ending on the last day of the Federal lease of the eligible livestock producer.

"(ii) LIMITATION.—An eligible livestock producer may only receive assistance under this paragraph for losses that occur on not more than 180 days per year.

"(5) MINIMUM RISK MANAGEMENT PURCHASE REQUIREMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a livestock producer shall only be eligible for assistance under this subsection if the livestock producer—

"(i) obtained a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the grazing land incurring the losses for which assistance is being requested; or

"(ii) filed the required paperwork, and paid the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program for the grazing land incurring the losses for which assistance is being requested.

"(B) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—In the case of an eligible livestock producer that is a socially disadvantaged farmer or rancher or limited resource or beginning farmer or rancher, as determined by the Secretary, the Secretary may—

"(i) waive subparagraph (A); and

"(ii) provide disaster assistance under this section at a level that the Secretary determines to be equitable and appropriate.

"(C) WAIVER FOR 2008 CALENDAR YEAR.—In the case of an eligible livestock producer that suffered losses on grazing land during the 2008 calendar year but does not meet the requirements of subparagraph (A), the Secretary shall waive subparagraph (A) if the eligible livestock producer pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee required under subparagraph (A) to the Secretary not later than 90 days after the date of enactment of this subtitle.

"(D) EQUITABLE RELIEF.—

"(i) IN GENERAL.—The Secretary may provide equitable relief to an eligible livestock producer that is otherwise ineligible or unintentionally fails to meet the requirements of subparagraph (A) for the grazing land incurring the loss on a case-by-case basis, as determined by the Secretary.

"(ii) 2008 CALENDAR YEAR.—In the case of an eligible livestock producer that suffered losses on grazing land during the 2008 calendar year, the Secretary shall take special consideration to provide equitable relief in cases in which the eligible livestock producer failed to meet the requirements of subparagraph (A) due to the enactment of this title after the closing date of sales periods for crop insurance under the Federal

Crop Insurance Act (7 U.S.C. 1501 et seq.) and the noninsured crop assistance program.

"(6) NO DUPLICATIVE PAYMENTS.—

"(A) IN GENERAL.—An eligible livestock producer may elect to receive assistance for grazing or pasture feed losses due to drought conditions under paragraph (3) or fire under paragraph (4), but not both for the same loss, as determined by the Secretary.

"(B) RELATIONSHIP TO SUPPLEMENTAL REVENUE ASSISTANCE.—An eligible livestock producer that receives assistance under this subsection may not also receive assistance for losses to crops on the same land with the same intended use under subsection (b).

"(e) EMERGENCY ASSISTANCE FOR LIVESTOCK, HONEY BEES, AND FARM-RAISED FISH.—

"(1) IN GENERAL.—The Secretary shall use up to $50,000,000 per year from the Trust Fund to provide emergency relief to eligible producers of livestock, honey bees, and farm-raised fish to aid in the reduction of losses due to disease, adverse weather, or other conditions, such as blizzards and wildfires, as determined by the Secretary, that are not covered under subsection (b), (c), or (d).

"(2) USE OF FUNDS.—Funds made available under this subsection shall be used to reduce losses caused by feed or water shortages, disease, or other factors as determined by the Secretary.

"(3) AVAILABILITY OF FUNDS.—Any funds made available under this subsection shall remain available until expended.

"(f) TREE ASSISTANCE PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE ORCHARDIST.—The term 'eligible orchardist' means a person that produces annual crops from trees for commercial purposes.

"(B) NATURAL DISASTER.—The term 'natural disaster' means plant disease, insect infestation, drought, fire, freeze, flood, earthquake, lightning, or other occurrence, as determined by the Secretary.

"(C) NURSERY TREE GROWER.—The term 'nursery tree grower' means a person who produces nursery, ornamental, fruit, nut, or Christmas trees for commercial sale, as determined by the Secretary.

"(D) TREE.—The term 'tree' includes a tree, bush, and vine.

"(2) ELIGIBILITY.—

"(A) LOSS.—Subject to subparagraph (B), the Secretary shall provide assistance—

"(i) under paragraph (3) to eligible orchardists and nursery tree growers that planted trees for commercial purposes but lost the trees as a result of a natural disaster, as determined by the Secretary; and

"(ii) under paragraph (3)(B) to eligible orchardists and nursery tree growers that have a production history for commercial purposes on planted or existing trees but lost the trees as a result of a natural disaster, as determined by the Secretary.

"(B) LIMITATION.—An eligible orchardist or nursery tree grower shall qualify for assistance under subparagraph (A) only if the tree mortality of the eligible orchardist or nursery tree grower, as a result of damaging weather or related condition, exceeds 15 percent (adjusted for normal mortality).

"(3) ASSISTANCE.—Subject to paragraph (4), the assistance provided by the Secretary to eligible orchardists and nursery tree growers for losses described in paragraph (2) shall consist of—

"(A)(i) reimbursement of 70 percent of the cost of replanting trees lost due to a natural disaster, as determined by the Secretary, in excess of 15 percent mortality (adjusted for normal mortality); or

"(ii) at the option of the Secretary, sufficient seedlings to reestablish a stand; and

"(B) reimbursement of 50 percent of the cost of pruning, removal, and other costs incurred by an eligible orchardist or nursery tree grower to salvage existing trees or, in the case of tree mortality, to prepare the land to replant trees as a result of damage or tree mortality due to a natural disaster, as determined by the Secretary, in excess of 15 percent damage or mortality (adjusted for normal tree damage and mortality).

"(4) LIMITATIONS ON ASSISTANCE.—

"(A) DEFINITIONS OF LEGAL ENTITY AND PERSON.—In this paragraph, the terms 'legal entity' and 'person' have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a) (as amended by section 1603 of the Food, Conservation, and Energy Act of 2008).

"(B) AMOUNT.—The total amount of payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this subsection may not exceed $100,000 for any crop year, or an equivalent value in tree seedlings.

"(C) ACRES.—The total quantity of acres planted to trees or tree seedlings for which a person or legal entity shall be entitled to receive payments under this subsection may not exceed 500 acres.

"(g) RISK MANAGEMENT PURCHASE REQUIREMENT.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the eligible producers on a farm shall not be eligible for assistance under this section (other than subsection (c)) if the eligible producers on the farm—

"(A) in the case of each insurable commodity of the eligible producers on the farm, did not obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (excluding a crop insurance pilot program under that Act); or

"(B) in the case of each noninsurable commodity of the eligible producers on the farm, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program.

"(2) MINIMUM.—To be considered to have obtained insurance under paragraph (1)(A), an eligible producer on a farm shall have obtained a policy or plan of insurance with not less than 50 percent yield coverage at 55 percent of the insurable price for each crop grazed, planted, or intended to be planted for harvest on a whole farm.

"(3) WAIVER FOR SOCIALLY DISADVANTAGED, LIMITED RESOURCE, OR BEGINNING FARMER OR RANCHER.—With respect to eligible producers that are socially disadvantaged farmers or ranchers or limited resource or beginning farmers or ranchers, as determined by the Secretary, the Secretary may—

"(A) waive paragraph (1); and

"(B) provide disaster assistance under this section at a level that the Secretary determines to be equitable and appropriate.

"(4) WAIVER FOR 2008 CROP YEAR.—In the case of an eligible producer that suffered losses in an insurable commodity or noninsurable commodity during the 2008 crop year but does not meet the requirements of paragraph (1), the Secretary shall waive paragraph (1) if the eligible producer pays a fee in an amount equal to the applicable noninsured crop assistance program fee or catastrophic risk protection plan fee required under paragraph (1) to the Secretary not later than 90 days after the date of enactment of this subtitle.

"(5) EQUITABLE RELIEF.—

"(A) IN GENERAL.—The Secretary may provide equitable relief to eligible producers on a farm that are otherwise ineligible or unintentionally fail to meet the requirements of paragraph (1) for 1 or more crops on a farm on a case-by-case basis, as determined by the Secretary.

"(B) 2008 CROP YEAR.—In the case of eligible producers on a farm that suffered losses in an insurable commodity or noninsurable commodity during the 2008 crop year, the Secretary shall take special consideration to provide equitable relief in cases in which the eligible producers failed to meet the requirements of paragraph (1) due to the enactment of this title after the closing date of sales periods for crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and the noninsured crop assistance program.

"(h) PAYMENT LIMITATIONS.—

"(1) DEFINITIONS OF LEGAL ENTITY AND PERSON.—In this subsection, the terms 'legal entity' and 'person' have the meaning given those terms in section 1001(a) of the Food Security Act of 1985 (7 U.S.C. 1308(a) (as amended by section 1603 of the Food, Conservation, and Energy Act of 2008).

"(2) AMOUNT.—The total amount of disaster assistance payments received, directly or indirectly, by a person or legal entity (excluding a joint venture or general partnership) under this section (excluding payments received under subsection (f)) may not exceed $100,000 for any crop year.

"(3) AGI LIMITATION.—Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308–3a) or any successor provision shall apply with respect to assistance provided under this section.

"(4) DIRECT ATTRIBUTION.—Subsections (e) and (f) of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) or any successor provisions relating to direct attribution shall apply with respect to assistance provided under this section.

"(i) PERIOD OF EFFECTIVENESS.—This section shall be effective only for losses that are incurred as the result of a disaster, adverse weather, or other environmental condition that occurs on or before September 30, 2011, as determined by the Secretary.

"(j) NO DUPLICATIVE PAYMENTS.—In implementing any other program which makes disaster assistance payments (except for indemnities made under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.)) and section 196 of the Federal Agriculture Improvement and Reform Act of 1996), the Secretary shall prevent duplicative payments with respect to the same loss for which a person receives a payment under subsections (b), (c), (d), (e), or (f).

"SEC. 902. AGRICULTURAL DISASTER RELIEF TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Agricultural Disaster Relief Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section.

"(b) TRANSFER TO TRUST FUND.—

"(1) IN GENERAL.—There are appropriated to the Agricultural Disaster Relief Trust Fund amounts equivalent to 3.08 percent of the amounts received in the general fund of the Treasury of the United States during fiscal years 2008 through 2011 attributable to the duties collected on articles entered, or withdrawn from warehouse, for consumption under the Harmonized Tariff Schedule of the United States.

"(2) AMOUNTS BASED ON ESTIMATES.—The amounts appropriated under this section shall be transferred at least monthly from the general fund of the Treasury of the United States to the Agricultural Disaster Relief Trust Fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(3) LIMITATION ON TRANSFERS TO AGRICULTURAL DISASTER RELIEF TRUST FUND.—No amount may be appropriated to the Agricultural Disaster Relief Trust Fund on and after the date of any expenditure from the Agricultural Disaster Relief Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

"(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

"(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.

"(c) ADMINISTRATION.—

"(1) REPORTS.—The Secretary of the Treasury shall be the trustee of the Agricultural Disaster Relief Trust Fund and shall submit an annual report to Congress each year on the financial condition and the results of the operations of such Trust Fund during the preceding fiscal year and on its expected condition

and operations during the 4 fiscal years succeeding such fiscal year. Such report shall be printed as a House document of the session of Congress to which the report is made.

"(2) INVESTMENT.—

"(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Agricultural Disaster Relief Trust Fund as is not in his judgment required to meet current withdrawals. Such investments may be made only in interest bearing obligations of the United States. For such purpose, such obligations may be acquired—

"(i) on original issue at the issue price, or

"(ii) by purchase of outstanding obligations at the market price.

"(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Agricultural Disaster Relief Trust Fund may be sold by the Secretary of the Treasury at the market price.

"(C) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Agricultural Disaster Relief Trust Fund shall be credited to and form a part of such Trust Fund.

"(d) EXPENDITURES FROM TRUST FUND.—Amounts in the Agricultural Disaster Relief Trust Fund shall be available for the purposes of making expenditures to meet those obligations of the United States incurred under section 901 or section 531 of the Federal Crop Insurance Act (as such sections are in effect on the date of the enactment of the Food, Conservation, and Energy Act of 2008).

"(e) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated, and are appropriated, to the Agricultural Disaster Relief Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of such Trust Fund.

"(2) REPAYMENT OF ADVANCES.—

"(A) IN GENERAL.—Advances made to the Agricultural Disaster Relief Trust Fund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in such Trust Fund.

"(B) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be—

"(i) at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding, and

"(ii) compounded annually.

"SEC. 903. JURISDICTION.

"Legislation in the Senate of the United States amending section 901 or 902 shall be referred to the Committee on Finance of the Senate.".

(b) TRANSITION.—For purposes of the 2008 crop year, the Secretary shall carry out subsections (f)(4) and (h) of section 901 of the Trade Act of 1974 (as added by subsection (a)) in accordance with

the terms and conditions of sections 1001 through 1001D of the Food Security Act of 1985 (16 U.S.C. 1308 et seq.), as in effect on September 30, 2007.

(c) CLERICAL AMENDMENT.—The table of contents for the Trade Act of 1974 (19 U.S.C. 2101 et seq.) is amended by adding at the end the following:

"TITLE IX—SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE

"Sec. 901. Supplemental agricultural disaster assistance.
"Sec. 902. Agricultural Disaster Relief Trust Fund.
"Sec. 903. Jurisdiction.".

Subtitle B—Revenue Provisions for Agriculture Programs

SEC. 15201. CUSTOMS USER FEES.

(a) IN GENERAL.—Section 13031(j)(3)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(A)) is amended by striking "December 27, 2014" and inserting "November 14, 2017".

(b) OTHER FEES.—Section 13031(j)(3)(B)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(B)(i)) is amended by striking "December 27, 2014" and inserting "September 30, 2017".

(c) TIME FOR REMITTING CERTAIN COBRA FEES.—Notwithstanding any other provision of law, any fees authorized under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a) (1) through (8)) with respect to customs services provided on or after July 1, 2017, and before September 20, 2017, shall be paid not later than September 25, 2017.

(d) TIME FOR REMITTING CERTAIN MERCHANDISE PROCESSING FEES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any fees authorized under paragraphs (9) and (10) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a) (9) and (10)) with respect to processing merchandise entered on or after October 1, 2017, and before November 15, 2017, shall be paid not later than September 25, 2017, in an amount equivalent to the amount of such fees paid by the person responsible for such fees with respect to merchandise entered on or after October 1, 2016, and before November 15, 2016, as determined by the Secretary of the Treasury.

(2) RECONCILIATION OF MERCHANDISE PROCESSING FEES.—Not later than December 15, 2017, the Secretary of the Treasury shall reconcile the fees paid pursuant to paragraph (1) with the fees for services actually provided on or after October 1, 2017, and before November 15, 2017, and shall refund with interest any overpayment of such fees and make proper adjustments with respect to any underpayment of such fees. No interest may be assessed with respect to any such underpayment that was based on the amount of fees paid for merchandise entered on or after October 1, 2016, and before November 15, 2016.

SEC. 15202. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on

the date of the enactment of this Act is increased by 7.75 percentage points.

Subtitle C—Tax Provisions

PART I—CONSERVATION

Subpart A—Land and Species Preservation Provisions

SEC. 15301. EXCLUSION OF CONSERVATION RESERVE PROGRAM PAYMENTS FROM SECA TAX FOR CERTAIN INDIVIDUALS.

(a) INTERNAL REVENUE CODE.—Section 1402(a)(1) (defining net earnings from self-employment) is amended by inserting ", and including payments under section 1233(2) of the Food Security Act of 1985 (16 U.S.C. 3833(2)) to individuals receiving benefits under section 202 or 223 of the Social Security Act" after "crop shares".

(b) SOCIAL SECURITY ACT.—Section 211(a)(1) of the Social Security Act is amended by inserting ", and including payments under section 1233(2) of the Food Security Act of 1985 (16 U.S.C. 3833(2)) to individuals receiving benefits under section 202 or 223" after "crop shares".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 2007.

SEC. 15302. TWO-YEAR EXTENSION OF SPECIAL RULE ENCOURAGING CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—

(1) INDIVIDUALS.—Section 170(b)(1)(E)(vi) (relating to termination) is amended by striking "December 31, 2007" and inserting "December 31, 2009".

(2) CORPORATIONS.—Section 170(b)(2)(B)(iii) (relating to termination) is amended by striking "December 31, 2007" and inserting "December 31, 2009".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2007.

SEC. 15303. DEDUCTION FOR ENDANGERED SPECIES RECOVERY EXPENDITURES.

(a) DEDUCTION FOR ENDANGERED SPECIES RECOVERY EXPENDITURES.—

(1) IN GENERAL.—Paragraph (1) of section 175(c) (relating to definitions) is amended by inserting after the first sentence the following new sentence: "Such term shall include expenditures paid or incurred for the purpose of achieving site-specific management actions recommended in recovery plans approved pursuant to the Endangered Species Act of 1973.".

(2) CONFORMING AMENDMENTS.—

(A) Section 175 is amended by inserting ", or for endangered species recovery" after "prevention of erosion of land used in farming" each place it appears in subsections (a) and (c).

*(B) The heading of section 175 is amended by inserting "**; ENDANGERED SPECIES RECOVERY EXPENDITURES**" before the period.*

(C) The item relating to section 175 in the table of sections for part VI of subchapter B of chapter 1 is amended by inserting "; endangered species recovery expenditures" before the period.

(b) LIMITATIONS.—Paragraph (3) of section 175(c) (relating to additional limitations) is amended—

(1) in the heading of subparagraph (A), by inserting "OR ENDANGERED SPECIES RECOVERY PLAN" after "CONSERVATION PLAN", and

(2) in subparagraph (A)(i), by inserting "or the recovery plan approved pursuant to the Endangered Species Act of 1973" after "Department of Agriculture".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after December 31, 2008.

Subpart B—Timber Provisions

SEC. 15311. TEMPORARY REDUCTION IN RATE OF TAX ON QUALIFIED TIMBER GAIN OF CORPORATIONS.

(a) IN GENERAL.—Section 1201 (relating to alternative tax for corporations) is amended by redesignating subsection (b) as subsection (c) and by adding after subsection (a) the following new subsection:

"(b) SPECIAL RATE FOR QUALIFIED TIMBER GAINS.—

"(1) IN GENERAL.—If, for any taxable year ending after the date of the enactment of the Food, Conservation, and Energy Act of 2008 and beginning on or before the date which is 1 year after such date, a corporation has both a net capital gain and qualified timber gain—

"(A) subsection (a) shall apply to such corporation for the taxable year without regard to whether the applicable tax rate exceeds 35 percent, and

"(B) the tax computed under subsection (a)(2) shall be equal to the sum of—

"(i) 15 percent of the least of—

"(I) qualified timber gain,

"(II) net capital gain, or

"(III) taxable income, plus

"(ii) 35 percent of the excess (if any) of taxable income over the sum of the amounts for which a tax was determined under subsection (a)(1) and clause (i).

"(2) QUALIFIED TIMBER GAIN.—For purposes of this section, the term 'qualified timber gain' means, with respect to any taxpayer for any taxable year, the excess (if any) of—

"(A) the sum of the taxpayer's gains described in subsections (a) and (b) of section 631 for such year, over

"(B) the sum of the taxpayer's losses described in such subsections for such year.

For purposes of subparagraphs (A) and (B), only timber held more than 15 years shall be taken into account.

"(3) COMPUTATION FOR TAXABLE YEARS IN WHICH RATE FIRST APPLIES OR ENDS.—In the case of any taxable year which includes either of the dates set forth in paragraph (1), the quali-

fied timber gain for such year shall not exceed the qualified timber gain properly taken into account for—

"(A) in the case of the taxable year including the date of the enactment of the Food, Conservation, and Energy Act of 2008, the portion of the year after such date, and

"(B) in the case of the taxable year including the date which is 1 year after such date of enactment, the portion of the year on or before such later date.".

(b) MINIMUM TAX.—Subsection (b) of section 55 is amended by adding at the end the following paragraph:

"(4) MAXIMUM RATE OF TAX ON QUALIFIED TIMBER GAIN OF CORPORATIONS.—In the case of any taxable year to which section 1201(b) applies, the amount determined under clause (i) of subparagraph (B) shall not exceed the sum of—

"(A) 20 percent of so much of the taxable excess (if any) as exceeds the qualified timber gain (or, if less, the net capital gain), plus

"(B) 15 percent of the taxable excess in excess of the amount on which a tax is determined under subparagraph (A).

Any term used in this paragraph which is also used in section 1201 shall have the meaning given such term by such section, except to the extent such term is subject to adjustment under this part.".

(c) CONFORMING AMENDMENT.—Section 857(b)(3)(A)(ii) is amended by striking "rate" and inserting "rates".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment.

SEC. 15312. TIMBER REIT MODERNIZATION.

(a) IN GENERAL.—Section 856(c)(5) is amended by adding after subparagraph (G) the following new subparagraph:

"(H) TREATMENT OF TIMBER GAINS.—

"(i) IN GENERAL.—Gain from the sale of real property described in paragraph (2)(D) and (3)(C) shall include gain which is—

"(I) recognized by an election under section 631(a) from timber owned by the real estate investment trust, the cutting of which is provided by a taxable REIT subsidiary of the real estate investment trust;

"(II) recognized under section 631(b); or

"(III) income which would constitute gain under subclause (I) or (II) but for the failure to meet the 1-year holding period requirement.

"(ii) SPECIAL RULES.—

"(I) For purposes of this subtitle, cut timber, the gain from which is recognized by a real estate investment trust pursuant to an election under section 631(a) described in clause (i)(I) or so much of clause (i)(III) as relates to clause (i)(I), shall be deemed to be sold to the taxable REIT subsidiary of the real estate investment trust on the first day of the taxable year.

"(II) For purposes of this subtitle, income described in this subparagraph shall not be treated

as gain from the sale of property described in section 1221(a)(1).

"(iii) TERMINATION.—This subparagraph shall not apply to dispositions after the termination date.".

(b) TERMINATION DATE.—Subsection (c) of section 856 is amended by adding at the end the following new paragraph:

"(8) TERMINATION DATE.—For purposes of this subsection, the term 'termination date' means, with respect to any taxpayer, the last day of the taxpayer's first taxable year beginning after the date of the enactment of this paragraph and before the date that is 1 year after such date of enactment.".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to dispositions in taxable years beginning after the date of the enactment of this Act.

SEC. 15313. MINERAL ROYALTY INCOME QUALIFYING INCOME FOR TIMBER REITS.

(a) IN GENERAL.—Section 856(c)(2) is amended by striking "and" at the end of subparagraph (G), by inserting "and" at the end of subparagraph (H), and by adding after subparagraph (H) the following new subparagraph:

"(I) mineral royalty income earned in the first taxable year beginning after the date of the enactment of this subparagraph from real property owned by a timber real estate investment trust and held, or once held, in connection with the trade or business of producing timber by such real estate investment trust;".

(b) TIMBER REAL ESTATE INVESTMENT TRUST.—Section 856(c)(5), as amended by this Act, is amended by adding after subparagraph (H) the following new subparagraph:

"(I) TIMBER REAL ESTATE INVESTMENT TRUST.—The term 'timber real estate investment trust' means a real estate investment trust in which more than 50 percent in value of its total assets consists of real property held in connection with the trade or business of producing timber.".

(c) EFFECTIVE DATE.—The amendments by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 15314. MODIFICATION OF TAXABLE REIT SUBSIDIARY ASSET TEST FOR TIMBER REITS.

(a) IN GENERAL.—Section 856(c)(4)(B)(ii) is amended by inserting "(in the case of a quarter which closes on or before the termination date, 25 percent in the case of a timber real estate investment trust)" after "REIT subsidiaries".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 15315. SAFE HARBOR FOR TIMBER PROPERTY.

(a) IN GENERAL.—Section 857(b)(6) (relating to income from prohibited transactions) is amended by adding at the end the following new subparagraph:

"(G) SPECIAL RULES FOR SALES TO QUALIFIED ORGANIZATIONS.—

"(i) IN GENERAL.—In the case of the sale of a real estate asset (as defined in section 856(c)(5)(B)) to a

qualified organization (as defined in section 170(h)(3)) exclusively for conservation purposes (within the meaning of section 170(h)(1)(C)), subparagraph (D) shall be applied—

"(I) by substituting '2 years' for '4 years' in clause (i), and

"(II) by substituting '2-year period' for '4-year period' in clauses (ii) and (iii).

"(ii) TERMINATION.—This subparagraph shall not apply to sales after the termination date.".

(b) PROHIBITED TRANSACTIONS.—Section 857(b)(6)(D)(v) is amended by inserting ", or, in the case of a sale on or before the termination date, a taxable REIT subsidiary" after "any income".

(c) SALES THAT ARE NOT PROHIBITED TRANSACTIONS.—Section 857(b)(6), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

"(H) SALES OF PROPERTY THAT ARE NOT A PROHIBITED TRANSACTION.—In the case of a sale on or before the termination date, the sale of property which is not a prohibited transaction through the application of subparagraph (D) shall be considered property held for investment or for use in a trade or business and not property described in section 1221(a)(1) for all purposes of this subtitle.".

(d) TERMINATION DATE.—Section 857(b)(6), as amended by subsections (a) and (c), is amended by adding at the end the following new subparagraph:

"(I) TERMINATION DATE.—For purposes of this paragraph, the term 'termination date' has the meaning given such term by section 856(c)(8).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions in taxable years beginning after the date of the enactment of this Act.

SEC. 15316. QUALIFIED FORESTRY CONSERVATION BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:

"Subpart I—Qualified Tax Credit Bonds

"Sec. 54A. Credit to holders of qualified tax credit bonds.
"Sec. 54B. Qualified forestry conservation bonds.

"SEC. 54A. CREDIT TO HOLDERS OF QUALIFIED TAX CREDIT BONDS.

"(a) ALLOWANCE OF CREDIT.—If a taxpayer holds a qualified tax credit bond on one or more credit allowance dates of the bond during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

"(b) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified tax credit bond is 25 percent of the annual credit determined with respect to such bond.

"(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified tax credit bond is the product of—

"(A) the applicable credit rate, multiplied by

"(B) the outstanding face amount of the bond.

"(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate is the rate which the Secretary estimates will permit the issuance of qualified tax credit bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer. The applicable credit rate with respect to any qualified tax credit bond shall be determined as of the first day on which there is a binding, written contract for the sale or exchange of the bond.

"(4) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under this part (other than subpart C and this subpart).

"(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year (determined before the application of paragraph (1) for such succeeding taxable year).

"(d) QUALIFIED TAX CREDIT BOND.—For purposes of this section—

"(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means a qualified forestry conservation bond which is part of an issue that meets the requirements of paragraphs (2), (3), (4), (5), and (6).

"(2) SPECIAL RULES RELATING TO EXPENDITURES.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if, as of the date of issuance, the issuer reasonably expects—

"(i) 100 percent or more of the available project proceeds to be spent for 1 or more qualified purposes within the 3-year period beginning on such date of issuance, and

"(ii) a binding commitment with a third party to spend at least 10 percent of such available project proceeds will be incurred within the 6-month period beginning on such date of issuance.

"(B) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 3 YEARS.—

"(i) IN GENERAL.—To the extent that less than 100 percent of the available project proceeds of the issue are expended by the close of the expenditure period for 1 or more qualified purposes, the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

"(ii) EXPENDITURE PERIOD.—For purposes of this subpart, the term 'expenditure period' means, with respect to any issue, the 3-year period beginning on the date of issuance. Such term shall include any extension of such period under clause (iii).

"(iii) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the expenditure period (determined without regard to any extension under this clause), the Secretary may extend such period if the issuer establishes that the failure to expend the proceeds within the original expenditure period is due to reasonable cause and the expenditures for qualified purposes will continue to proceed with due diligence.

"(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means a purpose specified in section 54B(e).

"(D) REIMBURSEMENT.—For purposes of this subtitle, available project proceeds of an issue shall be treated as spent for a qualified purpose if such proceeds are used to reimburse the issuer for amounts paid for a qualified purpose after the date that the Secretary makes an allocation of bond limitation with respect to such issue, but only if—

"(i) prior to the payment of the original expenditure, the issuer declared its intent to reimburse such expenditure with the proceeds of a qualified tax credit bond,

"(ii) not later than 60 days after payment of the original expenditure, the issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

"(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

"(3) REPORTING.—An issue shall be treated as meeting the requirements of this paragraph if the issuer of qualified tax credit bonds submits reports similar to the reports required under section 149(e).

"(4) SPECIAL RULES RELATING TO ARBITRAGE.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if the issuer satisfies the requirements of section 148 with respect to the proceeds of the issue.

"(B) SPECIAL RULE FOR INVESTMENTS DURING EXPENDITURE PERIOD.—An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any investment of available project proceeds during the expenditure period.

"(C) SPECIAL RULE FOR RESERVE FUNDS.—An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any fund which is expected to be used to repay such issue if—

"(i) such fund is funded at a rate not more rapid than equal annual installments,

"(ii) such fund is funded in a manner reasonably expected to result in an amount not greater than an amount necessary to repay the issue, and

"(iii) the yield on such fund is not greater than the discount rate determined under paragraph (5)(B) with respect to the issue.

"(5) MATURITY LIMITATION.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph if the maturity of any bond which is part of such issue does not exceed the maximum term determined by the Secretary under subparagraph (B).

"(B) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

"(6) PROHIBITION ON FINANCIAL CONFLICTS OF INTEREST.—An issue shall be treated as meeting the requirements of this paragraph if the issuer certifies that—

"(A) applicable State and local law requirements governing conflicts of interest are satisfied with respect to such issue, and

"(B) if the Secretary prescribes additional conflicts of interest rules governing the appropriate Members of Congress, Federal, State, and local officials, and their spouses, such additional rules are satisfied with respect to such issue.

"(e) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15.

Such term includes the last day on which the bond is outstanding.

"(2) BOND.—The term 'bond' includes any obligation.

"(3) STATE.—The term 'State' includes the District of Columbia and any possession of the United States.

"(4) AVAILABLE PROJECT PROCEEDS.—The term 'available project proceeds' means—

"(A) the excess of—

"(i) the proceeds from the sale of an issue, over

"(ii) the issuance costs financed by the issue (to the extent that such costs do not exceed 2 percent of such proceeds), and

"(B) the proceeds from any investment of the excess described in subparagraph (A).

"(f) CREDIT TREATED AS INTEREST.—For purposes of this subtitle, the credit determined under subsection (a) shall be treated as interest which is includible in gross income.

"(g) S CORPORATIONS AND PARTNERSHIPS.—In the case of a tax credit bond held by an S corporation or partnership, the allocation of the credit allowed by this section to the shareholders of such corporation or partners of such partnership shall be treated as a distribution.

"(h) BONDS HELD BY REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—If any qualified tax credit bond is held by a regulated investment company or a real estate investment trust, the credit determined under subsection (a) shall be allowed to shareholders of such company or beneficiaries of such trust (and any gross income included under subsection (f) with respect to such credit shall be treated as distributed to such shareholders or beneficiaries) under procedures prescribed by the Secretary.

"(i) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a qualified tax credit bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

"(2) CERTAIN RULES TO APPLY.—In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified tax credit bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

"SEC. 54B. QUALIFIED FORESTRY CONSERVATION BONDS.

"(a) QUALIFIED FORESTRY CONSERVATION BOND.—For purposes of this subchapter, the term 'qualified forestry conservation bond' means any bond issued as part of an issue if—

"(1) 100 percent of the available project proceeds of such issue are to be used for one or more qualified forestry conservation purposes,

"(2) the bond is issued by a qualified issuer, and

"(3) the issuer designates such bond for purposes of this section.

"(b) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated to such issuer under subsection (d).

"(c) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified forestry conservation bond limitation of $500,000,000.

"(d) ALLOCATIONS.—

"(1) IN GENERAL.—The Secretary shall make allocations of the amount of the national qualified forestry conservation bond limitation described in subsection (c) among qualified forestry conservation purposes in such manner as the Secretary determines appropriate so as to ensure that all of such limitation is allocated before the date which is 24 months after the date of the enactment of this section.

"(2) SOLICITATION OF APPLICATIONS.—The Secretary shall solicit applications for allocations of the national qualified forestry conservation bond limitation described in subsection (c) not later than 90 days after the date of the enactment of this section.

"(e) QUALIFIED FORESTRY CONSERVATION PURPOSE.—For purposes of this section, the term 'qualified forestry conservation purpose' means the acquisition by a State or any political subdivision or instrumentality thereof or a 501(c)(3) organization (as defined in section 150(a)(4)) from an unrelated person of forest and forest land that meets the following qualifications:

"(1) Some portion of the land acquired must be adjacent to United States Forest Service Land.

"(2) At least half of the land acquired must be transferred to the United States Forest Service at no net cost to the United States and not more than half of the land acquired may either remain with or be conveyed to a State.

"(3) All of the land must be subject to a native fish habitat conservation plan approved by the United States Fish and Wildlife Service.

"(4) The amount of acreage acquired must be at least 40,000 acres.

"(f) QUALIFIED ISSUER.—For purposes of this section, the term 'qualified issuer' means a State or any political subdivision or instrumentality thereof or a 501(c)(3) organization (as defined in section 150(a)(4)).

"(g) SPECIAL ARBITRAGE RULE.—In the case of any qualified forestry conservation bond issued as part of an issue, section 54A(d)(4)(C) shall be applied to such issue without regard to clause (i).

"(h) ELECTION TO TREAT 50 PERCENT OF BOND ALLOCATION AS PAYMENT OF TAX.—

"(1) IN GENERAL.—If—

"(A) a qualified issuer receives an allocation of any portion of the national qualified forestry conservation bond limitation described in subsection (c), and

"(B) the qualified issuer elects the application of this subsection with respect to such allocation,

then the qualified issuer (without regard to whether the issuer is subject to tax under this chapter) shall be treated as having made a payment against the tax imposed by this chapter, for the taxable year preceding the taxable year in which the allocation is received, in an amount equal to 50 percent of the amount of such allocation.

"(2) TREATMENT OF DEEMED PAYMENT.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary shall not use the payment of tax described in paragraph (1) as an offset or credit against any tax liability of the qualified issuer but shall refund such payment to such issuer.

"(B) NO INTEREST.—Except as provided in paragraph (3)(A), the payment described in paragraph (1) shall not be taken into account in determining any amount of interest under this title.

"(3) REQUIREMENT FOR, AND EFFECT OF, ELECTION.—

"(A) REQUIREMENT.—No election under this subsection shall take effect unless the qualified issuer certifies to the Secretary that any payment of tax refunded to the issuer under this subsection will be used exclusively for 1 or more qualified forestry conservation purposes. If the qualified issuer fails to use any portion of such payment for such purpose, the issuer shall be liable to the United States in an amount equal to such portion, plus interest at the overpayment rate under section 6621 for the period from the date such portion was refunded to the date such amount is paid. Any such amount shall be assessed and collected in the same manner as tax imposed by this chapter, except that subchapter B of chapter 63 (relating to deficiency procedures) shall not apply in respect of such assessment or collection.

"(B) EFFECT OF ELECTION ON ALLOCATION.—If a qualified issuer makes the election under this subsection with respect to any allocation—

"(i) the issuer may issue no bonds pursuant to the allocation, and

"(ii) the Secretary may not reallocate such allocation for any other purpose.".

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

"(9) REPORTING OF CREDIT ON QUALIFIED TAX CREDIT BONDS.—

"(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54A and such amounts shall be treated as paid on the credit allowance date (as defined in section 54A(e)(1)).

"(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

"(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.".

(c) CONFORMING AMENDMENTS.—

(1) Sections 54(c)(2) and 1400N(l)(3)(B) are each amended by striking "subpart C" and inserting "subparts C and I".

(2) Section 1397E(c)(2) is amended by striking "subpart H" and inserting "subparts H and I".

(3) Section 6401(b)(1) is amended by striking "and H" and inserting "H, and I".

*(4) The heading of subpart H of part IV of subchapter A of chapter 1 is amended by striking "**Certain Bonds**" and inserting "**Clean Renewable Energy Bonds**".*

(5) The table of subparts for part IV of subchapter A of chapter 1 is amended by striking the item relating to subpart H and inserting the following new items:

"SUBPART H. NONREFUNDABLE CREDIT TO HOLDERS OF CLEAN RENEWABLE ENERGY BONDS.

"SUBPART I. QUALIFIED TAX CREDIT BONDS.".

(6) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by striking "or 6428 or 53(e)" and inserting ", 53(e), 54B(h), or 6428".

(d) EFFECTIVE DATES.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

PART II—ENERGY PROVISIONS

Subpart A—Cellulosic Biofuel

SEC. 15321. CREDIT FOR PRODUCTION OF CELLULOSIC BIOFUEL.

(a) IN GENERAL.—Subsection (a) of section 40 (relating to alcohol used as fuel) is amended by striking "plus" at the end of paragraph (1), by striking "plus" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", plus", and by adding at the end the following new paragraph:

"(4) the cellulosic biofuel producer credit.".

(b) CELLULOSIC BIOFUEL PRODUCER CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 40 is amended by adding at the end the following new paragraph:

"(6) CELLULOSIC BIOFUEL PRODUCER CREDIT.—

"(A) IN GENERAL.—The cellulosic biofuel producer credit of any taxpayer is an amount equal to the applicable amount for each gallon of qualified cellulosic biofuel production.

"(B) APPLICABLE AMOUNT.—For purposes of subparagraph (A), the applicable amount means $1.01, except that such amount shall, in the case of cellulosic biofuel which is alcohol, be reduced by the sum of—

"(i) the amount of the credit in effect for such alcohol under subsection (b)(1) (without regard to subsection (b)(3)) at the time of the qualified cellulosic biofuel production, plus

"(ii) in the case of ethanol, the amount of the credit in effect under subsection (b)(4) at the time of such production.

"(C) QUALIFIED CELLULOSIC BIOFUEL PRODUCTION.—For purposes of this section, the term 'qualified cellulosic

biofuel production' means any cellulosic biofuel which is produced by the taxpayer, and which during the taxable year—

"(i) is sold by the taxpayer to another person—

"(I) for use by such other person in the production of a qualified cellulosic biofuel mixture in such other person's trade or business (other than casual off-farm production),

"(II) for use by such other person as a fuel in a trade or business, or

"(III) who sells such cellulosic biofuel at retail to another person and places such cellulosic biofuel in the fuel tank of such other person, or

"(ii) is used or sold by the taxpayer for any purpose described in clause (i).

The qualified cellulosic biofuel production of any taxpayer for any taxable year shall not include any alcohol which is purchased by the taxpayer and with respect to which such producer increases the proof of the alcohol by additional distillation.

"(D) QUALIFIED CELLULOSIC BIOFUEL MIXTURE.—For purposes of this paragraph, the term 'qualified cellulosic biofuel mixture' means a mixture of cellulosic biofuel and gasoline or of cellulosic biofuel and a special fuel which—

"(i) is sold by the person producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the person producing such mixture.

"(E) CELLULOSIC BIOFUEL.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'cellulosic biofuel' means any liquid fuel which—

"(I) is produced from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, and

"(II) meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545).

"(ii) EXCLUSION OF LOW-PROOF ALCOHOL.—Such term shall not include any alcohol with a proof of less than 150. The determination of the proof of any alcohol shall be made without regard to any added denaturants.

"(F) ALLOCATION OF CELLULOSIC BIOFUEL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—Rules similar to the rules under subsection (g)(6) shall apply for purposes of this paragraph.

"(G) REGISTRATION REQUIREMENT.—No credit shall be determined under this paragraph with respect to any taxpayer unless such taxpayer is registered with the Secretary as a producer of cellulosic biofuel under section 4101.

"(H) APPLICATION OF PARAGRAPH.—This paragraph shall apply with respect to qualified cellulosic biofuel pro-

duction after December 31, 2008, and before January 1, 2013.".

(2) TERMINATION DATE NOT TO APPLY.—Subsection (e) of section 40 (relating to termination) is amended—

(A) by inserting "or subsection (b)(6)(H)" after "by reason of paragraph (1)" in paragraph (2), and

(B) by adding at the end the following new paragraph:

"(3) EXCEPTION FOR CELLULOSIC BIOFUEL PRODUCER CREDIT.—Paragraph (1) shall not apply to the portion of the credit allowed under this section by reason of subsection (a)(4).".

(3) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4101(a) is amended—

(i) by striking "and every person" and inserting ", every person", and

(ii) by inserting ", and every person producing cellulosic biofuel (as defined in section 40(b)(6)(E))" after "section 6426(b)(4)(A))".

(B) The heading of section 40, and the item relating to such section in the table of sections for subpart D of part IV of subchapter A of chapter 1, are each amended by inserting ", etc.," after "Alcohol".

(c) BIOFUEL NOT USED AS A FUEL, ETC.—

(1) IN GENERAL.—Paragraph (3) of section 40(d) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) CELLULOSIC BIOFUEL PRODUCER CREDIT.—If—

"(i) any credit is allowed under subsection (a)(4), and

"(ii) any person does not use such fuel for a purpose described in subsection (b)(6)(C),

then there is hereby imposed on such person a tax equal to the applicable amount (as defined in subsection (b)(6)(B)) for each gallon of such cellulosic biofuel.".

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 40(d)(3) is amended by striking "PRODUCER" in the heading and inserting "SMALL ETHANOL PRODUCER".

(B) Subparagraph (E) of section 40(d)(3), as redesignated by paragraph (1), is amended by striking "or (C)" and inserting "(C), or (D)".

(d) BIOFUEL PRODUCED IN THE UNITED STATES.—Section 40(d) is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULE FOR CELLULOSIC BIOFUEL PRODUCER CREDIT.—No cellulosic biofuel producer credit shall be determined under subsection (a) with respect to any cellulosic biofuel unless such cellulosic biofuel is produced in the United States and used as a fuel in the United States. For purposes of this subsection, the term 'United States' includes any possession of the United States.".

(e) WAIVER OF CREDIT LIMIT FOR CELLULOSIC BIOFUEL PRODUCTION BY SMALL ETHANOL PRODUCERS.—Section 40(b)(4)(C) is amended by inserting "(determined without regard to any qualified cellulosic biofuel production)" after "15,000,000 gallons".

(f) DENIAL OF DOUBLE BENEFIT.—

(1) BIODIESEL.—Paragraph (1) of section 40A(d) is amended by adding at the end the following new flush sentence:
"Such term shall not include any liquid with respect to which a credit may be determined under section 40.".

(2) RENEWABLE DIESEL.—Paragraph (3) of section 40A(f) is amended by adding at the end the following new flush sentence: "Such term shall not include any liquid with respect to which a credit may be determined under section 40.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced after December 31, 2008.

SEC. 15322. COMPREHENSIVE STUDY OF BIOFUELS.

(a) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Agriculture, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, shall enter into an agreement with the National Academy of Sciences to produce an analysis of current scientific findings to determine—

(1) current biofuels production, as well as projections for future production,

(2) the maximum amount of biofuels production capable in United States forests and farmlands, including the current quantities and character of the feedstocks and including such information as regional forest inventories that are commercially available, used in the production of biofuels,

(3) the domestic effects of an increase in biofuels production levels, including the effects of such levels on—

(A) the price of fuel,

(B) the price of land in rural and suburban communities,

(C) crop acreage, forest acreage, and other land use,

(D) the environment, due to changes in crop acreage, fertilizer use, runoff, water use, emissions from vehicles utilizing biofuels, and other factors,

(E) the price of feed,

(F) the selling price of grain crops and forest products,

(G) exports and imports of grains and forest products,

(H) taxpayers, through cost or savings to commodity crop payments, and

(I) the expansion of refinery capacity,

(4) the ability to convert corn ethanol plants for other uses, such as cellulosic ethanol or biodiesel,

(5) a comparative analysis of corn ethanol versus other biofuels and renewable energy sources, considering cost, energy output, and ease of implementation,

(6) the impact of the tax credit established by this subpart on the regional agricultural and silvicultural capabilities of commercially available forest inventories, and

(7) the need for additional scientific inquiry, and specific areas of interest for future research.

(b) REPORT.—The Secretary of the Treasury shall submit an initial report of the findings of the study required under subsection (a) to Congress not later than 6 months after the date of the enactment of this Act (36 months after such date in the case of the information required by subsection (a)(6)), and a final report not later than 12 months after such date (42 months after such date in the case of the information required by subsection (a)(6)).

Subpart B—Revenue Provisions

SEC. 15331. MODIFICATION OF ALCOHOL CREDIT.

(a) INCOME TAX CREDIT.—

(1) IN GENERAL.—The table in paragraph (2) of section 40(h) is amended—

(A) by striking "through 2010" in the first column and inserting ", 2006, 2007, or 2008",

(B) by striking the period at the end of the third row, and

(C) by adding at the end the following new row:

"2009 through 2010 ..... 45 cents ..... 33.33 cents.".

(2) EXCEPTION.—Section 40(h) is amended by adding at the end the following new paragraph:

"(3) REDUCTION DELAYED UNTIL ANNUAL PRODUCTION OR IMPORTATION OF 7,500,000,000 GALLONS.—

"(A) IN GENERAL.—In the case of any calendar year beginning after 2008, if the Secretary makes a determination described in subparagraph (B) with respect to all preceding calendar years beginning after 2007, the last row in the table in paragraph (2) shall be applied by substituting '51 cents' for '45 cents'.

"(B) DETERMINATION.—A determination described in this subparagraph with respect to any calendar year is a determination, in consultation with the Administrator of the Environmental Protection Agency, that an amount less than 7,500,000,000 gallons of ethanol (including cellulosic ethanol) has been produced in or imported into the United States in such year.".

(b) EXCISE TAX CREDIT.—

(1) IN GENERAL.—Subparagraph (A) of section 6426(b)(2) (relating to alcohol fuel mixture credit) is amended by striking "the applicable amount is 51 cents" and inserting "the applicable amount is—

"(i) in the case of calendar years beginning before 2009, 51 cents, and

"(ii) in the case of calendar years beginning after 2008, 45 cents.".

(2) EXCEPTION.—Paragraph (2) of section 6426(b) is amended by adding at the end the following new subparagraph:

"(C) REDUCTION DELAYED UNTIL ANNUAL PRODUCTION OR IMPORTATION OF 7,500,000,000 GALLONS.—In the case of any calendar year beginning after 2008, if the Secretary makes a determination described in section 40(h)(3)(B) with respect to all preceding calendar years beginning after 2007, subparagraph (A)(ii) shall be applied by substituting '51 cents' for '45 cents'."

(3) CONFORMING AMENDMENT.—Subparagraph (A) of section 6426(b)(2) is amended by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 15332. CALCULATION OF VOLUME OF ALCOHOL FOR FUEL CREDITS.

(a) IN GENERAL.—Paragraph (4) of section 40(d) (relating to volume of alcohol) is amended by striking "5 percent" and inserting "2 percent".

(b) CONFORMING AMENDMENT FOR EXCISE TAX CREDIT.—Section 6426(b) (relating to alcohol fuel mixture credit) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

> *"(5) VOLUME OF ALCOHOL.—For purposes of determining under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 2 percent of the volume of such alcohol (including denaturants).".*

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2008.

SEC. 15333. ETHANOL TARIFF EXTENSION.

Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States are each amended in the effective period column by striking "1/1/2009" and inserting "1/1/2011".

SEC. 15334. LIMITATIONS ON DUTY DRAWBACK ON CERTAIN IMPORTED ETHANOL.

(a) IN GENERAL.—Section 313(p) of the Tariff Act of 1930 (19 U.S.C. 1313(p)) is amended by adding at the end the following new paragraph:

> *"(5) SPECIAL RULES FOR ETHYL ALCOHOL.—For purposes of this subsection, any duty paid under subheading 9901.00.50 of the Harmonized Tariff Schedule of the United States on imports of ethyl alcohol or a mixture of ethyl alcohol may not be refunded if the exported article upon which a drawback claim is based does not contain ethyl alcohol or a mixture of ethyl alcohol.".*

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to—

> *(1) imports of ethyl alcohol or a mixture of ethyl alcohol entered for consumption, or withdrawn from warehouse for consumption, on or after October 1, 2008; and*
>
> *(2) imports of ethyl alcohol or a mixture of ethyl alcohol entered for consumption, or withdrawn from warehouse for consumption, before October 1, 2008, if a duty drawback claim is filed with respect to such imports on or after October 1, 2010.*

PART III—AGRICULTURAL PROVISIONS

SEC. 15341. INCREASE IN LOAN LIMITS ON AGRICULTURAL BONDS.

(a) IN GENERAL.—Subparagraph (A) of section 147(c)(2) (relating to exception for first-time farmers) is amended by striking "$250,000" and inserting "$450,000".

(b) INFLATION ADJUSTMENT.—Section 147(c)(2) is amended by adding at the end the following new subparagraph:

"(H) ADJUSTMENTS FOR INFLATION.—In the case of any calendar year after 2008, the dollar amount in subparagraph (A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2007' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as increased under the preceding sentence is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.".

(c) MODIFICATION OF SUBSTANTIAL FARMLAND DEFINITION.—Section 147(c)(2)(E) (defining substantial farmland) is amended by striking "unless" and all that follows through the period and inserting "unless such parcel is smaller than 30 percent of the median size of a farm in the county in which such parcel is located.".

(d) CONFORMING AMENDMENT.—Section 147(c)(2)(C)(i)(II) is amended by striking "$250,000" and inserting "the amount in effect under subparagraph (A)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 15342. ALLOWANCE OF SECTION 1031 TREATMENT FOR EXCHANGES INVOLVING CERTAIN MUTUAL DITCH, RESERVOIR, OR IRRIGATION COMPANY STOCK.

(a) IN GENERAL.—Section 1031 (relating to exchange of property held for productive use or investment) is amended by adding at the end the following new subsection:

"(i) SPECIAL RULES FOR MUTUAL DITCH, RESERVOIR, OR IRRIGATION COMPANY STOCK.—For purposes of subsection (a)(2)(B), the term 'stocks' shall not include shares in a mutual ditch, reservoir, or irrigation company if at the time of the exchange—

"(1) the mutual ditch, reservoir, or irrigation company is an organization described in section 501(c)(12)(A) (determined without regard to the percentage of its income that is collected from its members for the purpose of meeting losses and expenses), and

"(2) the shares in such company have been recognized by the highest court of the State in which such company was organized or by applicable State statute as constituting or representing real property or an interest in real property.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to exchanges completed after the date of the enactment of this Act.

SEC. 15343. AGRICULTURAL CHEMICALS SECURITY CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45O. AGRICULTURAL CHEMICALS SECURITY CREDIT.

"(a) IN GENERAL.—For purposes of section 38, in the case of an eligible agricultural business, the agricultural chemicals security credit determined under this section for the taxable year is 30 percent of the qualified security expenditures for the taxable year.

"(b) FACILITY LIMITATION.—The amount of the credit determined under subsection (a) with respect to any facility for any taxable year shall not exceed—

"(1) $100,000, reduced by

"(2) the aggregate amount of credits determined under subsection (a) with respect to such facility for the 5 prior taxable years.

"(c) ANNUAL LIMITATION.—The amount of the credit determined under subsection (a) with respect to any taxpayer for any taxable year shall not exceed $2,000,000.

"(d) QUALIFIED CHEMICAL SECURITY EXPENDITURE.—For purposes of this section, the term 'qualified chemical security expenditure' means, with respect to any eligible agricultural business for any taxable year, any amount paid or incurred by such business during such taxable year for—

"(1) employee security training and background checks,

"(2) limitation and prevention of access to controls of specified agricultural chemicals stored at the facility,

"(3) tagging, locking tank valves, and chemical additives to prevent the theft of specified agricultural chemicals or to render such chemicals unfit for illegal use,

"(4) protection of the perimeter of specified agricultural chemicals,

"(5) installation of security lighting, cameras, recording equipment, and intrusion detection sensors,

"(6) implementation of measures to increase computer or computer network security,

"(7) conducting a security vulnerability assessment,

"(8) implementing a site security plan, and

"(9) such other measures for the protection of specified agricultural chemicals as the Secretary may identify in regulation.

Amounts described in the preceding sentence shall be taken into account only to the extent that such amounts are paid or incurred for the purpose of protecting specified agricultural chemicals.

"(e) ELIGIBLE AGRICULTURAL BUSINESS.—For purposes of this section, the term 'eligible agricultural business' means any person in the trade or business of—

"(1) selling agricultural products, including specified agricultural chemicals, at retail predominantly to farmers and ranchers, or

"(2) manufacturing, formulating, distributing, or aerially applying specified agricultural chemicals.

"(f) SPECIFIED AGRICULTURAL CHEMICAL.—For purposes of this section, the term 'specified agricultural chemical' means—

"(1) any fertilizer commonly used in agricultural operations which is listed under—

"(A) section 302(a)(2) of the Emergency Planning and Community Right-to-Know Act of 1986,

"(B) section 101 of part 172 of title 49, Code of Federal Regulations, or

"(C) part 126, 127, or 154 of title 33, Code of Federal Regulations, and

"(2) any pesticide (as defined in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act), including all ac-

tive and inert ingredients thereof, which is customarily used on crops grown for food, feed, or fiber.

"(g) CONTROLLED GROUPS.—Rules similar to the rules of paragraphs (1) and (2) of section 41(f) shall apply for purposes of this section.

"(h) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations which—

"(1) provide for the proper treatment of amounts which are paid or incurred for purpose of protecting any specified agricultural chemical and for other purposes, and

"(2) provide for the treatment of related properties as one facility for purposes of subsection (b).

"(i) TERMINATION.—This section shall not apply to any amount paid or incurred after December 31, 2012.".

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking "plus" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", plus", and by adding at the end the following new paragraph:

"(32) in the case of an eligible agricultural business (as defined in section 45O(e)), the agricultural chemicals security credit determined under section 45O(a).".

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C is amended by adding at the end the following new subsection:

"(f) CREDIT FOR SECURITY OF AGRICULTURAL CHEMICALS.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction taken into account in determining the credit under section 45O for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45O(a).".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45O. Agricultural chemicals security credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 15344. 3-YEAR DEPRECIATION FOR RACE HORSES THAT ARE 2 YEARS OLD OR YOUNGER.

(a) IN GENERAL.—Clause (i) of section 168(e)(3)(A) (relating to 3-year property) is amended to read as follows:

"(i) any race horse—

"(I) which is placed in service before January 1, 2014, and

"(II) which is placed in service after December 31, 2013, and which is more than 2 years old at the time such horse is placed in service by such purchaser,".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2008.

SEC. 15345. TEMPORARY TAX RELIEF FOR KIOWA COUNTY, KANSAS AND SURROUNDING AREA.

(a) IN GENERAL.—Subject to the modifications described in this section, the following provisions of or relating to the Internal Rev-

enue Code of 1986 shall apply to the Kansas disaster area in addition to the areas to which such provisions otherwise apply:

(1) Section 1400N(d) of such Code (relating to special allowance for certain property).

(2) Section 1400N(e) of such Code (relating to increase in expensing under section 179).

(3) Section 1400N(f) of such Code (relating to expensing for certain demolition and clean-up costs).

(4) Section 1400N(k) of such Code (relating to treatment of net operating losses attributable to storm losses).

(5) Section 1400N(n) of such Code (relating to treatment of representations regarding income eligibility for purposes of qualified rental project requirements).

(6) Section 1400N(o) of such Code (relating to treatment of public utility property disaster losses).

(7) Section 1400Q of such Code (relating to special rules for use of retirement funds).

(8) Section 1400R(a) of such Code (relating to employee retention credit for employers).

(9) Section 1400S(b) of such Code (relating to suspension of certain limitations on personal casualty losses).

(10) Section 405 of the Katrina Emergency Tax Relief Act of 2005 (relating to extension of replacement period for nonrecognition of gain).

(b) KANSAS DISASTER AREA.—For purposes of this section, the term "Kansas disaster area" means an area with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (FEMA–1699–DR, as in effect on the date of the enactment of this Act) by reason of severe storms and tornados beginning on May 4, 2007, and determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act with respect to damages attributable to such storms and tornados.

(c) REFERENCES TO AREA OR LOSS.—

(1) AREA.—Any reference in such provisions to the Katrina disaster area or the Gulf Opportunity Zone shall be treated as a reference to the Kansas disaster area.

(2) LOSS.—Any reference in such provisions to any loss or damage attributable to Hurricane Katrina shall be treated as a reference to any loss or damage attributable to the May 4, 2007, storms and tornados.

(d) REFERENCES TO DATES, ETC.—

(1) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED ON OR AFTER MAY 5, 2007.—Section 1400N(d) of such Code—

(A) by substituting "qualified Recovery Assistance property" for "qualified Gulf Opportunity Zone property" each place it appears,

(B) by substituting "May 5, 2007" for "August 28, 2005" each place it appears,

(C) by substituting "December 31, 2008" for "December 31, 2007" in paragraph (2)(A)(v),

(D) by substituting "December 31, 2009" for "December 31, 2008" in paragraph (2)(A)(v),

(E) by substituting "May 4, 2007" for "August 27, 2005" in paragraph (3)(A),

(F) by substituting "January 1, 2009" for "January 1, 2008" in paragraph (3)(B), and

(G) determined without regard to paragraph (6) thereof.

(2) INCREASE IN EXPENSING UNDER SECTION 179.—Section 1400N(e) of such Code, by substituting "qualified section 179 Recovery Assistance property" for "qualified section 179 Gulf Opportunity Zone property" each place it appears.

(3) EXPENSING FOR CERTAIN DEMOLITION AND CLEAN-UP COSTS.—Section 1400N(f) of such Code—

(A) by substituting "qualified Recovery Assistance clean-up cost" for "qualified Gulf Opportunity Zone clean-up cost" each place it appears, and

(B) by substituting "beginning on May 4, 2007, and ending on December 31, 2009" for "beginning on August 28, 2005, and ending on December 31, 2007" in paragraph (2) thereof.

(4) TREATMENT OF NET OPERATING LOSSES ATTRIBUTABLE TO STORM LOSSES.—Section 1400N(k) of such Code—

(A) by substituting "qualified Recovery Assistance loss" for "qualified Gulf Opportunity Zone loss" each place it appears,

(B) by substituting "after May 3, 2007, and before on January 1, 2010" for "after August 27, 2005, and before January 1, 2008" each place it appears,

(C) by substituting "May 4, 2007" for "August 28, 2005" in paragraph (2)(B)(ii)(I) thereof,

(D) by substituting "qualified Recovery Assistance property" for "qualified Gulf Opportunity Zone property" in paragraph (2)(B)(iv) thereof, and

(E) by substituting "qualified Recovery Assistance casualty loss" for "qualified Gulf Opportunity Zone casualty loss" each place it appears.

(5) SPECIAL RULES FOR USE OF RETIREMENT FUNDS.—Section 1400Q of such Code—

(A) by substituting "qualified Recovery Assistance distribution" for "qualified hurricane distribution" each place it appears,

(B) by substituting "on or after May 4, 2007, and before January 1, 2009" for "on or after August 25, 2005, and before January 1, 2007" in subsection (a)(4)(A)(i),

(C) by substituting "May 4, 2007" for "August 28, 2005" in subsections (a)(4)(A)(i) and (c)(3)(B),

(D) disregarding clauses (ii) and (iii) of subsection (a)(4)(A),

(E) by substituting "qualified storm distribution" for "qualified Katrina distribution" each place it appears,

(F) by substituting "after November 4, 2006, and before May 5, 2007" for "after February 28, 2005, and before August 29, 2005" in subsection (b)(2)(B)(ii),

(G) by substituting "the Kansas disaster area (as defined in section 15345(b) of the Food, Conservation, and Energy Act of 2008) but which was not so purchased or

constructed on account of the May 4, 2007, storms and tornados" for "the Hurricane Katrina disaster area, but not so purchased or constructed on account of Hurricane Katrina" in subsection (b)(2)(B)(iii),

(H) by substituting "beginning on May 4, 2007, and ending on the date which is 5 months after the date of the enactment of the Heartland, Habitat, Harvest, and Horticulture Act of 2008" for "beginning on August 25, 2005, and ending on February 28, 2006" in subsection (b)(3)(A),

(I) by substituting "qualified storm individual" for "qualified Hurricane Katrina individual" each place it appears,

(J) by substituting "December 31, 2008" for "December 31, 2006" in subsection (c)(2)(A),

(K) by substituting "beginning on the date of the enactment of the Food, Conservation, and Energy Act of 2008 and ending on December 31, 2008" for "beginning on September 24, 2005, and ending on December 31, 2006" in subsection (c)(4)(A)(i),

(L) by substituting "May 4, 2007" for "August 25, 2005" in subsection (c)(4)(A)(ii), and

(M) by substituting "January 1, 2009" for "January 1, 2007" in subsection (d)(2)(A)(ii).

(6) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY MAY 4 STORMS AND TORNADOS.—Section 1400R(a) of the Internal Revenue Code of 1986—

(A) by substituting "May 4, 2007" for "August 28, 2005" each place it appears,

(B) by substituting "January 1, 2008" for "January 1, 2006" both places it appears, and

(C) only with respect to eligible employers who employed an average of not more than 200 employees on business days during the taxable year before May 4, 2007.

(7) SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.—Section 1400S(b)(1) of the Internal Revenue Code of 1986, by substituting "May 4, 2007" for "August 25, 2005".

(8) EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN.—Section 405 of the Katrina Emergency Tax Relief Act of 2005, by substituting "on or after May 4, 2007" for "on or after August 25, 2005".

SEC. 15346. COMPETITIVE CERTIFICATION AWARDS MODIFICATION AUTHORITY.

(a) IN GENERAL.—Section 48A (relating to qualifying advanced coal project credit) is amended by adding at the end the following new subsection:

"(h) COMPETITIVE CERTIFICATION AWARDS MODIFICATION AUTHORITY.—In implementing this section or section 48B, the Secretary is directed to modify the terms of any competitive certification award and any associated closing agreement where such modification—

"(1) is consistent with the objectives of such section,

"(2) is requested by the recipient of the competitive certification award, and

"(3) involves moving the project site to improve the potential to capture and sequester carbon dioxide emissions, reduce costs of transporting feedstock, and serve a broader customer base,

unless the Secretary determines that the dollar amount of tax credits available to the taxpayer under such section would increase as a result of the modification or such modification would result in such project not being originally certified. In considering any such modification, the Secretary shall consult with other relevant Federal agencies, including the Department of Energy.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act and is applicable to all competitive certification awards entered into under section 48A or 48B of the Internal Revenue Code of 1986, whether such awards were issued before, on, or after such date of enactment.

PART IV—OTHER REVENUE PROVISIONS

SEC. 15351. LIMITATION ON EXCESS FARM LOSSES OF CERTAIN TAXPAYERS.

(a) IN GENERAL.—Section 461 (relating to general rule for taxable year of deduction) is amended by adding at the end the following new subsection:

"(j) LIMITATION ON EXCESS FARM LOSSES OF CERTAIN TAXPAYERS.—

"(1) LIMITATION.—If a taxpayer other than a C corporation receives any applicable subsidy for any taxable year, any excess farm loss of the taxpayer for the taxable year shall not be allowed.

"(2) DISALLOWED LOSS CARRIED TO NEXT TAXABLE YEAR.—Any loss which is disallowed under paragraph (1) shall be treated as a deduction of the taxpayer attributable to farming businesses in the next taxable year.

"(3) APPLICABLE SUBSIDY.—For purposes of this subsection, the term 'applicable subsidy' means—

"(A) any direct or counter-cyclical payment under title I of the Food, Conservation, and Energy Act of 2008, or any payment elected to be received in lieu of any such payment, or

"(B) any Commodity Credit Corporation loan.

"(4) EXCESS FARM LOSS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'excess farm loss' means the excess of—

"(i) the aggregate deductions of the taxpayer for the taxable year which are attributable to farming businesses of such taxpayer (determined without regard to whether or not such deductions are disallowed for such taxable year under paragraph (1)), over

"(ii) the sum of—

"(I) the aggregate gross income or gain of such taxpayer for the taxable year which is attributable to such farming businesses, plus

"(II) the threshold amount for the taxable year.

"(B) THRESHOLD AMOUNT.—

"(i) IN GENERAL.—The term 'threshold amount' means, with respect to any taxable year, the greater of—

"(I) $300,000 ($150,000 in the case of married individuals filing separately), or

"(II) the excess (if any) of the aggregate amounts described in subparagraph (A)(ii)(I) for the 5-consecutive taxable year period preceding the taxable year over the aggregate amounts described in subparagraph (A)(i) for such period.

"(ii) SPECIAL RULES FOR DETERMINING AGGREGATE AMOUNTS.—For purposes of clause (i)(II)—

"(I) notwithstanding the disregard in subparagraph (A)(i) of any disallowance under paragraph (1), in the case of any loss which is carried forward under paragraph (2) from any taxable year, such loss (or any portion thereof) shall be taken into account for the first taxable year in which a deduction for such loss (or portion) is not disallowed by reason of this subsection, and

"(II) the Secretary shall prescribe rules for the computation of the aggregate amounts described in such clause in cases where the filing status of the taxpayer is not the same for the taxable year and each of the taxable years in the period described in such clause.

"(C) FARMING BUSINESS.—

"(i) IN GENERAL.—The term 'farming business' has the meaning given such term in section 263A(e)(4).

"(ii) CERTAIN TRADES AND BUSINESSES INCLUDED.—If, without regard to this clause, a taxpayer is engaged in a farming business with respect to any agricultural or horticultural commodity—

"(I) the term 'farming business' shall include any trade or business of the taxpayer of the processing of such commodity (without regard to whether the processing is incidental to the growing, raising, or harvesting of such commodity), and

"(II) if the taxpayer is a member of a cooperative to which subchapter T applies, any trade or business of the cooperative described in subclause (I) shall be treated as the trade or business of the taxpayer.

"(D) CERTAIN LOSSES DISREGARDED.—For purposes of subparagraph (A)(i), there shall not be taken into account any deduction for any loss arising by reason of fire, storm, or other casualty, or by reason of disease or drought, involving any farming business.

"(5) APPLICATION OF SUBSECTION IN CASE OF PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation—

"(A) this subsection shall be applied at the partner or shareholder level, and

"(B) each partner's or shareholder's proportionate share of the items of income, gain, or deduction of the partnership

or S corporation for any taxable year from farming businesses attributable to the partnership or S corporation, and of any applicable subsidies received by the partnership or S corporation during the taxable year, shall be taken into account by the partner or shareholder in applying this subsection to the taxable year of such partner or shareholder with or within which the taxable year of the partnership or S corporation ends.

The Secretary may provide rules for the application of this paragraph to any other pass-thru entity to the extent necessary to carry out the provisions of this subsection.

"(6) ADDITIONAL REPORTING.—The Secretary may prescribe such additional reporting requirements as the Secretary determines appropriate to carry out the purposes of this subsection.

"(7) COORDINATION WITH SECTION 469.—This subsection shall be applied before the application of section 469.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 15352. MODIFICATION TO OPTIONAL METHOD OF COMPUTING NET EARNINGS FROM SELF-EMPLOYMENT.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—The matter following paragraph (17) of section 1402(a) is amended—

(A) by striking "$2,400" each place it appears and inserting "the upper limit", and

(B) by striking "$1,600" each place it appears and inserting "the lower limit".

(2) DEFINITIONS.—Section 1402 is amended by adding at the end the following new subsection:

"(l) UPPER AND LOWER LIMITS.—For purposes of subsection (a)—

"(1) LOWER LIMIT.—The lower limit for any taxable year is the sum of the amounts required under section 213(d) of the Social Security Act for a quarter of coverage in effect with respect to each calendar quarter ending with or within such taxable year.

"(2) UPPER LIMIT.—The upper limit for any taxable year is the amount equal to 150 percent of the lower limit for such taxable year.".

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

(1) IN GENERAL.—The matter following paragraph (16) of section 211(a) of the Social Security Act is amended—

(A) by striking "$2,400" each place it appears and inserting "the upper limit", and

(B) by striking "$1,600" each place it appears and inserting "the lower limit".

(2) DEFINITIONS.—Section 211 of such Act is amended by adding at the end the following new subsection:

"(k) UPPER AND LOWER LIMITS.—For purposes of subsection (a)—

"(1) The lower limit for any taxable year is the sum of the amounts required under section 213(d) for a quarter of coverage in effect with respect to each calendar quarter ending with or within such taxable year.

"(2) The upper limit for any taxable year is the amount equal to 150 percent of the lower limit for such taxable year.".

(3) CONFORMING AMENDMENT.—Section 212 of such Act is amended—

(A) in subsection (b), by striking "For" and inserting "Except as provided in subsection (c), for"; and

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

"(c) For the purpose of determining average indexed monthly earnings, average monthly wage, and quarters of coverage in the case of any individual who elects the option described in clause (ii) or (iv) in the matter following section 211(a)(16) for any taxable year that does not begin with or during a particular calendar year and end with or during such year, the self-employment income of such individual deemed to be derived during such taxable year shall be allocated to the two calendar years, portions of which are included within such taxable year, in the same proportion to the total of such deemed self-employment income as the sum of the amounts applicable under section 213(d) for the calendar quarters ending with or within each such calendar year bears to the lower limit for such taxable year specified in section 211(k)(1).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 15353. INFORMATION REPORTING FOR COMMODITY CREDIT CORPORATION TRANSACTIONS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6039I the following new section:

"SEC. 6039J. INFORMATION REPORTING WITH RESPECT TO COMMODITY CREDIT CORPORATION TRANSACTIONS.

"(a) REQUIREMENT OF REPORTING.—The Commodity Credit Corporation, through the Secretary of Agriculture, shall make a return, according to the forms and regulations prescribed by the Secretary of the Treasury, setting forth any market gain realized by a taxpayer during the taxable year in relation to the repayment of a loan issued by the Commodity Credit Corporation, without regard to the manner in which such loan was repaid.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—The Secretary of Agriculture shall furnish to each person whose name is required to be set forth in a return required under subsection (a) a written statement showing the amount of market gain reported in such return.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6039I the following new item:

"Sec. 6039J. Information reporting with respect to Commodity Credit Corporation transactions.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to loans repaid on or after January 1, 2007.

PART V—PROTECTION OF SOCIAL SECURITY

SEC. 15361. PROTECTION OF SOCIAL SECURITY.

To ensure that the assets of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401) are not reduced as a result of the enactment of this Act, the Secretary of the Treasury shall transfer annually from the general revenues of the Federal Government to those trust funds the following amounts:

(1) For fiscal year 2009, $5,000,000.
(2) For fiscal year 2010, $9,000,000.
(3) For fiscal year 2011, $8,000,000.
(4) For fiscal year 2012, $7,000,000.
(5) For fiscal year 2013, $8,000,000.
(6) For fiscal year 2014, $8,000,000.
(7) For fiscal year 2015, $8,000,000.
(8) For fiscal year 2016, $6,000,000.
(9) For fiscal year 2017, $7,000,000.

Subtitle D—Trade Provisions

PART I—EXTENSION OF CERTAIN TRADE BENEFITS

SEC. 15401. SHORT TITLE.

This part may be cited as the "Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008" or the "HOPE II Act".

SEC. 15402. BENEFITS FOR APPAREL AND OTHER TEXTILE ARTICLES.

(a) VALUE-ADDED RULE.—Section 213A(b) of the Carribean Basin Economic Recovery Act (19 U.S.C. 2703a(b)) is amended as follows:

(1) The subsection heading is amended to read as follows: "APPAREL AND OTHER TEXTILE ARTICLES".

(2) Paragraph (1) is amended to read as follows:

"(1) VALUE-ADDED RULE FOR APPAREL ARTICLES.—

"(A) IN GENERAL.—Apparel articles described in subparagraph (B) of a producer or entity controlling production that are imported directly from Haiti or the Dominican Republic shall enter the United States free of duty during an applicable 1-year period, subject to the limitations set forth in subparagraphs (B) and (C), and subject to subparagraph (D).".

(3) Paragraph (2) is amended—

(A) in subparagraph (A)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i), by striking "subparagraph (C)" and inserting "clause (iii)";

(iii) in clause (ii), by striking "subparagraph (C)" and inserting "clause (iii)";

(iv) in the matter following clause (ii), by striking "subparagraph (E)(I)" and inserting "clause (v)(I)";

(v) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively; and

(vi) by redesignating subparagraph (A) as clause (i);

(B) in subparagraph (B)—

(i) by moving such subparagraph 2 ems to the right;

(ii) by striking "subparagraph (A)(i)" each place it appears and inserting "clause (i)(I)";

(iii) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively; and

(iv) by redesignating subparagraph (B) as clause (ii);

(C) in subparagraph (C)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in the matter preceding clause (i), by striking "subparagraph (A)" and inserting "clause (i)";

(iii) in clause (ii), by striking "that enters into force" and all that follows through "et seq.)" and inserting "that enters into force thereafter";

(iv) by redesignating clauses (i) through (v) as subclauses (I) through (V), respectively; and

(v) by redesignating subparagraph (C) as clause (iii);

(D) in subparagraph (D)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i)—

(I) in the matter preceding subclause (I), by striking "subparagraph (A)" and inserting "clause (i)";

(II) in subclause (I), by striking "clause (i) of subparagraph (A)" and inserting "subclause (I) of clause (i)";

(III) in subclause (II), by striking "clause (ii) of subparagraph (A)" and inserting "subclause (II) of clause (i)";

(IV) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(V) by redesignating clause (i) as subclause (I);

(iii) in clause (ii)—

(I) in the matter preceding subclause (I), by striking "subparagraph (A)" and inserting "clause (i)";

(II) in subclause (I), by striking "clause (i) of subparagraph (A)" and inserting "subclause (I) of clause (i)";

(III) in subclause (II), by striking "clause (ii) of subparagraph (A)" and inserting "subclause (II) of clause (i)";

(IV) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(V) by redesignating clause (ii) as subclause (II);

(iv) in clause (iii)—

(I) by striking "clause (i)(I) or (ii)(I)" each place it appears and inserting "subclause (I)(aa) or (II)(aa)";

(II) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(III) by redesignating clause (iii) as subclause (III);

(v) by amending clause (iv) to read as follows:

"(IV) INCLUSION IN CALCULATION OF OTHER ARTICLES RECEIVING PREFERENTIAL TREATMENT.—Entries of apparel articles that receive preferential treatment under any provision of law other than this subparagraph or are subject to the 'General' column 1 rate of duty under the HTS are not included in the annual aggregation under subclause (I) or (II) unless the producer or entity controlling production elects, at the time the annual aggregation calculation is made, to include such entries in such aggregation."; and

(vi) by redesignating subparagraph (D) as clause (iv);

(E) in subparagraph (E)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i)—

(I) by redesignating subclauses (I) through (III) as items (aa) through (cc), respectively; and

(II) by redesignating clause (i) as subclause (I);

(iii) in clause (ii)—

(I) by striking "subparagraph (C)" and inserting "clause (iii)"; and

(II) by redesignating clause (ii) as subclause (II); and

(iv) by redesignating subparagraph (E) as clause (v);

(F) in subparagraph (F)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i)—

(I) by striking "The Bureau of Customs and Border Protection" and inserting "U.S. Customs and Border Protection";

(II) by striking "subparagraphs (A) and (D)" and inserting "clauses (i) and (iv)"; and

(III) by redesignating clause (i) as subclause (I);

(iii) in clause (ii)—

(I) in the matter preceding subclause (I)—

(aa) by striking "the Bureau of Customs and Border Protection" and inserting "U.S. Customs and Border Protection";

(bb) by striking "subparagraph (A)" each place it appears and inserting "clause (i)"; and

(cc) by striking "subparagraph (D)" and inserting "clause (iv)";

(II) in subclause (I), by striking "clause (i) of subparagraph (A)" and inserting "subclause (I) of clause (i)";

(III) in subclause (II), by striking "clause (ii) of subparagraph (A)" and inserting "subclause (II) of clause (i)";

(IV) in the matter following subclause (II), by striking "subparagraph (E)(i)" and inserting "clause (v)(I)";

(V) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(VI) by redesignating clause (ii) as subclause (II);

(iv) in clause (iii)—

(I) in subclause (I)—

(aa) by striking "paragraph (1)" and inserting "subparagraph (A)"; and

(bb) by striking "subparagraph (A) or (D)" and inserting "clause (i) or (iv)";

(II) in subclause (II), by striking "clause (ii) of this subparagraph" and inserting "subclause (II) of this clause";

(III) in the matter following subclause (II)—

(aa) by striking "the Bureau of Customs and Border Protection" each place it appears and inserting "U.S. Customs and Border Protection"; and

(bb) by striking "subclause (II)" and inserting "item (bb)"; and

(IV) in item (bb)—

(aa) by striking "paragraph (1)" and inserting "subparagraph (A)"; and

(bb) by striking "subparagraph (A) or (D)" and inserting "clause (i) or (iv)"; and

(V) in the matter following item (bb), by striking "paragraph (1)" and inserting "subparagraph (A)";

(VI) by redesignating items (aa) and (bb) as subitems (AA) and (BB), respectively;

(VII) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(VIII) by redesignating clause (iii) as subclause (III); and

(v) by redesignating subparagraph (F) as clause (vi);

(G) in subparagraph (G)—

(i) by moving such subparagraph 2 ems to the right;

(ii) in clause (i)—

(I) in the matter preceding subclause (I), by striking "subparagraph (A) or (D)" and inserting "clause (i) or (iv)";

(II) in subclause (II)—

(aa) in item (dd), by striking "under the Bipartisan Trade Promotion Authority Act of

2002" and inserting "with respect to the United States"; and

(bb) by redesignating items (aa) through (dd) as subitems (AA) through (DD), respectively;

(III) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(IV) by redesignating clause (i) as subclause (I);

(iii) in clause (ii)—

(I) in subclause (I), by striking "clause (i)(I)" and inserting "subclause (I)(aa)";

(II) in subclause (II), by striking "clause (i)(II)" and inserting "subclause (I)(bb)";

(III) by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively; and

(IV) by redesignating clause (ii) as subclause (II); and

(iv) by redesignating subparagraph (G) as clause (vii); and

(H) by striking "(2) APPAREL ARTICLES DESCRIBED.—" and inserting the following:

"(B) APPAREL ARTICLES DESCRIBED.—".

(4) Paragraph (3) is amended—

(A) by redesignating such paragraph as subparagraph (C) and moving it 2 ems to the right;

(B) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)"; and

(C) in the table—

(i) by striking "1.5 percent" and inserting "1.25 percent";

(ii) by striking "1.75 percent" and inserting "1.25 percent"; and

(iii) by striking "2 percent" and inserting "1.25 percent".

(5) The following is added after subparagraph (C), as redesignated by paragraph (4)(A) of this subsection:

"(D) OTHER PREFERENTIAL TREATMENT NOT AFFECTED BY QUANTITATIVE LIMITATIONS.—Any apparel article that qualifies for preferential treatment under paragraph (2), (3), (4), or (5) or any other provision of this title shall not be subject to, or included in the calculation of, the quantitative limitations under subparagraph (C).".

(b) SPECIAL RULE FOR WOVEN ARTICLES AND CERTAIN KNIT ARTICLES.—Section 213A(b) of the Carribean Basin Economic Recovery Act is amended by striking paragraph (4) and inserting the following:

"(2) SPECIAL RULE FOR WOVEN ARTICLES AND CERTAIN KNIT ARTICLES.—

"(A) SPECIAL RULE FOR ARTICLES OF CHAPTER 62 OF THE HTS.—

"(i) GENERAL RULE.—Any apparel article classifiable under chapter 62 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-

shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, subject to clauses (ii) and (iii), without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

"(ii) LIMITATION.—The preferential treatment described in clause (i) shall be extended, in the 1-year period beginning October 1, 2008, and in each of the 9 succeeding 1-year periods, to not more than 70,000,000 square meter equivalents of apparel articles described in such clause.

"(iii) OTHER PREFERENTIAL TREATMENT NOT AFFECTED BY QUANTITATIVE LIMITATION.—Any apparel article that qualifies for preferential treatment under paragraph (1), (3), (4), or (5) or subparagraph (B) of this paragraph or any other provision of this title shall not be subject to, or included in the calculation of, the quantitative limitation under clause (ii).

"(B) SPECIAL RULE FOR CERTAIN ARTICLES OF CHAPTER 61 OF THE HTS.—

"(i) GENERAL RULE.—Any apparel article classifiable under chapter 61 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, subject to clauses (ii), (iii), and (iv), without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

"(ii) EXCLUSIONS.—The preferential treatment described in clause (i) shall not apply to the following:

"(I) The following apparel articles of cotton, for men or boys, that are classifiable under subheading 6109.10.00 of the HTS:

"(aa) All white T-shirts, with short hemmed sleeves and hemmed bottom, with crew or round neckline or with V-neck and with a mitered seam at the center of the V, and without pockets, trim, or embroidery.

"(bb) All white singlets, without pockets, trim, or embroidery.

"(cc) Other T-shirts, but not including thermal undershirts.

"(II) T-shirts for men or boys that are classifiable under subheading 6109.90.10.

"(III) The following apparel articles of cotton, for men or boys, that are classifiable under subheading 6110.20.20 of the HTS:

"(aa) Sweatshirts.

"(bb) Pullovers, other than sweaters, vests, or garments imported as part of playsuits.

"(IV) Sweatshirts for men or boys, of man-made fibers and containing less than 65 percent by

weight of man-made fibers, that are classifiable under subheading 6110.30.30 of the HTS.

"(iii) LIMITATION.—The preferential treatment described in clause (i) shall be extended, in the 1-year period beginning October 1, 2008, and in each of the 9 succeeding 1-year periods, to not more than 70,000,000 square meter equivalents of apparel articles described in such clause.

"(iv) OTHER PREFERENTIAL TREATMENT NOT AFFECTED BY QUANTITATIVE LIMITATION.—Any apparel article that qualifies for preferential treatment under paragraph (1), (3), (4), or (5) or subparagraph (A) of this paragraph or any other provision of this title shall not be subject to, or included in the calculation of, the quantitative limitation under clause (iii).".

(c) SINGLE TRANSFORMATION RULES NOT SUBJECT TO QUANTITATIVE LIMITATIONS.—Section 213A(b) of the Caribbean Basin Economic Recovery Act is amended by striking paragraph (5) and inserting the following:

"(3) APPAREL AND OTHER ARTICLES SUBJECT TO CERTAIN ASSEMBLY RULES.—

"(A) BRASSIERES.—Any apparel article classifiable under subheading 6212.10 of the HTS that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

"(B) OTHER APPAREL ARTICLES.—Any of the following apparel articles that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made:

"(i) Any apparel article that is of a type listed in chapter rule 3, 4, or 5 for chapter 61 of the HTS (as such chapter rules are contained in section A of the Annex to Proclamation 8213 of the President of December 20, 2007) as being excluded from the scope of such chapter rule, when such chapter rule is applied to determine whether an apparel article is an originating good for purposes of general note 29(n) to the HTS, except that, for purposes of this clause, reference in such chapter rules to '6104.12.00' shall be deemed to be a reference to '6104.19.60'.

"(ii)(I) Subject to subclause (II), any apparel article that is of a type listed in chapter rule 3(a), 4(a), or 5(a) for chapter 62 of the HTS, as such chapter rules are contained in paragraph 9 of section A of the Annex to Proclamation 8213 of the President of December 20, 2007.

"(II) Subclause (I) shall not include any apparel article to which subparagraph (A) of this paragraph applies.

"(C) LUGGAGE AND SIMILAR ITEMS.—Any article classifiable under subheading 4202.12, 4202.22, 4202.32, or 4202.92 of the HTS that is wholly assembled in Haiti and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, components, or materials from which the article is made.

"(D) HEADGEAR.—Any article classifiable under heading 6501, 6502, or 6504 of the HTS, or under subheading 6505.90 of the HTS, that is wholly assembled, knit-to-shape, or formed in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

"(E) CERTAIN SLEEPWEAR.—Any of the following apparel articles that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made:

"(i) Pajama bottoms and other sleepwear for women and girls, of cotton, that are classifiable under subheading 6208.91.30, or of man-made fibers, that are classifiable under subheading 6208.92.00.

"(ii) Pajama bottoms and other sleepwear for girls, of other textile materials, that are classifiable under subheading 6208.99.20.".

(d) EARNED IMPORT ALLOWANCE RULES.—Section 231A(b) of the Caribbean Basin Economic Recovery Act is amended by adding at the end the following new paragraph:

"(4) EARNED IMPORT ALLOWANCE RULE.—

"(A) IN GENERAL.—Apparel articles wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the articles are made, if such apparel articles are accompanied by an earned import allowance certificate that reflects the amount of credits equal to the total square meter equivalents of such apparel articles, in accordance with the program established under subparagraph (B). For purposes of determining the quantity of square meter equivalents under this subparagraph, the conversion factors listed in 'Correlation: U.S. Textile and Apparel Industry Category System with the Harmonized Tariff Schedule of the United States of America,

2008', or its successor publications, of the United States Department of Commerce, shall apply.

"(B) EARNED IMPORT ALLOWANCE PROGRAM.—

"(i) ESTABLISHMENT.—The Secretary of Commerce shall establish a program to provide earned import allowance certificates to any producer or entity controlling production for purposes of subparagraph (A), based on the elements described in clause (ii).

"(ii) ELEMENTS.—The elements referred to in clause (i) are the following:

"(I) One credit shall be issued to a producer or an entity controlling production for every three square meter equivalents of qualifying woven fabric or qualifying knit fabric that the producer or entity controlling production can demonstrate that it purchased for the manufacture in Haiti of articles like or similar to any article eligible for preferential treatment under subparagraph (A). The Secretary of Commerce shall, if requested by a producer or entity controlling production, create and maintain an account for such producer or entity controlling production, into which such credits shall be deposited.

"(II) Such producer or entity controlling production may redeem credits issued under subclause (I) for earned import allowance certificates reflecting such number of earned credits as the producer or entity may request and has available.

"(III) The Secretary of Commerce may require any textile mill or other entity located in the United States that exports to Haiti qualifying woven fabric or qualifying knit fabric to submit, upon such export or upon request, documentation, such as a Shipper's Export Declaration, to the Secretary of Commerce—

"(aa) verifying that the qualifying woven fabric or qualifying knit fabric was exported to a producer in Haiti or to an entity controlling production; and

"(bb) identifying such producer or entity controlling production, and the quantity and description of qualifying woven fabric or qualifying knit fabric exported to such producer or entity controlling production.

"(IV) The Secretary of Commerce may require that a producer or entity controlling production submit documentation to verify purchases of qualifying woven fabric or qualifying knit fabric.

"(V) The Secretary of Commerce may make available to each person or entity identified in documentation submitted under subclause (III) or (IV) information contained in such documentation that relates to the purchase of qualifying woven fabric or qualifying knit fabric involving such person or entity.

"(VI) The program under this subparagraph shall be established so as to allow, to the extent feasible, the submission, storage, retrieval, and disclosure of information in electronic format, including information with respect to the earned import allowance certificates required under subparagraph (A)(i).

"(VII) The Secretary of Commerce may reconcile discrepancies in information provided under subclause (III) or (IV) and verify the accuracy of such information.

"(VIII) The Secretary of Commerce shall establish procedures to carry out the program under this subparagraph and may establish additional requirements to carry out this subparagraph. Such additional requirements may include—

"(aa) submissions by textile mills or other entities in the United States documenting exports of yarns wholly formed in the United States to countries described in paragraph (1)(B)(iii) for the manufacture of qualifying knit fabric; and

"(bb) procedures imposed on producers or entities controlling production to allow the Secretary of Commerce to obtain and verify information relating to the production of qualifying knit fabric.

"(iii) QUALIFYING WOVEN FABRIC DEFINED.—For purposes of this subparagraph, the term 'qualifying woven fabric' means fabric wholly formed in the United States from yarns wholly formed in the United States, except that—

"(I) fabric otherwise eligible as qualifying woven fabric shall not be ineligible as qualifying woven fabric because the fabric contains nylon filament yarn to which section 213(b)(2)(A)(vii)(IV) applies;

"(II) fabric that would otherwise be ineligible as qualifying woven fabric because the fabric contains yarns not wholly formed in the United States shall not be ineligible as qualifying woven fabric if the total weight of all such yarns is not more than 10 percent of the total weight of the fabric; and

"(III) fabric otherwise eligible as qualifying woven fabric shall not be ineligible as qualifying fabric because the fabric contains yarns covered by clause (i) or (ii) of paragraph (5)(A).

"(iv) QUALIFYING KNIT FABRIC DEFINED.—For purposes of this subparagraph, the term 'qualifying knit fabric' means fabric or knit-to-shape components wholly formed or knit-to-shape in any country or any combination of countries described in paragraph (1)(B)(iii), from yarns wholly formed in the United States, except that—

"(I) fabric or knit-to-shape components otherwise eligible as qualifying knit fabric shall not be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain nylon filament yarn to which section 213(b)(2)(A)(vii)(IV) applies;

"(II) fabric or knit-to-shape components that would otherwise be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain yarns not wholly formed in the United States shall not be ineligible as qualifying knit fabric if the total weight of all such yarns is not more than 10 percent of the total weight of the fabric or knit-to-shape components; and

"(III) fabric or knit-to-shape components otherwise eligible as qualifying knit fabric shall not be ineligible as qualifying knit fabric because the fabric or knit-to-shape components contain yarns covered by clause (i) or (ii) of paragraph (5)(A).

"(C) REVIEW BY UNITED STATES GOVERNMENT ACCOUNTABILITY OFFICE.—The United States Government Accountability Office shall review the program established under subparagraph (B) annually for the purpose of evaluating the effectiveness of, and making recommendations for improvements in, the program.

"(D) ENFORCEMENT PROVISIONS.—

"(i) FRAUDULENT CLAIMS OF PREFERENCE.—Any person who makes a false claim for preference under the program established under subparagraph (B) shall be subject to any applicable civil or criminal penalty that may be imposed under the customs laws of the United States or under title 18, United States Code.

"(ii) PENALTIES FOR OTHER FRAUDULENT INFORMATION.—The Secretary of Commerce may establish and impose penalties for the submission to the Secretary of Commerce of fraudulent information under the program established under subparagraph (B), other than a claim described in clause (i).".

(e) SHORT SUPPLY RULES.—Section 213A(b) of the Caribbean Basin Economic Recovery Act is amended by adding at the end the following:

"(5) SHORT SUPPLY PROVISION.—

"(A) IN GENERAL.—Any apparel article that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns and is imported directly from Haiti or the Dominican Republic shall enter the United States free of duty, without regard to the source of the fabrics, fabric components, components knit-to-shape, or yarns from which the article is made, if the fabrics, fabric components, components knit-to-shape, or yarns comprising the component that determines the tariff classification of the article are of any of the following:

"(i) Fabrics or yarns, to the extent that apparel articles of such fabrics or yarns would be eligible for pref-

erential treatment, without regard to the source of the fabrics or yarns, under Annex 401 of the NAFTA.

"(ii) Fabrics or yarns, to the extent that such fabrics or yarns are designated as not being available in commercial quantities for purposes of—

"(I) section 213(b)(2)(A)(v) of this Act;

"(II) section 112(b)(5) of the African Growth and Opportunity Act;

"(III) clause (i)(III) or (ii) of section 204(b)(3)(B) of the Andean Trade Preference Act; or

"(IV) any other provision, relating to determining whether a textile or apparel article is an originating good eligible for preferential treatment, of a law that implements a free trade agreement entered into by the United States that is in effect at the time the claim for preferential treatment is made.

"(B) REMOVAL OF DESIGNATION OF FABRICS OR YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—If the President determines that—

"(i) any fabric or yarn described in clause (i) of subparagraph (A) was determined to be eligible for preferential treatment, or

"(ii) any fabric or yarn described in clause (ii) of subparagraph (A) was designated as not being available in commercial quantities,

on the basis of fraud, the President is authorized to remove the eligibility or designation (as the case may be) of that fabric or yarn with respect to articles entered after such removal.".

(f) MISCELLANEOUS PROVISIONS.—

(1) RELATIONSHIP TO OTHER PREFERENTIAL PROGRAMS.—Section 213A(b) of the Caribbean Basin Economic Recovery Act is amended by adding at the end the following:

"(6) OTHER PREFERENTIAL TREATMENT NOT AFFECTED.—The duty-free treatment provided under this subsection is in addition to any other preferential treatment under this title.".

(2) DEFINITIONS.—Section 213A(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a(a)) is amended by adding at the end the following:

"(3) IMPORTED DIRECTLY FROM HAITI OR THE DOMINICAN REPUBLIC.—Articles are 'imported directly from Haiti or the Dominican Republic' if—

"(A) the articles are shipped directly from Haiti or the Dominican Republic into the United States without passing through the territory of any intermediate country; or

"(B) the articles are shipped from Haiti or the Dominican Republic into the United States through the territory of an intermediate country, and—

"(i) the articles in the shipment do not enter into the commerce of any intermediate country, and the invoices, bills of lading, and other shipping documents specify the United States as the final destination; or

"(ii) the invoices and other documents do not specify the United States as the final destination, but the articles in the shipment—

"(I) remain under the control of the customs authority in the intermediate country;

"(II) do not enter into the commerce of the intermediate country except for the purpose of a sale other than at retail; and

"(III) have not been subjected to operations in the intermediate country other than loading, unloading, or other activities necessary to preserve the articles in good condition.

"(4) KNIT-TO-SHAPE.—A good is 'knit-to-shape' if 50 percent or more of the exterior surface area of the good is formed by major parts that have been knitted or crocheted directly to the shape used in the good, with no consideration being given to patch pockets, appliqués, or the like. Minor cutting, trimming, or sewing of those major parts shall not affect the determination of whether a good is 'knit-to-shape'.

"(5) WHOLLY ASSEMBLED.—A good is 'wholly assembled' in Haiti if all components, of which there must be at least two, pre-existed in essentially the same condition as found in the finished good and were combined to form the finished good in Haiti. Minor attachments and minor embellishments (for example, appliqués, beads, spangles, embroidery, and buttons) not appreciably affecting the identity of the good, and minor subassemblies (for example, collars, cuffs, plackets, and pockets), shall not affect the determination of whether a good is 'wholly assembled' in Haiti.".

(g) TERMINATION.—Section 213A of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a) is amended by adding at the end the following new subsection:

"(g) TERMINATION.—Except as provided in subsection (b)(1), the duty-free treatment provided under this section shall remain in effect until September 30, 2018.".

(h) CONFORMING AMENDMENTS.—Subsection (e)(1) of section 213A of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a(e)(1)) is amended by striking "the Bureau of Customs and Border Protection" each place it appears and inserting "U.S. Customs and Border Protection".

SEC. 15403. LABOR OMBUDSMAN AND TECHNICAL ASSISTANCE IMPROVEMENT AND COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION PROGRAM.

Section 213A of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a), as amended by section 15402 of this Act, is amended—

(1) in subsection (a)—

(A) by redesignating paragraph (5) as paragraph (8):

(B) by redesignating paragraphs (2) through (4) as paragraphs (4) through (6), respectively;

(C) by inserting after paragraph (1) the following new paragraphs:

"(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee

on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

"(3) CORE LABOR STANDARDS.—The term "core labor standards" means—

"(A) freedom of association;

"(B) the effective recognition of the right to bargain collectively;

"(C) the elimination of all forms of compulsory or forced labor;

"(D) the effective abolition of child labor and a prohibition on the worst forms of child labor; and

"(E) the elimination of discrimination in respect of employment and occupation."; and

(D) by inserting after paragraph (6) (as redesignated) the following new paragraph:

"(7) TAICNAR PROGRAM.—The term 'TAICNAR Program' means the Technical Assistance Improvement and Compliance Needs Assessment and Remediation Program established pursuant to subsection (e).";

(2) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and

(3) by inserting after subsection (d) the following new subsection:

"(e) TECHNICAL ASSISTANCE IMPROVEMENT AND COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION PROGRAM.—

"(1) CONTINUED ELIGIBILITY FOR PREFERENCES.—

"(A) PRESIDENTIAL CERTIFICATION OF COMPLIANCE BY HAITI WITH REQUIREMENTS.—Upon the expiration of the 16-month period beginning on the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008, Haiti shall continue to be eligible for the preferential treatment provided under subsection (b) only if the President determines and certifies to the Congress that—

"(i) Haiti has implemented the requirements set forth in paragraphs (2) and (3); and

"(ii) Haiti has agreed to require producers of articles for which duty-free treatment may be requested under subsection (b) to participate in the TAICNAR Program described in paragraph (3) and has developed a system to ensure participation in such program by such producers, including by developing and maintaining the registry described in paragraph (2)(B)(i).

"(B) EXTENSION.—The President may extend the period for compliance by Haiti under subparagraph (A) if the President—

"(i) determines that Haiti has made a good faith effort toward such compliance and has agreed to take additional steps to come into full compliance that are satisfactory to the President; and

"(ii) provides to the appropriate congressional committees, not later than 6 months after the last day of the 16-month period specified in subparagraph (A), and every 6 months thereafter, a report identifying the steps that Haiti has agreed to take to come into full

compliance and the progress made over the preceding 6-month period in implementing such steps.

"(C) CONTINUING COMPLIANCE.—

"(i) TERMINATION OF PREFERENTIAL TREATMENT.—If, after making a certification under subparagraph (A), the President determines that Haiti is no longer meeting the requirements set forth in subparagraph (A), the President shall terminate the preferential treatment provided under subsection (b), unless the President determines, after consulting with the appropriate congressional committees, that meeting such requirements is not practicable because of extraordinary circumstances existing in Haiti when the determination is made.

"(ii) SUBSEQUENT COMPLIANCE.—If the President, after terminating preferential treatment under clause (i), determines that Haiti is meeting the requirements set forth in subparagraph (A), the President shall reinstate the application of preferential treatment under subsection (b).

"(2) LABOR OMBUDSMAN.—

"(A) IN GENERAL.—The requirement under this paragraph is that Haiti has established an independent Labor Ombudsman's Office within the national government that—

"(i) reports directly to the President of Haiti;

"(ii) is headed by a Labor Ombudsman chosen by the President of Haiti, in consultation with Haitian labor unions and industry associations; and

"(iii) is vested with the authority to perform the functions described in subparagraph (B).

"(B) FUNCTIONS.—The functions of the Labor Ombudsman's Office shall include—

"(i) developing and maintaining a registry of producers of articles for which duty-free treatment may be requested under subsection (b), and developing, in consultation and coordination with any other appropriate officials of the Government of Haiti, a system to ensure participation by such producers in the TAICNAR Program described in paragraph (3);

"(ii) overseeing the implementation of the TAICNAR Program described in paragraph (3);

"(iii) receiving and investigating comments from any interested party regarding the conditions described in paragraph (3)(B) in facilities of producers listed in the registry described in clause (i) and, where appropriate, referring such comments or the result of such investigations to the appropriate Haitian authorities, or to the entity operating the TAICNAR Program described in paragraph (3);

"(iv) assisting, in consultation and coordination with any other appropriate Haitian authorities, producers listed in the registry described in clause (i) in meeting the conditions set forth in paragraph (3)(B); and

"(v) coordinating, with the assistance of the entity operating the TAICNAR Program described in paragraph (3), a tripartite committee comprised of appropriate representatives of government agencies, employers, and workers, as well as other relevant interested parties, for the purposes of evaluating progress in implementing the TAICNAR Program described in paragraph (3), and consulting on improving core labor standards and working conditions in the textile and apparel sector in Haiti, and on other matters of common concern relating to such core labor standards and working conditions.

"(3) TECHNICAL ASSISTANCE IMPROVEMENT AND COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION PROGRAM.—

"(A) IN GENERAL.—The requirement under this paragraph is that Haiti, in cooperation with the International Labor Organization, has established a Technical Assistance Improvement and Compliance Needs Assessment and Remediation Program meeting the requirements under subparagraph (C)—

"(i) to assess compliance by producers listed in the registry described in paragraph (2)(B)(i) with the conditions set forth in subparagraph (B) and to assist such producers in meeting such conditions; and

"(ii) to provide assistance to improve the capacity of the Government of Haiti—

"(I) to inspect facilities of producers listed in the registry described in paragraph (2)(B)(i); and

"(II) to enforce national labor laws and resolve labor disputes, including through measures described in subparagraph (E).

"(B) CONDITIONS DESCRIBED.—The conditions referred to in subparagraph (A) are—

"(i) compliance with core labor standards; and

"(ii) compliance with the labor laws of Haiti that relate directly to core labor standards and to ensuring acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety.

"(C) REQUIREMENTS.—The requirements for the TAICNAR Program are that the program—

"(i) be operated by the International Labor Organization (or any subdivision, instrumentality, or designee thereof), which prepares the biannual reports described in subparagraph (D);

"(ii) be developed through a participatory process that includes the Labor Ombudsman described in paragraph (2) and appropriate representatives of government agencies, employers, and workers;

"(iii) assess compliance by each producer listed in the registry described in paragraph (2)(B)(i) with the conditions set forth in subparagraph (B) and identify any deficiencies by such producer with respect to meeting such conditions, including by—

"(I) conducting unannounced site visits to manufacturing facilities of the producer;

"(II) conducting confidential interviews separately with workers and management of the facilities of the producer;

"(III) providing to management and workers, and where applicable, worker organizations in the facilities of the producer, on a confidential basis—

"(aa) the results of the assessment carried out under this clause; and

"(bb) specific suggestions for remediating any such deficiencies;

"(iv) assist the producer in remediating any deficiencies identified under clause (iii);

"(v) conduct prompt follow-up site visits to the facilities of the producer to assess progress on remediation of any deficiencies identified under clause (iii); and

"(vi) provide training to workers and management of the producer, and where appropriate, to other persons or entities, to promote compliance with subparagraph (B).

"(D) BIANNUAL REPORT.—The biannual reports referred to in subparagraph (C)(i) are a report, by the entity operating the TAICNAR Program, that is published (and available to the public in a readily accessible manner) on a biannual basis, beginning 6 months after Haiti implements the TAICNAR Program under this paragraph, covering the preceding 6-month period, and that includes the following:

"(i) The name of each producer listed in the registry described in paragraph (2)(B)(i) that has been identified as having met the conditions under subparagraph (B).

"(ii) The name of each producer listed in the registry described in paragraph (2)(B)(i) that has been identified as having deficiencies with respect to the conditions under subparagraph (B), and has failed to remedy such deficiencies.

"(iii) For each producer listed under clause (ii)—

"(I) a description of the deficiencies found to exist and the specific suggestions for remediating such deficiencies made by the entity operating the TAICNAR Program;

"(II) a description of the efforts by the producer to remediate the deficiencies, including a description of assistance provided by any entity to assist in such remediation; and

"(III) with respect to deficiencies that have not been remediated, the amount of time that has elapsed since the deficiencies were first identified in a report under this subparagraph.

"(iv) For each producer identified as having deficiencies with respect to the conditions described under subparagraph (B) in a prior report under this subparagraph, a description of the progress made in remedi-

ating such deficiencies since the submission of the prior report, and an assessment of whether any aspect of such deficiencies persists.

"(E) CAPACITY BUILDING.—The assistance to the Government of Haiti referred to in subparagraph (A)(ii) shall include programs—

"(i) to review the labor laws and regulations of Haiti and to develop and implement strategies for bringing the laws and regulations into conformity with core labor standards;

"(ii) to develop additional strategies for facilitating protection of core labor standards and providing acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health, including through legal, regulatory, and institutional reform;

"(iii) to increase awareness of worker rights, including under core labor standards and national labor laws;

"(iv) to promote consultation and cooperation between government representatives, employers, worker representatives, and United States importers on matters relating to core labor standards and national labor laws;

"(v) to assist the Labor Ombudsman appointed pursuant to paragraph (2) in establishing and coordinating operation of the committee described in paragraph (2)(B)(v);

"(vi) to assist worker representatives in more fully and effectively advocating on behalf of their members; and

"(vii) to provide on-the-job training and technical assistance to labor inspectors, judicial officers, and other relevant personnel to build their capacity to enforce national labor laws and resolve labor disputes.

"(4) COMPLIANCE WITH ELIGIBILITY CRITERIA.—

"(A) COUNTRY COMPLIANCE WITH WORKER RIGHTS ELIGIBILITY CRITERIA.—In making a determination of whether Haiti is meeting the requirement set forth in subsection (d)(1)(A)(vi) relating to internationally recognized worker rights, the President shall consider the reports produced under paragraph (3)(D).

"(B) PRODUCER ELIGIBILITY.—

"(i) IDENTIFICATION OF PRODUCERS.—Beginning in the second calendar year after the President makes the certification under paragraph (1)(A), the President shall identify on a biennial basis whether a producer listed in the registry described in paragraph (2)(B)(i) has failed to comply with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards.

"(ii) ASSISTANCE TO PRODUCERS; WITHDRAWAL, ETC., OF PREFERENTIAL TREATMENT.—For each producer that the President identifies under clause (i), the President shall seek to assist such producer in coming

into compliance with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards. If such efforts fail, the President shall withdraw, suspend, or limit the application of preferential treatment under subsection (b) to articles of such producer.

"(iii) REINSTATING PREFERENTIAL TREATMENT.—If the President, after withdrawing, suspending, or limiting the application of preferential treatment under clause (ii) to articles of a producer, determines that such producer is complying with core labor standards and with the labor laws of Haiti that directly relate to and are consistent with core labor standards, the President shall reinstate the application of preferential treatment under subsection (b) to the articles of the producer.

"(iv) CONSIDERATION OF REPORTS.—In making the identification under clause (i) and the determination under clause (iii), the President shall consider the reports made available under paragraph (3)(D).

"(5) REPORTS BY THE PRESIDENT.—

"(A) IN GENERAL.—Not later than one year after the date of the enactment of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008, and annually thereafter, the President shall transmit to the appropriate congressional committees a report on the implementation of this subsection during the preceding 1-year period.

"(B) MATTERS TO BE INCLUDED.—Each report required by subparagraph (A) shall include the following:

"(i) An explanation of the efforts of Haiti, the President, and the International Labor Organization to carry out this subsection.

"(ii) A summary of each report produced under paragraph (3)(D) during the preceding 1-year period and a summary of the findings contained in such report.

"(iii) Identifications made under paragraph (4)(B)(i) and determinations made under paragraph (4)(B)(iii).

"(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection the sum of $10,000,000 for the period beginning on October 1, 2008, and ending on September 30, 2013.".

SEC. 15404. PETITION PROCESS.

Section 213A(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703A(d)) is amended by adding at the end the following new paragraph:

"(4) PETITION PROCESS.—Any interested party may file a request to have the status of Haiti reviewed with respect to the eligibility requirements listed in paragraph (1), and the President shall provide for this purpose the same procedures as those that are provided for reviewing the status of eligible beneficiary developing countries with respect to the designation criteria listed

in subsections (b) and (c) of section 502 of the Trade Act of 1974 (19 U.S.C. 2642 (b) and (c)).".

SEC. 15405. CONDITIONS REGARDING ENFORCEMENT OF CIRCUMVENTION.

Section 213A(f) of the Caribbean Basin Economic Recovery Act, as redesignated by section 15403(2) of this Act, is amended by adding at the end the following new paragraph:

"(3) LIMITATION ON GOODS SHIPPED FROM THE DOMINICAN REPUBLIC.—

"(A) LIMITATION.—Notwithstanding subsection (a)(5), relating to the definition of 'imported directly from Haiti or the Dominican Republic', articles described in subsection (b) that are shipped from the Dominican Republic, directly or through the territory of an intermediate country, whether or not such articles undergo processing in the Dominican Republic, shall not be considered to be 'imported directly from Haiti or the Dominican Republic' until the President certifies to the Congress that Haiti and the Dominican Republic have developed procedures to prevent unlawful transshipment of the articles and the use of counterfeit documents related to the importation of the articles into the United States.

"(B) TECHNICAL AND OTHER ASSISTANCE.—The Commissioner responsible for U.S. Customs and Border Protection shall provide technical and other assistance to Haiti and the Dominican Republic to develop expeditiously the procedures described in subparagraph (A).".

SEC. 15406. PRESIDENTIAL PROCLAMATION AUTHORITY.

The President may exercise the authority under section 604 of the Trade Act of 1974 to proclaim such modifications to the Harmonized Tariff Schedule of the United States as may be necessary to carry out this part and the amendments made by this part.

SEC. 15407. REGULATIONS AND PROCEDURES.

The President shall issue such regulations as may be necessary to carry out the amendments made by sections 15402, 15403, and 15404. Regulations to carry out the amendments made by section 15402 shall be issued not later than September 30, 2008. The Secretary of Commerce shall issue such procedures as may be necessary to carry out the amendment made by section 15402(d) not later than September 30, 2008.

SEC. 15408. EXTENSION OF CBTPA.

Section 213(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)) is amended—

(1) in paragraph (2)(A)—

(A) in clause (iii)—

(i) in subclause (II)(cc), by striking "2008" and inserting "2010"; and

(ii) in subclause (IV)(dd), by striking "2008" and inserting "2010"; and

(B) in clause (iv)(II), by striking "6" and inserting "8"; and

(2) in paragraph (5)(D)—

(A) in clause (i), by striking "2008" and inserting "2010"; and

(B) in clause (ii), by striking "108(b)(5)" and inserting "section 108(b)(5)".

SEC. 15409. SENSE OF CONGRESS ON INTERPRETATION OF TEXTILE AND APPAREL PROVISIONS FOR HAITI.

It is the sense of the Congress that the executive branch, particularly the Committee for the Implementation of Textile Agreements (CITA), U.S. Customs and Border Protection of the Department of Homeland Security, and the Department of Commerce, should interpret, implement, and enforce the provisions of section 213A(b) of the Caribbean Basin Economic Recovery Act, as amended by section 15402 of this Act, relating to preferential treatment of textile and apparel articles, broadly in order to expand trade by maximizing opportunities for imports of articles eligible for preferential treatment under such section 213A(b).

SEC. 15410. SENSE OF CONGRESS ON TRADE MISSION TO HAITI.

It is the sense of the Congress that the Secretary of Commerce, in coordination with the United States Trade Representative, the Secretary of State, and the Commissioner responsible for U.S. Customs and Border Protection of the Department of Homeland Security, should lead a trade mission to Haiti, within 6 months after the date of the enactment of this Act, to promote trade between the United States and Haiti, to promote new economic opportunities afforded under the amendments made by section 15402 of this Act, and to help educate United States and Haitian business concerns about such opportunities.

SEC. 15411. SENSE OF CONGRESS ON VISA SYSTEMS.

It is the sense of the Congress that Haiti, and other countries that receive preferences under trade preference programs of the United States that require effective visa systems to prevent transshipment, should ensure that monetary compensation for such visas is not required beyond the costs of processing the visa, including ensuring that such monetary compensation does not violate an applicable system to combat corruption and bribery.

SEC. 15412. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this part and the amendments made by this part shall take effect on the date of the enactment of this Act.

(b) EXCEPTION.—The amendments made by section 15402 shall take effect on October 1, 2008, and shall apply to articles entered, or withdrawn from warehouse for consumption, on or after that date.

PART II—MISCELLANEOUS TRADE PROVISIONS

SEC. 15421. UNUSED MERCHANDISE DRAWBACK.

(a) IN GENERAL.—Section 313(j)(2) of the Tariff Act of 1930 (19 U.S.C. 1313(j)(2)) is amended by adding at the end the following: "For purposes of subparagraph (A) of this paragraph, wine of the same color having a price variation not to exceed 50 percent between the imported wine and the exported wine shall be deemed to be commercially interchangeable.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to claims filed for drawback under section

313(j)(2) of the Tariff Act of 1930 on or after the date of the enactment of this Act.

SEC. 15422. REQUIREMENTS RELATING TO DETERMINATION OF TRANSACTION VALUE OF IMPORTED MERCHANDISE.

(a) REQUIREMENT ON IMPORTERS.—

(1) IN GENERAL.—Pursuant to sections 484 and 485 of the Tariff Act of 1930 (19 U.S.C. 1484 and 1485), the Commissioner responsible for U.S. Customs and Border Protection shall require each importer of merchandise to provide to U.S. Customs and Border Protection at the time of entry of the merchandise the information described in paragraph (2).

(2) INFORMATION REQUIRED.—The information referred to in paragraph (1) is a declaration as to whether the transaction value of the imported merchandise is determined on the basis of the price paid by the buyer in the first or earlier sale occurring prior to introduction of the merchandise into the United States.

(3) EFFECTIVE DATE.—The requirement to provide information under this subsection shall be effective for the 1-year period beginning 90 days after the date of the enactment of this Act.

(b) REPORT TO INTERNATIONAL TRADE COMMISSION.—

(1) IN GENERAL.—The Commissioner responsible for U.S. Customs and Border Protection shall submit to the United States International Trade Commission on a monthly basis for the 1-year period specified in subsection (a)(3) a report on the information provided by importers under subsection (a)(2) during the preceding month. The report required under this paragraph shall be submitted in a form agreed upon between U.S. Customs and Border Protection and the United States International Trade Commission.

(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include—

(A) the number of importers that declare the transaction value of the imported merchandise is determined on the basis of the method described in subsection (a)(2);

(B) the tariff classification of such imported merchandise under the Harmonized Tariff Schedule of the United States; and

(C) the transaction value of such imported merchandise.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 90 days after the submission of the final report under subsection (b), the United States International Trade Commission shall submit to the appropriate congressional committees a report on the information contained in all reports submitted under subsection (b).

(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include—

(A) the aggregate number of importers that declare the transaction value of the imported merchandise is determined on the basis of the method described in subsection (a)(2), including a description of the frequency of the use of such method;

(B) the tariff classification of such imported merchandise under the Harmonized Tariff Schedule of the United

States on an aggregate basis, including an analysis of the tariff classification of such imported merchandise on a sectoral basis;

(C) the aggregate transaction value of such imported merchandise, including an analysis of the transaction value of such imported merchandise on a sectoral basis; and

(D) the aggregate transaction value of all merchandise imported into the United States during the 1-year period specified in subsection (a)(3).

(d) SENSE OF CONGRESS REGARDING PROHIBITION ON PROPOSED INTERPRETATION OF THE TERM "SOLD FOR EXPORTATION TO THE UNITED STATES".—

(1) IN GENERAL.—It is the sense of Congress that the Commissioner responsible for U.S. Customs and Border Protection should not implement a change to U.S. Customs and Border Protection's interpretation (as such interpretation is in effect on the date of the enactment of this Act) of the term "sold for exportation to the United States", as described in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)), for purposes of applying the transaction value of the imported merchandise in a series of sales, before January 1, 2011.

(2) EXCEPTION.—It is the sense of Congress that beginning on January 1, 2011, the Commissioner responsible for U.S. Customs and Border Protection may propose to change or change U.S. Customs and Border Protection's interpretation of the term "sold for exportation to the United States", as described in paragraph (1), only if U.S. Customs and Border Protection—

(A) consults with, and provides notice to, the appropriate congressional committees—

(i) not less than 180 days prior to proposing a change; and

(ii) not less than 90 days prior to publishing a change;

(B) consults with, provides notice to, and takes into consideration views expressed by, the Commercial Operations Advisory Committee—

(i) not less than 120 days prior to proposing a change; and

(ii) not less than 60 days prior to publishing a change; and

(C) receives the explicit approval of the Secretary of the Treasury prior to publishing a change.

(3) CONSIDERATION OF INTERNATIONAL TRADE COMMISSION REPORT.—It is the sense of Congress that prior to publishing a change to U.S. Customs and Border Protection's interpretation (as such interpretation is in effect on the date of the enactment of this Act) of the term "sold for exportation to the United States", as described in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)), for purposes of applying the transaction value of the imported merchandise in a series of sales, the Commissioner responsible for U.S. Customs and Border Protection should take into consideration the matters included in the re-

port prepared by the United States International Trade Commission under subsection (c).

(e) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(2) COMMERCIAL OPERATIONS ADVISORY COMMITTEE.—The term "Commercial Operations Advisory Committee" means the Advisory Committee established pursuant to section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 2071 note) or any successor committee.

(3) IMPORTER.—The term "importer" means one of the parties qualifying as an "importer of record" under section 484(a)(2)(B) in the Tariff Act of 1930 (19 U.S.C. 1484(a)(2)(B)).

(4) TRANSACTION VALUE OF THE IMPORTED MERCHANDISE.—The term "transaction value of the imported merchandise" has the meaning described in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)).

And the Senate agree to the same.

From the Committee on Agriculture, for consideration of the House bill (except title XII) and the Senate amendment (except secs. 12001, 12201–12601, and 12701–12808), and modifications committed to conference:

COLLIN C. PETERSON,
TIM HOLDEN,
MIKE MCINTYRE,
BOB ETHERIDGE,
LEONARD L. BOSWELL,
JOE BACA,
DENNIS L. CARDOZA,
DAVID SCOTT,
BOB GOODLATTE,
ROBIN HAYES,
MARILYN MUSGRAVE,
RANDY NEUGEBAUER,

From the Committee on Education and Labor, for consideration of secs. 4303 and 4304 of the House bill, and secs. 4901–4905, 4911, and 4912 of the Senate amendment, and modifications committed to conference:

GEORGE MILLER,
CAROLYN MCCARTHY,
TODD PLATTS,

From the Committee on Energy and Commerce, for consideration of secs. 6012, 6023, 6024, 6028, 6029, 9004, 9005, and 9017 of the House bill, and secs. 6006, 6012, 6110–6112, 6202, 6302, 7044, 7049, 7307, 7507, 9001, 11060, 11072, 11087, and 11101–11103 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
FRANK PALLONE,

From the Committee on Financial Services, for consideration of sec. 11310 of the House bill, and secs. 6501–6505, 11068, and 13107 of the Senate amendment, and modifications committed to conference:

PAUL E. KANJORSKI,
MAXINE WATERS,

From the Committee on Foreign Affairs, for consideration of secs. 3001–3008, 3010–3014, and 3016 of the House bill, and secs. 3001–3022, 3101–3107, and 3201–3204 of the Senate amendment, and modifications committed to conference:

HOWARD L. BERMAN,
BRAD SHERMAN,
ILEANA ROS-LEHTINEN,

From the Committee on the Judiciary, for consideration of secs. 11102, 11312, and 11314 of the House bill, and secs. 5402, 10103, 10201, 10203, 10205, 11017, 11069, 11076, 13102, and 13104 of the Senate amendment, and modifications committed to conference:

JOHN CONYERS,
BOBBY SCOTT,

From the Committee on Natural Resources, for consideration of secs. 2313, 2331, 2341, 2405, 2607, 2607A, 2611, 5401, 6020, 7033, 7311, 8101, 8112, 8121–8127, 8204, 8205, 11063, and 11075 of the Senate amendment, and modifications committed to conference:

NICK RAHALL,
MADELEINE Z. BORDALLO,
CATHY MCMORRIS RODGERS,

From the Committee on Oversight and Government Reform, for consideration of secs. 1501 and 7109 of the House bill, and secs. 7020, 7313, 7314, 7316, 7502, 8126, 8205, and 10201 of the Senate amendment, and modifications committed to conference:

EDOLPHUS TOWNS,

From the Committee on Science and Technology, for consideration of secs. 4403, 9003, 9006, 9010, 9015, 9019, and 9020 of the House bill, and secs. 7039, 7051, 7315, 7501, and 9001 of the Senate amendment, and modifications committed to conference:

BART GORDON,
MICHAEL T. MCCAUL,

From the Committee on Small Business, for consideration of subtitle D of title XI of the Senate amendment, and modifications committed to conference:

NYDIA M. VELÁZQUEZ,
HEATH SHULER,

From the Committee on Transportation and Infrastructure, for consideration of secs. 2203, 2301, 6019, and 6020 of the House bill, and secs. 2604, 6029, 6030, 6034, and 11087 of the Senate amendment, and modifications committed to conference:

JAMES L. OBERSTAR,
ELEANOR H. NORTON,
SAM GRAVES,

From the Committee on Ways and Means, for consideration of sec. 1303 and title XII of the House bill, and secs. 12001–12601, and 12701–12808 of the Senate amendment, and modifications committed to conference:

CHARLES B. RANGEL,
EARL POMEROY,

For consideration of House bill (except title XII) and the Senate amendment (except secs. 12001, 12201–12601, and 12701–12808), and modifications committed to conference:

ROSA L. DELAURO,
ADAM H. PUTNAM,
Managers on the Part of the House.

TOM HARKIN,
PATRICK LEAHY,
KENT CONRAD,
MAX BAUCUS,
BLANCHE L. LINCOLN,
DEBBIE STABENOW,
SAXBY CHAMBLISS,
THAD COCHRAN,
PAT ROBERTS
(For purposes of Title XV only),
CHUCK GRASSLEY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2419) to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE; TABLE OF CONTENTS

(1) Short title

The House bill refers to this Act as the "Farm, Nutrition, and Bioenergy Act of 2007". (Section 1)

The Senate amendment states that this Act may be cited as the "Food and Energy Security Act of 2007". (Section 1)

The Conference substitute cites this Act as the "Food, Conservation, and Energy Act of 2008". (Section 1)

TITLE I—COMMODITY PROGRAMS

(2) Definitions

The House bill defines various terms used in the bill; most terms are defined as they were in the 2002 farm bill. The definitions of "Far East price" and two definitions regarding the cotton quality and premiums, "United States Premium Factor" and "Comparable United States Quality" are added. (Section 1001)

The Senate amendment defines various terms used in the bill; most terms are defined as they were in the 2002 farm bill. The definitions of average crop revenue payment, medium grain rice, and pulse crop are added. (Section 1001) The definition of Secretary applies to the entire bill. Section 2) The definitions that are relevant to the peanuts subtitle are found in that part. (Section 1301)

The Conference substitute defines terms necessary for implementation of this Act: Secretary, average crop revenue election pay-

ment, base acres, counter-cyclical payment, covered commodity, direct payment, effective price, extra long staple cotton, loan commodity, medium grain rice, other oilseed, payment acres, payment yield, producer, pulse crop, State, target price, United States, and United States premium factor. The Conference substitute adopts the Senate structure for the peanut program. (Sections 2, 1001, and 1301)

8(3) Adjustments to base acres

The House bill provides that producers are generally not given a choice of updating base acres or payment yields under this bill. However, it requires the Secretary to provide base acre adjustments when a conservation reserve contract ends. Peanut base acres are no longer specified because peanuts are included as a covered commodity. (Section 1101)

The Senate amendment provides for an adjustment in base acres to include pulse crop, camelina, or newly designated oilseed acreage; applies the limit on acreage enrolled in a conservation program only to acreage enrolled in Federal conservation programs; references base acres for peanuts; and requires the Secretary to reduce base acres for land that is no longer used for farming, specifically land that has been developed for commercial or industrial use or has been subdivided and developed for multiple residential units or other nonfarming uses unless the producer demonstrates that the land remains devoted exclusively to agricultural production. Section 1302 applies the base acre provisions for covered commodities under Section 1101 to peanuts. (Sections 1101 and 1301)

The Conference substitute provides for the adjustment of base acres when a conservation reserve contract expires or is terminated; the producer has eligible pulse crop acreage or eligible oilseed acreage as a result of the designation of additional oilseeds; provides for base acres for peanuts in the determination of excess base acres; provides for the reduction of base acres for land that has been subdivided and developed for multiple residential units; provides that direct payments, counter-cyclical payments, or average crop revenue election payments are prohibited if the sum of the base acres of the farm is 10 acres or less unless the farm is owned by a socially disadvantaged or limited resource farmer or rancher; and includes authority for data collection and evaluation. The Conference substitute adopts the Senate structure for the peanut program. (Sections 1101 and 1302)

The Managers intend that the Department accommodate requests for adjustments in base acres for producers on different farms or tracts who have agreed on a voluntary basis to redistribute base acres between tracts, if base acreage was previously transferred to or from a tract because of participation in the Conservation Reserve Program.

The Managers expect Section 1101(b)(1) and Section 1302(b)(1) to be administered in the same manner as Section 1101(g)(1) and Section 1302(f)(1) of the Farm Security and Rural Investment Act of 2002 as implemented in 7 CFR 1412.204(a).

The Managers recognize the importance of assessing the impact of the suspension of payments for small base acres of covered commodities upon specialty crop producers. For greater efficiency,

the Managers expect the Secretary to include the information and evaluations derived from Section 1101(d)(3) and Section 1302(d)(3) into the report required under Section 1107(d)(7)(C) prior to its submission to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate.

The Managers intend for the Department to allow for aggregation of farms for purposes of determining the suspension of payments on farms with 10 base acres or less. The Managers expect for the Department to review farms in this category on an annual basis rather than prohibiting payments to these farms for the life of the farm bill.

(3A) Payment yields

The Senate amendment provides for the establishment of a payment yield for any designated oilseed, camelina, or eligible pulse crop for the purpose of making direct payments and counter-cyclical payments. It also provides a formula for calculating payment yields that is similar to the provisions used in 2002. (Section 1102)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, but deletes all references to camelina. (Section 1102)

(4) Availability of direct payments

The House bill reflects current law for the 2008–2012 crop years, except it includes peanuts; terminates advance direct payments starting with the 2012 crop year; and prohibits a direct payment if the payment for all covered commodities would be less than $25. (Section 1102)

The Senate amendment reflects current law for the 2008–2012 crop years, except it terminates advance direct payments starting with the 2012 crop year; specifies separate rates for long grain rice and medium grain rice; and excludes participants in the average crop revenue program. (Sections 1103 and 1303)

The Conference substitute provides direct payments at current rates with an exception for participants in the average crop revenue election program; specifies separate but identical rates for long grain rice and medium grain rice; and terminates advance direct payments starting with the 2012 crop year. The Conference substitute adopts the Senate structure for the peanut program. (Sections 1103 and 1303)

(5) Availability of counter-cyclical payments

The House bill extends current provisions to the 2008–2012 crop years with the following exceptions: includes peanuts as a covered commodity; clarifies that the Secretary shall establish national average loan rates for all rice and all barley for the purpose of calculating counter-cyclical payments; rebalances target prices for wheat, barley, oats, upland cotton, soybeans, and other oilseeds; eliminates partial counter-cyclical payments beginning with the 2011 crop year; and prohibits a counter-cyclical payment if the total counter-cyclical payments for all covered commodities on the farm would be less than $25. (Section 1103)

The Senate amendment extends the counter-cyclical program for the 2008–2012 crop years, except for participants in average crop revenue program, and with the following modifications: for long grain rice and medium grain rice, the effective price is determined using the same calculation, but by the type or class of rice, as determined by the Secretary; rebalances target prices for wheat, grain sorghum, barley, oats, upland cotton, soybeans, and other oilseeds; establishes target prices for dry peas, lentils, small chickpeas, and large chickpeas; eliminates partial counter-cyclical payments beginning with the 2011 crop year; prohibits the Secretary from establishing a target price for a covered commodity that is different from the target price specified. (Sections 1104 and 1304)

The Conference substitute adopts the Senate provision regarding long grain rice and medium grain rice. The Conference substitute provides that the revised target price for upland cotton and counter-cyclical program payment by class of rice will be effective beginning with the 2008 crop year; establishes target prices for pulse crops beginning with the 2009 crop year; and rebalances target prices for wheat, grain sorghum, barley, oats, soybeans and other oilseeds effective for the 2010 crop year; and eliminates partial counter-cyclical payments beginning with the 2011 crop year. The Conference substitute adopts the Senate structure for the peanut program. (Sections 1104 and 1304)

(6) Availability of revenue-based counter-cyclical payments

The House bill requires the Secretary to offer producers the option to receive revenue-based counter-cyclical payments for the 2008–2012 crop years, as an alternative to receiving counter-cyclical payments under section 1103. Producers will have only one opportunity to elect to receive revenue-based counter cyclical payments as soon as practicable after enactment. If a producer fails to make such election in a timely manner, the producer will receive counter-cyclical payments pursuant to section 1103. The Secretary is required to make revenue-based counter-cyclical payments to such producers if the Secretary determines that the national actual revenue per acre for the covered commodity is less than the national target revenue per acre for the covered commodity. The Secretary shall establish a national actual revenue per acre by multiplying the national average yield for the given year by the higher of: the national average market price received by producers during the 12-month marketing year; or the loan rate for the covered commodity under section 1202, except that for rice and barley, the Secretary shall establish national average all rice and all barley loan rates. The House bill establishes the national target revenue per acre as follows: wheat, $149.92; corn, $344.12; grain sorghum, $131.28; barley, $153.30; oats, $92.10; upland cotton, $496.93; rice, $548.06; soybeans, $231.87; other oilseeds, $129.18; and peanuts, $683.83. The House bill establishes the national payment yield for each covered commodity and the formula for the national payment rate. The House bill provides that if revenue-based counter-cyclical payments are required for any of the covered commodities, the amount of the payment shall be equal to the product of: the national payment rate; the payment acres; and the payment yield. (Section 1104)

The Senate amendment contains no comparable provision.

The Conference substitute provides an optional revenue-based counter-cyclical program that will be available beginning with the 2009 crop year. As an alternative to receiving counter-cyclical payments under section 1104, and with an agreement to forgo 20 percent of the direct payment rate and 30 percent of the marketing assistance loan rates for covered commodities and peanuts, producers on a farm can elect to participate in the average crop revenue election (ACRE) program for all covered commodities and peanuts on the farm. Once they elect to participate in ACRE, the producers on the farm will remain in the program for the duration of the farm bill. Participants in ACRE will be eligible for state-based coverage with a revenue guarantee equal to 90 percent of the 5-year state average yield per planted acre (excluding the years with the highest and lowest yields) times the 2-year national average price for the covered commodity. Once the ACRE guarantee is established, it cannot vary by more than 10 percent from the previous year's guarantee. If the actual State revenue (yield per planted acre times the national price) is less than the revenue guarantee, and if the producers suffer a loss on their farm, then they will receive an ACRE payment equal to the difference between the State revenue guarantee and the actual revenue for the crop year up to 25 percent of the revenue guarantee. ACRE revenue payments are made on 85 percent of the acreage planted or considered planted to the covered commodity or peanuts. For the 2009, 2010 and 2011 crop years, ACRE payment acres are reduced to 83.3 percent of planted or considered planted acres. (Section 1105)

(7) Producer agreement required as condition of provision of direct payments and counter-cyclical payments

The House bill is similar to current law, except it includes peanuts and omits the reference to noncultivation with regard to the control of noxious weeds. (Section 1105)

The Senate amendment is similar to current law, except it includes an additional provision that land cannot be used for a residential use (including land subdivided and developed into residential units or other nonfarming uses, or that is otherwise no longer intended to be used in conjunction with a farming operation) and provides that no penalty with respect to benefits can be assessed against the producers on a farm for an inaccurate acreage report unless the producers on the farm knowingly and willfully falsified the acreage report. (Section 1105)

The Conference substitute adopts the Senate provision with an amendment that provides that participants in ACRE provide both acreage and production reports and that no penalty with respect to benefits can be assessed against the producers on a farm for an inaccurate report unless the producers on the farm knowingly and willfully falsified the report. The Conference substitute adopts the Senate structure for the peanut program. (Sections 1106 and 1305)

The Managers intend that if a transfer or change in interest of producers on a farm occurs, and the transferee or owner of the acres does not agree to assume all obligations under section 1106(a), then direct payments, counter-cyclical payments, and average crop revenue election payments will be terminated. However,

the references to average crop revenue election payments in sections 1106(b)(1)(A) and 1305(b)(1)(A) refer only to the limitation described in section 1105(a)(2), not the actual payment acres for the average crop revenue election program.

(8) Planting flexibility

The House bill is the same as current law, but it includes peanuts and establishes a pilot Farm Flex project in Indiana for the 2008–2012 crop years, under which tomatoes for processing may be planted on up to 10,000 base acres. (Section 1106)

The Senate amendment is the same as current law, except provides an exception for mung beans and pulse crops and provides a pilot flexibility project in Indiana for the 2008 and 2009 crop years. (Section 1106)

The Conference substitute provides that mung beans and pulse crops can be planted on base acres, and provides a pilot project to allow the production of specified fruits or vegetables for processing for the 2009–2012 crop years on up to 9,000 base acres in the State of Illinois; 9,000 base acres in the State of Indiana; 1,000 base acres in the State of Iowa; 9,000 base acres in the State of Michigan; 34,000 base acres in the State of Minnesota; 4,000 base acres in the State of Ohio; and 9,000 base acres in the State of Wisconsin; that base acres will be protected; and that the Secretary will evaluate the effects of the pilot project on the supply and demand of fresh fruits and vegetables and fruits and vegetables for processing. The Conference substitute adopts the Senate structure for the peanut program. (Sections 1107 and 1306)

The Managers expect the Secretary to establish a process to ensure that the quantity of fruits or vegetables delivered for processing under the pilot project does not exceed the quantity reflected in the original contract between the producer and the processor. The Managers further expect the Secretary to seek evidence that the amount of fruits or vegetables planted for processing under this pilot project is delivered to the processing facility or in the case of crop loss is determined by the Secretary to have been destroyed.

In evaluating the effects of the program on the supply of and price of fresh fruits and vegetables and fruits and vegetables for processing, the Managers encourage the Secretary to examine the impact of the program on bonus buys under the authority of Section 46 of the Agricultural Act of 1949 and surplus removal under the authority of Section 32 of the Act of August 24, 1935.

The Managers recognize the importance of assessing the impact of the expansion of the planting flexibility pilot program upon specialty crop producers. For greater efficiency, the Managers expect the Secretary to include the information and evaluations derived from Section 1101(d)(3) and Section 1302(d)(3) into the report required under this Section prior to its submission to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate.

(8A) Special rule for long grain and medium grain rice

The Senate amendment provides that for the purposes of making counter-cyclical payments for long grain and medium grain rice, base acres on the farm shall be apportioned based on acreage

planted to long grain rice and medium grain rice during the 2003–2006 crop years. The Senate amendment requires that base acres, payment acres, and payment yields established with respect to rice are maintained. (Section 1107)

The House bill does not contain a comparable provision.

The Conference substitute adopts the Senate provision. (Section 1108)

(9) Period of effectiveness

The House bill authorizes Subtitle A of Title I for the 2008–2012 crop years. (Section 1107)

The Senate amendment authorizes Part I of Subtitle A of Title I for each covered commodity for the 2008–2012 crop years. (Section 1108)

The Conference substitute adopts the Senate provision with an amendment. (Section 1109)

(10) Availability of nonrecourse marketing assistance loans for loan commodities

The House bill is similar to current law; but authorizes that, for peanuts, a marketing assistance loan or loan deficiency payments may be obtained through a marketing association or marketing cooperative of producers that is approved by the Secretary, or through the Farm Service Agency; stipulates that as a condition for an individual or entity to provide storage for peanuts for which a marketing assistance loan is made, the individual or entity shall agree to provide storage on a non-discriminatory basis and to comply with additional requirements as the Secretary deems appropriate in order to promote fairness in the administration of this section; and authorizes a marketing association or cooperative to market peanuts for which a loan is made under this section, including by separating peanuts by type and quality. (Section 1201)

The Senate amendment is the same as current law; except for participants in average crop revenue program. (Sections 1201 and 1307)

The Conference substitute adopts the Senate provision. (Sections 1201 and 1307)

(10A) Peanuts storage and handling costs

The Senate amendment replaces the payment of storage, handling and associated costs under the 2002 farm bill with a mechanism that ensures handling and associated costs are not deducted from a producer's marketing loan. USDA would advance the payment for handling and associated costs for peanuts placed under loan and the advanced costs would be repaid when the peanuts are redeemed. (Section 1307(a)(7))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to begin coverage for handling and associated costs with the 2008 crop of peanuts. (Section 1307)

In order to provide adequate storage and handling for peanuts in the marketing loan program, FSRIA used funds of the Commodity Credit Corporation (CCC) to provide payments for storage, handling, and associated costs for peanuts in the loan. However,

these payments expired before the 2007 crop year for peanuts. The budgetary constraints made it impossible to continue the storage and handling payments established under FSRIA in this bill. In order to continue to ensure the adequate storage and handling for peanuts in the loan program, this bill instructs the Secretary to pay any handling and associated costs incurred at the time the peanuts are placed under loan for the 2008 through 2012 peanut crop years. These payments would be repaid when the loan peanuts are redeemed. The Secretary would pay the storage, handling, and associated costs for peanuts under the loan that are forfeited. The purpose of this provision is to not only ensure proper and adequate storage and handling of peanuts in the loan but also to guarantee that these costs are not taken out of a producer's loan proceeds at the time the peanuts are placed in the loan.

(11) Loan rates for nonrecourse marketing assistance loans

The House bill establishes loan rates for marketing assistance loans, including two loan rates for rice (one for long grain rice; one for medium and short grain rice) and two for barley (one for feed barley; one for malt barley), as follows: wheat, $2.94 per bushel; corn, $1.95 per bushel; grain sorghum, $1.95 per bushel; malt barley, $2.50 per bushel; feed barley, $1.90 per bushel; oats, $1.46 per bushel; base quality upland cotton, $0.52 per pound; extra long staple cotton, $0.7977 per pound; long grain rice, $6.50 per hundredweight; medium grain rice and short grain rice, $6.50 per hundredweight; soybeans, $5.00 per bushel; other oilseeds, $0.1070 per pound for each of the following—sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, crambe, sesame seed, and other oilseeds designated by the Secretary; dry peas, $5.40 per hundredweight; lentils, $11.28 per hundredweight; small chickpeas, $8.54 per hundredweight; peanuts, $355.00 per ton; graded wool, $1.10 per pound; nongraded wool, $0.40 per pound; honey, $0.60 per pound; and mohair, $4.20 per pound. The House bill requires the Secretary to establish a single county loan rate for corn and grain sorghum in each county; and to administer the applicable loan, marketing loan, counter-cyclical and related programs using an identical loan rate for corn and grain sorghum in each county. (Section 1202)

The Senate amendment establishes loan rates for the 2008–2012 crop years; includes similar provisions to the House bill for corn and grain sorghum; and establishes grading basis for marketing loans for pulse crops using a grade not less than grade number 2 or other grade factors, including the fair and average quality of the crop in any year; and may be adjusted by the Secretary to reflect the normal market discounts for grades less than number 2 quality. (Sections 1202, 1210, and 1307)

The Conference substitute establishes loan rates for the 2008–2012 crop years. The Conference substitute adopts the Senate structure for the peanut program. (Sections 1202 and 1307)

The Managers have included in Section 1202 revisions to the marketing loan rates for dry peas, lentils, and small chickpeas and established a marketing loan program for large chickpeas, herein after referred to collectively as pulse crops. The Managers intend that the Secretary establish grade factors for pulse crop loan eligi-

bility that reflects the established U.S. grades for #2 or better used in commercial domestic and export sales transactions and that the Secretary establish a commodity marketing loan grade discount schedule that is comparable to, and reflects the prevailing average grade discounts that apply to commercial pulse crop sales transactions.

(12) Terms of loans

The House bill provides the same loan term as current law. (Section 1203)

The Senate amendment provides the same loan term as current law, and it establishes the same loan term for peanuts as current law. (Sections 1203 and 1307)

The Conference substitute adopts the House provision and the Senate structure for the peanut program. (Sections 1203 and 1307)

(13) Repayment of loans

The House bill provides the same as current law, except it specifies long grain rice, medium grain rice, and short grain rice; includes peanuts; and for upland cotton, it specifies that USDA use price quotes from Far East market to determine the prevailing world market price for upland cotton; provides for adjustments to the prevailing world market price; and requires the prevailing world market price be adjusted to U.S. quality and location; and authorizes further adjustment in the prevailing world market price. The House bill requires repayment rates for dry peas, lentils and small chickpeas to be based on quality grades for those commodities. (Section 1204)

The Senate amendment is similar to current law, except it specifies long grain rice and medium grain rice, provides similar provisions for upland cotton, and requires the loan repayment rate for pulse crops to be based on the specified quality grades for the applicable commodity. (Sections 1204 and 1307)

The Conference substitute provides that the Secretary calculate a loan repayment rate for loan commodities (other than upland cotton, long grain rice, medium grain rice, extra long staple cotton, and confectionery and each other kind of sunflower seed (other than oil sunflower seed)) based on the average market prices for the loan commodity during the preceding 30-day period. The Conference substitute adopts the Senate provisions with respect to upland cotton with an amendment to provide an adjustment for average transportation costs and adjustments related to U.S. premium factor. (Section 1204)

The Managers have included section 1204(h) which grants authority to the Secretary to modify repayment rates under the marketing loan program in the event of a severe disruption to marketing, transportation, or related infrastructure. The purpose of this provision is to grant the Secretary the authority to manage the marketing loan program in a manner that protects the taxpayer in the event of a major market disruption similar to the disruption that followed Hurricane Katrina. The Managers intend for the actions taken under this provision to be used on a short-term and temporary basis that should not extend beyond the duration of the disruption that gives rise to the exercise of this authority. Further,

the Secretary should not exercise this authority if the disruption can be foreseen, such as, routine or announced maintenance on infrastructure, but rather should reserve this authority for extraordinary circumstances.

The Managers authorize the Department of Agriculture to make significant adjustments in the marketing loan program for upland cotton in sections 1204 and 1210. The Managers recognize that the upland cotton marketing loan program will undergo another significant change in the next marketing year when the Department is expected to modify its determination of the adjusted world price (AWP) in the absence of a North European A index. The Managers understand from the Department that it has the authority to make appropriate adjustments for determining and calculating the AWP for upland cotton. The Managers request that the Department ensure that an accurate world price is discovered in the absence of a North European index and appreciate communication from the Department about any changes that may be made. The Managers encourage the Department to make any changes in a manner that ensures a seamless transition for the program, for the Department, and for the entire cotton industry. The Managers also encourage the Department to ensure that such AWP calculation achieves the statutory goal of allowing upland cotton produced in the United States to be competitive both domestically and internationally.

(14) Loan deficiency payments

The House bill provides the same as current law for 2008–2012 crop years and includes peanuts. (Section 1205)

The Senate amendment provides the same as current law for 2009–2012 crop years. For the 2008 crop year, the Senate amendment establishes the effective date for payment rate determination as the date on which the producers on the farm lost beneficial interest and requires the Secretary to establish procedures for consumption on the farm. (Sections 1205 and 1307)

The Conference substitute adopts the House provision and the Senate structure for the peanut program. (Sections 1205 and 1307)

(15) Payments in lieu of loan deficiency payments for grazed acreage

The House bill provides the same as current law. (Section 1206)

The Senate bill provides the same as current law. (Section 1206)

The Conference substitute adopts the House provision. (Section 1206)

(16) Special marketing loan provisions for upland cotton

The House bill requires the President to carry out a special import quota program for upland cotton whenever the Secretary determines that for a consecutive 4-week period, the price of American cotton exceeds the price of cotton delivered in the Far East markets. The term "special import quota" is defined as a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The House bill provides that the amount of cotton that can come into the U.S. under the special import quota during

any marketing year is limited to the equivalent of 10 week's consumption of upland cotton by domestic mills. (Section 1207(a))

Subsection (b) of the House bill provides the same as current law. (Section 1207(b))

Subsection (c) of the House bill requires the Secretary, beginning on the date of enactment through July 31, 2013, to issue marketing certificates or cash payments to domestic users of upland cotton for uses of all cotton regardless of origin. The payments or certificates will equal 4 cents per pound. Assistance can only be used for acquisition, construction, installation, modernization, development, conversion, or expansion of land, plant, buildings, equipment, facilities, or machinery. No end date is specified. (Section 1207(c))

The Senate amendment provides the same as the House measure except it specifies the price of American cotton delivered to a definable and significant international market. (Section 1207(a))

Subsection (b) of the Senate amendment is the same as current law, except it provides additional discretion on the quantity of quota. (Section 1207(b))

Subsection (c) of the Senate amendment requires the Secretary, beginning August 1, 2008 through June 30, 2013, to provide economic adjustment assistance equal to 4 cents per pound to domestic users of upland cotton for all documented use of cotton during the previous month regardless of the origin of the cotton. The payment rate is reduced to 0 cents per pound on July 1, 2013, terminating the funding for the program. It specifies the same uses for the assistance as in the House bill. (Section 1207(c))

The Conference substitute adopts the Senate provision with an amendment in subsection (c) to provide assistance equal to 4 cents per pound during the period August 1, 2008, through July 31, 2012 and reduced to 3 cents per pound beginning on August 1, 2012. (Section 1207)

(17) Special competitive provisions for extra long staple cotton

The House bill provides the same as current law. (Section 1208)

The Senate amendment provides the same as current law, except that it does not specify the form of payments (cash or certificates). (Section 1208)

The Conference substitute adopts the Senate provision. (Section 1208)

(18) Availability of recourse loans for high moisture feed grains and seed cotton

The House bill provides the same as current law. (Section 1209)

The Senate amendment provides the same as current law. (Section 1209)

The Conference substitute adopts the Senate provision. (Section 1209)

(19) Deadline for repayment of marketing assistance loan for peanuts

The House bill requires that marketing assistance loans for peanuts be redeemed no later than June 30 of the year subsequent to the year in which the peanuts were harvested. Such loans not redeemed by the deadline shall be deemed forfeited to the Commodity Credit Corporation. (Section 1210)

The Senate amendment contains no comparable provision.

The Conference substitute drops this provision.

(19A) Reimbursable agreements and payments of administrative expenses

The Senate amendment provides that the Secretary may implement any reimbursable agreements or provide for the payment of administrative expenses for peanuts only in a manner that is consistent with such activities in regard to other commodities. (Section 1307)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1307(g))

(19B) Adjustments of loans for peanuts

The Senate amendment provides authority to the Secretary to adjust loan rates for peanuts based on differences in grade, type, quality, location, and other factors. (Section 1308)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1308)

(20) Commodity quality incentive payments for healthy oilseeds

The House bill, subject to the availability of funds, requires the Secretary to provide commodity quality incentive payments during the 2009–2013 crop years for the production of oilseeds with specialized traits that enhance human health. Requires the Secretary to issue a request for proposals for payments under this section. (Section 1211)

The Senate amendment is similar to House provision, except it has fewer requirements for proposals; does not specify multi-year contracts; provides protection for proprietary information; and authorizes $400 million for the period of fiscal years 2008–2012 subject to appropriations. (Section 1705)

The Conference substitute adopts the Senate provision with an amendment that provides, subject to the availability of funds, for a quality incentive program for oilseeds demonstrated to improve the health profile of the oilseed for use in human consumption for the period of fiscal years 2009–2012. The provision sets forth the requirements for posals, protects proprietary information, and provides for program compliance and penalties. (Section 1605)

(20A) Availability of average crop revenue payments

The Senate amendment requires the Secretary to give producers the opportunity to make a one-time election to receive average crop revenue payments for the 2010, 2011, and 2012 crop years; the 2011 and 2012 crop years; or the 2012 crop year in lieu

of participating in the direct and counter-cyclical program and the marketing assistance loan program. Producers who elect to participate in the average crop revenue program are eligible to receive fixed payments equal to not less than the product of $15 per acre and the quantity of base acres on the farm for all covered commodities and peanuts. The Secretary is required to make revenue payments available if the actual state revenue for a covered commodity or peanuts is less than the average crop revenue guarantee for that commodity. Average crop revenue payments are made beginning October 1, or as soon as practicable thereafter, after the end of the applicable marketing year (compared to direct payments, this provision delays fixed ACR payments by one year with no provision for advance payments). The Senate amendment establishes actual state revenue as the product of the actual state yield (the quantity of the covered commodity or peanuts produced in the State during the crop year divided by the number of planted acres) and the average crop revenue harvest price (the harvest price used to calculate revenue under revenue plans offered by the Federal Crop Insurance program). The average crop revenue program guarantee equals 90 percent of the product of the expected state yield per planted acre and the pre-planting price (the price used to calculate revenue under revenue coverage plans offered by the Federal Crop Insurance program) for the crop year and the preceding 2 crop years. The pre-planting price cannot decrease or increase more than 15 percent from the pre-planting price for the preceding year. The payment amount, in addition to the amount under section 1401(b)(2) is equal to the product of: the difference between the average crop revenue program guarantee and the actual state revenue; 85 percent of the base acres on the farm for the covered commodity; the ratio of APH on the farm to the expected state yield; and 90 percent. The Secretary is required to make recourse loans available to producers who participate in this program. (Section 1401)

The House bill contains no comparable provision.

The Conference substitute deletes this provision.

(21) Sugar program

The House bill maintains many provisions of current law as it relates to the sugar program. However, the loan rate for raw cane sugar is increased to 18.5 cents per pound and the loan rate for refined beet sugar is increased to 23.5 cents per pound. The House bill eliminates the authorization of the Secretary to reduce loan rates if there were negotiated reductions in export and domestic subsidies of other major sugar producing countries. (Section 1301)

The House bill extends current law with regard to the term of the loan and the nonrecourse nature of the loan. Processors are to make adequate assurances that payments to growers will be proportional to the loan values, and the Secretary is authorized to set minimums for such payments.

The Secretary is required to operate the sugar program, to the maximum extent practicable, at no cost to the Federal government. If the producer agrees to reduce production under an inventory disposition program, and such reduced production involves sugar beets or sugarcane already planted, the sugar beets or sugarcane pro-

duced on diverted acres may not be used for any commercial purpose other than as a bioenergy feedstock.

The House bill requires the Secretary to collect information on the production, consumption, stocks and trade of sugar in Mexico, including United States exports of sugar to Mexico; and publicly available information on Mexican production, consumption, and trade of high fructose corn syrups, including United States exports of high fructose corn syrups to Mexico.

The sugar program is extended through the 2012 crop year, and the program for the 2007 crop will be operated as under current law.

The Senate amendment also maintains many provisions of current law as it relates to the sugar program. However, the loan rate for raw cane sugar is increased to 18.25 cents per pound for 2009, 18.50 cents per pound for 2010, 18.75 cents per pound for 2011, and 19.00 cents per pound for 2012; and the loan rate for refined beet sugar is set at 128.5 percent of the loan rate for raw cane sugar. (Section 1501)

The Senate amendment requires that the Secretary collect information on the production, consumption, stocks and trade of sugar in Mexico, including United States exports of sugar to Mexico; and publicly available information on Mexican production, consumption, and trade of high fructose corn syrups.

All other provisions of the Senate amendment are the same as the House bill.

The Conference substitute adopts the Senate provision with a modification to the loan rate. The loan rate for raw cane sugar will increase to 18.25 cents per pound for 2009, 18.50 cents per pound for 2010, 18.75 cents per pound for 2011, and 18.75 cents per pound for 2012. The marketing loan rate for refined beet sugar is set equal to 128.5 percent of the loan rate for raw cane sugar beginning with the 2009 crop year.

The Conference amendment retains a requirement that the Secretary collect information on the production, consumption, stocks and trade of sugar in Mexico, including United States exports of sugar to Mexico; and publicly available information on Mexican production, consumption, and trade of high fructose corn syrups. The Managers expect such information on Mexican trade of high fructose corn syrups to include both imports and exports. (Section 1401)

(22) United States membership in the International Sugar Organization

The House bill requires the Secretary of Agriculture to work with the Secretary of State to restore U.S. membership within the International Sugar Organization within one year from date of enactment of this bill. (Section 1302)

The Senate amendment requires the Secretary of Agriculture to work with the Secretary of State to restore, to the maximum extent practicable, U.S. membership within the International Sugar Organization within one year from date of enactment of this bill. (Section 1504(l))

The Conference substitute adopts the House provision. (Section 1402)

(23) Flexible marketing allotments for sugar

The House bill extends and amends the provisions of the Agricultural Adjustment Act of 1938 requiring the Secretary to establish marketing allotments for the 2008 through 2012 crops of domestically produced sugar to balance supply and demand and avoid loan forfeitures. (Section 1303)

The House bill adds a definition of "human consumption" in the context of sugar for human consumption, as meaning sugar in human food, beverages, or similar products. The House bill defines the term "market" as meaning to sell or otherwise dispose of including the forfeiture of sugar under the loan program, the movement of raw cane sugar into the refining process, and the sale of sugar for the production of ethanol or other bioenergy product, if the disposition of the sugar is administered by the Secretary.

The Secretary is required to establish at the beginning of each crop year marketing allotments at a level to maintain raw and refined sugar prices above forfeiture levels. The overall allotment quantity is to be not less than 85 percent of the estimated quantity of sugar for domestic human consumption. The marketing allotments are to apply to the marketing by processors of sugar intended for domestic human consumption, with exceptions to facilitate the export of sugar, to enable another processor to fulfill an allocation established for that processor, or for uses other than domestic human consumption. Processors are prohibited from marketing for domestic human consumption a quantity in excess of the allocation, with the same exceptions as current law.

The House bill strikes the provision requiring the Secretary to suspend allotments when the level of imports will exceed 1.532 million short tons and retains the procedures for the Secretary to reassign allotments if processors cannot fulfill the allocations, and specifies that any resulting imports must be in the form of raw cane sugar.

The House bill includes the definition of "seed" for purposes of allotments in proportionate share States. The House bill authorizes the Secretary to transfer the acreage base history of a sugarcane farm to any other parcels of land of the applicant, in order to establish proportionate shares. Sugarcane base acreage that has been, or is, converted to non-agricultural use may be transferred to other land suitable for the production of sugarcane that can be delivered to a processor in a proportionate share State.

The House bill includes transfers of mill allocations under the procedures for appeals to the Secretary regarding allotments, and eliminates an obsolete special appeal procedure regarding beet sugar allocations.

The House bill extends the sugar allotments through the 2012 crop year. Current law shall apply to flexible marketing allotments for the 2007 crop year for sugar.

The Senate amendment is similar to the House bill, with technical changes with regard to definitions and a modification to indicate that the exception for uses other than domestic human consumption does not include the sale of sugar for the production of ethanol or other bioenergy under the Feedstock Flexibility Program. (Section 1504)

The Conference substitute adopts the Senate provision with a modification to clarify that should there be a sale of a factory possessing an allocation of beet sugar, then the Secretary is to transfer to the buyer the allocation that has been agreed upon by the buyer and seller, assuming such an agreement has been reached. Additionally, it clarifies that following a conversion of sugarcane base acreage to a nonagricultural use in a proportionate share state, the Secretary is to notify the affected landowners of the transferability of the applicable base not later than 90 days after the agency becomes aware of the conversion. (Section 1403)

(23A) Administration of tariff rate quotas

The House bill provides that the Secretary is to establish at the beginning of the quota year, the tariff-rate quotas for raw cane sugar and refined sugars at the minimum level necessary to comply with obligations under international trade agreements approved by Congress. The Secretary may take action to increase the supply of sugar on or after April 1 of each fiscal year, with certain constraints on that action. Before April 1, the Secretary is to take action to increase the supply of sugar only if there is an emergency shortage of sugar in the United States market that is caused by war, flood, hurricane, or other natural disaster or other similar event. The House bill would also require the Secretary to establish orderly shipping patterns for sugar imports. (Section 1303)

The Senate amendment is similar to the House bill except the Senate amendment does not contain the provision requiring the Secretary to establish shipping patterns. (Section 1504)

The Conference substitute adopts the Senate provision. (Section 1403)

(23B) Storage facility loans

The Senate amendment prohibits penalties for prepayment of sugar storage facility loans. (Section 1502)

The House contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1404)

(23C) Commodity Credit Corporation storage payments

The Senate amendment establishes rates for the storage of forfeited sugar for each of the 2008 through 2011 crop years in an amount that is not less than 15 cents per hundredweight of refined sugar per month or 10 cents per hundredweight of raw cane sugar per month. For each of the 2012 and subsequent crop years, establishes storage payments at rates in effect at the time of enactment. (Section 1503)

The House contains no comparable provision.

The Conference substitute [adopts the Senate provision]. (Section 1405)

(23D) Sense of the Senate regarding NAFTA sugar coordination

The Senate amendment provides a sense of the Senate that the United States and Mexico should coordinate their respective sugar policies and that the United States should consult with Mexico on

policies to maximize benefits for growers, processors and consumers. (Section 1505)

The House contains no comparable provision.

The Conference substitute deletes the Senate provision.

(24) Dairy Product Price Support Program

The House bill requires the Secretary to support the price of cheddar cheese, butter, and nonfat dry milk by purchasing such products at specified prices: cheddar cheese in blocks at not less than $1.13 per pound; cheddar cheese in barrels at not less than $1.10 per pound; butter at not less than $1.05 per pound; and nonfat dry milk at not less than $0.80 per pound. If net removals of cheese, butter or nonfat dry milk exceed specific limits for 12 consecutive months, the Secretary may reduce the purchase prices of that commodity during the month that immediately follows. The prices that the Secretary pays under this section for the commodities must be uniform across the country. The Secretary may sell cheese, butter, or nonfat dry milk for unrestricted use from inventories of the Commodity Credit Corporation at prevailing market prices, but not less than 110 percent of the prices specified in the Purchase Price subsection. (Section 1401)

The Senate amendment requires the Secretary to support the price of cheddar cheese, butter, and nonfat dry milk by purchasing such products at specified prices: cheddar cheese in blocks at not less than $1.13 per pound; cheddar cheese in barrels at not less than $1.10 per pound; butter at not less than $1.05 per pound; and nonfat dry milk at not less than $0.80 per pound. The prices that the Secretary pays under this section for the commodities must be uniform across the country. The Secretary may sell cheese, butter, or nonfat dry milk for unrestricted use from inventories of the Commodity Credit Corporation at prevailing market prices, but not less than 110 percent of the prices specified in the Purchase Price subsection. (Section 1601)

The Conference substitute adopts the House provision with an amendment to delete an unnecessary reference to Commodity Credit Corporation funding. (Section 1501)

(25) Dairy Forward Pricing Program

The House bill requires the Secretary to establish the dairy forward pricing program, which authorizes milk producers to voluntarily enter into forward price contracts with milk handlers for milk that is not Class I. Under such forward price contracts, prices received by milk producers and cooperatives will be deemed to satisfy all regulated minimum milk price requirements. Milk handlers will be prohibited from requiring participation in a forward price contract, and the Secretary is required to investigate complaints and to take appropriate action if evidence of coercion is found. No forward price contract can be entered into after September 30, 2012, or extend beyond September 30, 2015. (Section 1402)

The Senate amendment amends the former dairy forward pricing pilot program to establish a program that allows milk producers and cooperative associations to voluntarily enter into forward price contracts with milk handlers with protections for pro-

ducers that are similar to the protections provided in the House bill. (Section 1606)

The Conference substitute adopts the House provision. (Section 1502)

(26) Dairy Export Incentive Program

The House bill reauthorizes the dairy export incentive program until December 31, 2012, and authorizes the Secretary to issue rules to ensure that each year the maximum volume of dairy product exports allowable within the United States' obligations under the Uruguay Round Agreements is exported. (Section 1403)

The Senate amendment reauthorizes the dairy export incentive program until December 31, 2012. (Section 1603)

The Conference amendment adopts the House provision.

(27) Revision of Federal marketing order amendment procedures

The House bill requires the Secretary, upon receiving a written request for a hearing to amend a milk marketing order, issue a denial of the request or issue a notice of the hearing, and stipulates the timeframe for a hearing. Notice for a hearing on a proposed amendment to a marketing order must be provided not less than three days before the date of the hearing. The Secretary is required to issue a recommended decision on a proposed amendment to a milk marketing order no more than 90 days after the date set for the submission of post-hearing findings, conclusions and written arguments. Further, the House provision requires the final decision to be issued no more than 60 days after the recommended decision was issued. If the Secretary receives a request for a hearing on a proposed amendment to a milk marketing order within 90 days after announcing a decision on a previously proposed amendment to the same order, and the two proposed amendments are essentially the same, the Secretary is not required to call a hearing. (Section 1404)

The Senate amendment requires the Secretary to issue supplemental rules of practice within 60 days of enactment and establishes 5 provisions to be included in the rules of practice. The Secretary, upon receiving a proposal for a hearing regarding a milk marketing order, is required to issue an action plan and expected timeframes for completion of the hearing not more than 180 days after the date of the notice; issue a request for additional information regarding the proposal; or issue a denial of the request. The Senate amendment establishes a time limit of 90 days after the deadline for submitting post-hearing briefs for USDA to issue a recommended decision on proposed amendments to milk marketing orders and to issue a final decision within 60 days after the deadline for submission of comments and exceptions to the recommended decision. The Senate amendment authorizes industry assessments to supplement appropriated funds if necessary to improve or expedite rulemaking; and authorizes the use of informal rulemaking to amend orders, other than provisions of orders that directly affect milk prices. The Secretary is required, as part of any hearing to adjust make allowances, to determine the average monthly prices of feed and fuel incurred by dairy producers in the relevant mar-

keting area and to consider those prices in determining whether or not to adjust make allowances. (Section 1605)

The Conference substitute adopts the Senate provision with amendments to reduce the amount of time allowed for completion of a hearing to 120 days, provide a limit of up to 60 days for submission of post-hearing briefs, delete specific requirements related to the content of the hearing action plan; and adopt the House language designed to avoid duplicative hearings for similar petitions received within 90 days of the announcement of a decision on a previously proposed amendment. The conference substitute also sunsets the applicability of the Senate provision related to hearings involving adjustments to make-allowances coincident with the Food, Conservation, and Energy Act of 2008.

(28) Dairy Indemnity Program

The House bill reauthorizes the dairy indemnity program through September 30, 2012. (Section 1405)

The Senate amendment reauthorizes the dairy indemnity program through September 30, 2012. (Section 1603)

The Conference substitute adopts the House provision.

(29) Extension of Milk Income Loss Contract Program

The House bill reauthorizes the MILC program through 2012, under the same terms as current law. (Section 1406)

The Senate amendment amends the MILC program for the period October 1, 2008 through August 31, 2012 by increasing the payment factor from 34 percent to 45 percent and by increasing the annual eligible payment quantity from 2.4 million pounds to 4.15 million pounds. (Section 1602)

The Conference substitute provides for the continuation of the program. For the period from October 1, 2008 through August 31, 2012, the payment factor is increased to 45 percent, the annual eligible payment quantity is increased to 2,985,000 pounds, and the $16.94 per hundredweight price is adjusted whenever the National Average Dairy Feed Ration Cost for a month is greater than $7.35 per hundredweight by 45 percent of the percentage increase in the feed ration cost. Beginning September 1, 2012, the trigger for the adjustment in the price used to determine the payment rate is set at $9.50 per hundredweight. (Section 1506)

FEED PRICE RATIOS: UNITED STATES, MARCH 2008 WITH COMPARISONS

Feed Price Ratio [1]	2007	2008	
	Mar	Feb	Mar
Broiler-Feed: Pounds of Broiler Grower Feed equal in value to 1 pound of broiler, live weight [2]	5.9	* 3.9	3.8
Market Egg Feed: Pounds of Laying Feed equal in value to 1 dozen eggs [3]	9.1	* 11.1	11.4
Hog-Corn: Bushels of Corn equal in value to 100 pounds of hog, live weight	13.1	* 9.3	8.5
Milk-Feed: Pounds of 16% Mixed Dairy Feed equal in value to 1 pound of Whole Milk [4]	2.39	* 2.24	2.05
Steer & Heifer-Corn: Bushels of Corn equal in value to 100 pounds of Steer & Heifers, live weight	28.5	* 20.8	19.4
Turkey-Feed: Pounds of Turkey Grower equal in value to 1 pound of Turkey, live weight [5]	5.5	* 3.6	3.8

[1] Effective January 1995, prices of commercial prepared feeds are based on current U.S. prices received for corn, soybeans, alfalfa hay, and all wheat.

[2] The price of commercial prepared broiler feed is based on current U.S. prices received for corn and soybeans. The modeled feed uses 58 percent corn and 42 percent soybeans.

[3] The price of commercial prepared layer feed is based on current U.S. prices received for corn and soybeans. The modeled feed uses 75 percent corn and 25 percent soybeans.

[4] The price of commercial prepared dairy feed is based on current U.S. prices received for corn, soybeans, and alfalfa. The modeled feed uses 51 percent corn, 8 percent soybeans, and 41 percent alfalfa.

[5] The price of commercial prepared turkey feed is based on current U.S. prices received for corn, soybeans, and wheat. The modeled feed used 51 percent corn, 28 percent soybeans, and 21 percent wheat.

* Revised.

PRICES USED TO CALCULATE FEED PRICE RATIOS: UNITED STATES, MARCH 2008 WITH COMPARISONS

Commodity	Unit	Entire Month		Preliminary
		Mar 2007	Feb 2008	Mar 2008
Broilers, Live	Lb	0.500	0.500	0.510
Eggs, Market	Doz	0.681	1.220	1.300
Hogs, All	Cwt	44.90	42.20	41.20
Milk, All	Cwt	15.60	19.10	18.30
Steers and Heifers	Cwt	97.70	94.20	93.80
Turkeys, Live	Lb	0.443	0.475	0.529
Corn	Bu	3.43	4.53	4.83
Hay, Alfalfa, Baled	Ton	121.00	138.00	143.00
Soybeans	Bu	6.95	11.70	11.90
Wheat, All	Bu	4.75	9.98	11.70

FEEDER LIVESTOCK: PRICES PAID, UNITED STATES, MARCH 2008 WITH COMPARISONS

Commodity	Unit	2007	2008	
		Mar	Feb	Mar
Feeders and Stockers Cattle and Calves	Cwt	$105.40	* $103.90	$101.60
Feeder Pigs	Cwt	157.00	113.00	115.00

* Revised.

(30) Dairy Promotion and Research Program

The House bill extends the authority to expend funds to develop foreign markets through fiscal year 2012; amends the definition of "United States" to include Alaska, Hawaii, the District of Columbia, and the Commonwealth of Puerto Rico for both promotion and research programs; and provides for a refund of assessments for importers on contracts in effect prior to July 26, 2007, for a period of one year after the date of enactment. (Section 1407)

The Senate amendment extends the authority to expend funds to develop foreign markets through fiscal year 2012. (Section 1604)

The Conference substitute adopts the House provision with an amendment to reduce the rate of assessment on imported dairy products to 7.5 cents per hundredweight. The substitute also amends the Dairy Promotion Stabilization Act of 1983 to authorize the Secretary to establish by regulation the time and method of importer payments under the Act. (Section 1507)

The Farm Security and Rural Investment Act of 2002 amended Section 112 of the Dairy Promotion Stabilization Act of 1983 (7 U.S.C. 4503(d)) to require that, "The Secretary, in consultation with the United States Trade Representative, shall ensure that the order is implemented in a manner consistent with the international trade obligations of the Federal Government." The Managers expect the Secretary to consult with the United States Trade Representative to ensure that any action taken pursuant to this section

is consistent with the bilateral, regional and multilateral trade obligations of the Federal Government.

(31) Report on Department of Agriculture reporting procedures for nonfat dry milk

The House bill requires the Secretary to submit a report to Congress within 90 days of enactment of this Act regarding USDA's reporting procedures for nonfat dry milk and the impact of those procedures on Federal milk marketing order minimum prices during the period July 1, 2006, through the date of enactment of this Act. (Section 1408)

The Senate amendment is the same as the House provision except it requires the Secretary to submit the report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. (Section 1607)

The Conference substitute adopts the Senate provision. (Section 1508)

The Managers are encouraged by the corrective action agreed to by the Department in connection with a prior misreporting of nonfat dry milk prices and encourage the Secretary to submit periodic implementation progress reports to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. While the Senate provision to require USDA to formally designate an official to be in charge of coordinating dairy oversight was not included in the conference report, the Managers intend that USDA continue with the steps to improve coordination of dairy oversight within the Department and with other relevant agencies as necessary to ensure accurate price determinations.

(32) Federal Milk Marketing Order Review Commission

The House bill, subject to the availability of funds, establishes the Federal Milk Marketing Order Review Commission to conduct a comprehensive review and evaluation of the current Federal milk marketing order system and non-Federal milk marketing order systems. The House bill provides for the appointment of 18 Commission members; requires the commission to issue a report to Congress and the Secretary of Agriculture with the results of the review and evaluation conducted under this section; and stipulates that the Commission is wholly advisory in nature, and the recommendations it issues are non-binding. (Section 1608)

The Senate amendment is similar to the House provision except it provides additional areas for the Commission to evaluate and modifies the appointment of Commission members. (Section 1608)

The Conference substitute adopts the House provision except the objectives of the Commission are modified, the number of commission members is reduced to 14 and all Commission members will be appointed by the Secretary.

The Managers are aware of a number of dairy reform proposals being advocated at the State, regional and National level to simplify and improve the Federal milk marketing order system. The Managers intend that the Commission should evaluate as many of these proposals as practicable. Specifically, the Commission should analyze and report on the potential economic benefits of estab-

lishing a 2-class system of classified milk consisting of a fluid milk class and a manufacturing grade milk class with the price of both classes determined using similar component prices of butterfat, protein, and other solids. The Commission should also evaluate the economic impacts of proposals to eliminate advance pricing that is currently used to calculate the prices of Class I and Class II skim milk and instead use 4-week component prices that are used to calculate prices for Class III and Class IV milk.

(32A) Mandatory reporting of dairy commodities

The Senate amendment amends current law to require corporate officers or officially-designated representatives of each dairy processor (other than those that process less than 1 million pounds of dairy products a year) to report to the Secretary on each daily reporting day such price, quantity, and product characteristics as the Secretary determines appropriate with respect to those package sizes used to establish minimum prices for Class III or Class IV milk under Federal milk marketing orders. The Senate amendment requires the Secretary to make the information reported available to the public on the same day as the information is reported, and requires dairy manufacturers to report, at periodic intervals, the quantities of dairy products in storage. (Section 1609)

The House bill has no comparable provision.

The Conference substitute provides authority for the Secretary to establish an electronic reporting system, subject to the availability of funds; and requires the Secretary to increase the frequency of mandatory reporting of sales of dairy products once the electronic reporting system is in place. (Section 1510)

(32B) Additional mandatory dairy reporting

The Senate amendment amends current law as amended by section 1609 to require regular audits and comparisons with other related dairy market statistics on at least a quarterly basis. (Section 1610)

The House bill has no comparable provision.

The Conference substitute provides for quarterly audits of information submitted or reported and comparison of such information with related dairy market statistics, and incorporates this requirement in the previous section. (Section 1510)

(33) Administration generally

The House bill authorizes the use of the Commodity Credit Corporation in carrying out the provisions of title I, and, generally, continues other administrative provisions of the 2002 farm bill. (Section 1501)

The Senate amendment includes the same provisions as the House measure, and includes an additional provision to exempt producers who have an option to receive advance direct and partial counter-cyclical payments from constructive receipt of those payments. (Section 1701)

The Conference substitute adopts the Senate provision with an amendment to provide for interim regulations to implement the payment limitations and adjusted gross income provisions. (Section 1601)

Beginning with the 2009 crop, the Conference substitute includes significant reforms to payment limitation and adjusted gross income provisions. This is a complex and long-standing area of the law and regulations, many of which have been in effect for decades. The continuity and predictability of these regulations is important to the economic stability of farm operators, the lenders that finance them, the input suppliers who provide their seed, feed, fertilizer and other inputs, and indeed for the agricultural economy as a whole. In order to avoid undue disruption of all of these sectors of the agricultural economy, the Managers expect USDA to provide adequate notice and opportunity for comment, consistent with the interim rule process, for Sections 1603 and 1604, to ensure these changes are implemented in a manner that is least disruptive to producers and other stakeholders, and that allows the programs to continue to achieve their objectives.

The Managers further expect that in the rulemaking process, USDA will give priority to addressing matters within the scope of these legislative changes and guidance in this Statement in order to minimize program and regulatory disruption, to maximize continuity and predictability, and to focus the scarce resources of the Department of Agriculture on implementing these and other specific regulatory requirements in this bill.

The Managers also expect that during the interim rule process USDA will amend the regulations as necessary or appropriate to implement these statutory changes consistent with the intent and guidance provided by the Managers throughout this Statement. The Managers expect the notice and comment period regarding the implementation of the AGI and payment limitation provisions to include issues such as, family definitions, denial of program benefits, notification of interests in operation, changes in farming operations, actively engaged, schemes and devices, apportionment of income for joint filers, and spousal eligibility. The Managers expect the Secretary to implement the AGI provision in a manner that provides equitable treatment, to the maximum extent practicable, to all producers.

(34) Suspension of permanent price support authority

The House bill provides the same as current law for 2008–2012 crops and for milk through December 31, 2012. (Section 1502)

The Senate amendment provides the same as the House measure except does not include peanuts. (Section 1702)

The Conference substitute adopts the House provision. (Section 1602)

(35) Payment limitations

The House bill extends payment limitations in the 2002 farm bill, with revisions including the elimination of limitations on marketing loan benefits and loan deficiency payments. It amends the Food Security Act of 1985 to limit the total amount of direct payments that a person or legal entity may receive in a crop year to $60,000, excluding peanuts; and counter-cyclical payments that a person or legal entity may receive in a crop year to $65,000, excluding peanuts. For peanuts, a person or entity may not receive more than $60,000 for direct payments, and no more than $65,000 for

counter-cyclical payments. The House bill defines the term "legal entity" as an entity that owns land or an agricultural commodity, or produces an agricultural commodity; and the term "person" as a natural person, and does not include a legal entity. The House bill provides for direct attribution for payments, by requiring the Secretary to promulgate regulations to ensure that the total amount of payments are attributed to a person, by taking into account the direct and indirect ownership interests of the person in a legal entity. It provides that every payment made directly to a person will be combined with the person's pro rata interests in payments received by a legal entity in which the person has an ownership interest. It further provides that for every payment made to a legal entity, the payment will be attributed to those persons with an ownership interest in the entity traced through four levels of ownership in the entities, and includes a framework for that attribution. (Section 1503)

The Senate amendment is similar to the House measure, except it establishes payment limitations under the new act at $40,000 for a combination of both traditional direct and average crop revenue fixed payments, and $60,000 for counter-cyclical payments and the revenue portion of average crop revenue payments. It strikes the definition of "loan commodity, thereby also terminating the limitations on marketing loan gains and loan deficiency payments," adds definitions for "family member", "legal entity", and "person," and includes spouses in the definition of family member. The Senate amendment provides similar direct attribution requirements, except payments made to a legal entity shall be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity that has otherwise exceeded the applicable payment limitation. (Section 1703)

The Conference substitute adopts the Senate provision with an amendment that provides a $65,000 payment limit for counter-cyclical payments, a reduced direct payment limit for participants in the ACRE program to reflect the amount the direct payment is cut as a condition to participate in ACRE, and a limit in the amount of counter-cyclical and ACRE payments that reflects the $65,000 limit plus the amount of that the direct payment limit is reduced. The counter-cyclical limits and ACRE limits are combined for those producers who participate in ACRE because producers would be eligible to participate in the counter-cyclical program on one farm and the average crop revenue election on a separate farm. (Section 1603)

The change in the administration of the payment limit provisions from one based on separate "person" determinations to one that attributes income among persons and entities, based upon their share of participation, is, by design, less susceptible to manipulation by changing the farming structure to introduce multiple farming entities.

With this change, many farming operations that had been approved under current law, may wish to reorganize such operations for estate or tax purposes or for other reasons. It is the intent of the Managers that, consistent with the action taken by the Congress with the passage of the significant changes in farm program participation in 1987, that during the 2008 and 2009 program

years, persons should not be penalized for changing their farming operation structure given such a significant change in the law administering payment limitations.

(35A) Special rules

The House bill amends section 1001 of the Food Security Act of 1985 by inserting a new subsection (e) to essentially continue current rules for minor children, marketing cooperatives, trusts and estates, cash rent tenants, and federal agencies. For state, local governments, and their political subdivisions, it prohibits them from receiving direct and counter-cyclical payments unless they are the producer of all crops on the farm and the proceeds of the production benefits a public school or they have an existing share crop lease. If the state, local government, or political subdivision is the producer, all such qualified entities in a state have a combined limit of one entity for the payments they receive. For share crop leases, if the land is used to maintain a public school, the state, local government, or political subdivision may continue to receive payments under current law until the lease expires. It provides for a 2–5 year denial of benefits for evasion of payment limits, including the failure to disclose material information, and that benefits be denied on a pro-rata basis according to ownership. In addition, the language provides that the addition of a family member under the provisions of section 1001A will be considered to be a bona fide and substantive change. This language encompasses the addition of a spouse to a farming operation, given the new provisions in section 1001A concerning spouses. (Section 1503)

The Senate amendment provides the same as the House measure, except it maintained current law with regard to production on land owned by state and local governments when the proceeds are used to maintain a public school. The Senate amendment expands the enforcement capability of the Secretary and provides for extended penalties for individuals or entities that perpetuate a fraud or a scheme or device in order to exceed the applicable limit on payments. Persons or entities that commit fraud or equally serious actions can be subjected to a five-year denial of program benefits. Any member of a legal entity that participates in a scheme or device to evade the limitations shall be jointly and severally liable for any amounts determined to be payable to the Secretary. The Secretary may partially or fully release from liability any person who cooperates with the Secretary in enforcing payment limitation provisions. (Section 1703)

The Conference amendment adopts the Senate provision with an amendment to provide a single, combined statewide payment limit of $500,000 upon all state and local governments and political subdivisions that receive farm program payments. This limit would not apply to states with populations less than 1.5 million. (Section 1603)

It is the intent of the Managers that the addition of a spouse (also a family member) will be considered to be bona fide and substantive—just as with the addition of any family member.

(35B) Three-entity rule; actively engaged in farming; denial of program benefits

The House bill amends the Food Security Act of 1985 to repeal the three-entity rule and to require notification of interests. Each entity or person receiving payments is to provide the Secretary the name and social security number of each individual, or the name and tax ID number of each entity, that holds or acquires an ownership interest; and for each person, provide such information for each entity in which the person holds an ownership interest. (Section 1503)

The Senate amendment provides the same as the House measure. (Section 1703)

The Conference amendment adopts the Senate provision with an amendment to replace "presented false information that was material" with "failed to disclose material information" and to specify that the provisions apply to any legal entity and any member of any legal entity. (Section 1603)

(35C) Actively engaged in farming

The House bill amends the Food Security Act of 1985 to essentially continue the provisions that recipients be "actively engaged" in farming. Existing special classes of actively engaged participants are continued, with the exception that as long as one spouse is determined to be actively engaged, the other spouse shall be determined to have met the requirements of personal labor or active personal management. (Section 1503)

The Senate amendment provides the same as the House measure. (Section 1703)

The Conference substitute adopts the Senate provision. (Section 1603)

Current law concerning spouses made it very difficult for a spouse to be considered to be a separate person for the purpose of the application of the payment limits. In adopting the provision that if one spouse has been determined to be "actively engaged," then the other spouse will be deemed to have made a significant contribution of active labor or active personal management to the operation as required by section 1001A(b)(2)(A)(i)(II), it is the intent of the Managers that this provision recognize the valuable contributions made by the spouse in a family farming operation as well as the significant value of these contributions to the overall success of family farming operations in America. It is further the intent of the Managers that in implementing this section, the Secretary shall consider such automatic "significant" contribution of active labor or active personal management to be commensurate with at least a 50% share in the profits and losses of the farming operation and to be at risk. It is the intent of the Managers to end the discrimination against spouses of farming families and reflect their true value to the farming operation. By assigning a "significant" level of contribution of labor or active management, the Conference Substitute requires the spouse only to make a significant contribution of capital, equipment, or land in order to be considered actively engaged.

(35D) Transition

The House bill provides that the current provisions of Section 1001 of the Food Security Act of 1985 will remain applicable to the 2007 crop. (Section 1503)

The Senate amendment provides the same as the House measure. (Section 1703)

The Conference substitute provides that the current provisions of sections 1001, 1001A, and 1001B of the Food Security Act of 1985 will remain applicable to the 2007 and 2008 crops. (Section 1603)

(36) Adjusted gross income limitation

The House bill extends the adjusted gross income limitation to programs under this Act and extends the effective period through the 2012 crop year. (Section 1504(a))

It also amends section 1001D of the Food Security Act of 1985, beginning with the 2008 crop year, to require that individuals or entities have an average adjusted gross income (AGI) not exceeding $1 million in order to receive program payments. Further provides that an individual or entity with an AGI in excess of $500,000 shall not be eligible for benefits, unless at least 66.66 percent of the AGI is derived from farming, ranching, or forestry operations, as determined by the Secretary. (Section 1504(b))

Modified AGI limits applicable to the 2008 through 2012 crop years. (Section 1504)

The Senate amendment extends the effective period through the 2012 crop year. (Section 1704(a))

It amends section 1001D the Food Security Act of 1985 to lower the applicable average adjusted gross income (AGI) limit for recipients of direct or counter-cyclical payments, marketing loan gain or loan deficiency payments and average crop revenue payments from the current level of $2.5 million to $1,000,000 for the 2009 crop year and to $750,000 for the 2010 and subsequent crop years. Individuals or entities that receive 66.66% of their income from farming, ranching or forestry operations are exempted from this restriction. The Senate amendment establishes the income limitation for conservation programs at the current level of $2.5 million, unless not less than 75 percent of the AGI is derived from farming, ranching, or forestry operations. (Section 1704(c))

The Senate amendment provides that existing adjusted gross income provisions of the Food Security Act shall continue to apply with respect to the 2007 and 2008 crops. (Section 1704(d))

Authorizes the allocation of adjusted gross income among the individuals filing joint returns provided the allocation is supported by a certified public accountant or attorney. (Section 1704(b))

The Conference substitute provides an average adjusted gross nonfarm income cap of $500,000. If the average AGI for nonfarm income of a person or legal entity exceeds $500,000, they become ineligible for a host of farm programs, including the non-insured assistance program and the new disaster program. The Substitute also provides for an average adjusted gross farm income cap of $750,000. If a person's or legal entity's average farm AGI exceeds $750,000, then they become ineligible for direct payments.

The Conference substitute provides an average adjusted gross nonfarm income cap of $1,000,000 for conservation programs unless two-thirds or more of the income of the person or legal entity is average adjusted gross farm income. The Secretary is authorized to waive the limitation on a case-by-case basis if the Secretary determines that environmentally sensitive land of special significance would be protected. (Section 1604)

New section 1001D(a)(3) provides that married couples filing joint returns may allocate appropriately their income among themselves for the purposes of applying both the new $750,000 adjusted gross farm income test and the new $500,000 nonfarm income test to each individual spouse. The section requires that to secure this allocation married couples must provide a professional third party certification of the method used to apportion the income, and the Secretary must determine that the submission is appropriate. The Managers expect the Secretary to apply this provision carefully and that its impact should be limited to the unique and special circumstances of each individual case.

The new provisions under section 1001D will take effect in 2009 and will be based on the 3 tax years preceding the most immediate preceding tax year. Since these tax years occur in the past and income decisions regarding them were based on past circumstances the Managers expect the Secretary to allow modifications to the allocation of income in these past years in order to implement the new income requirements in as least disruptive manner as possible.

The Conference substitute strengthens the certification requirements and ensures the Secretary can take appropriate action against a person or legal entity that fails to provide certifications concerning their average adjusted gross income, average adjusted gross farm income and average adjusted gross nonfarm income. Certifications are required to be provided at least once every three years. The Managers intend for the Secretary to deny program benefits to a person or legal entity that does not provide the certifications required in section 1001D, as amended, until such time as the certifications are actually provided. The Secretary is also to establish audit procedures that are designed to ensure that audits are directed toward those persons or legal entities that are most likely to exceed the adjusted gross income ceilings set out in section 1001D, but is not designed to authorize the Secretary to conduct repeated audits of operations based upon size alone.

(36A) Income derived from farming, ranching or forestry

The House bill amends section 1001D of the FSA by adding a new paragraph (3) to delineate income that is to be included in the portion of average adjusted gross income derived from farming, ranching, or forestry to include the following: the production of crops, livestock, or unfinished raw forestry products; the sale, including the sale of easements and development rights, of farm, ranch, or forestry land or water rights; the sale, but not as a dealer, of equipment purchased to conduct farm, ranch, or forestry operations when the equipment is otherwise subject to depreciation expense; the rental of land used for farming, ranching, or forestry operations; the provision of production inputs and services to farm-

ers, ranchers, and foresters; the processing, storing, and transporting of farm, ranch, and forestry commodities; and the sale of land that has been used for agriculture." (Section 1504(b)(3))

The Senate amendment provides the same as the House measure, except the Senate does not limit the sale of equipment to those other than dealers and does not include the provision regarding equipment subject to depreciation; includes income from water or hunting rights; includes packing in processing and shedding in storage; and includes payment or other income attributable to benefits received under any Title I or Title II program. (Section 1704(c))

The Conference amendment adopts the Senate provision with an amendment to clarify and expand upon the items included in the Senate amendment. Newly specified categories of farm income include the feeding, rearing or finishing of livestock and payments received under the noninsured assistance program (NAP), and under the Federal Crop Insurance Act. Income received from the sale of farm equipment or production inputs or services to farmers can be considered farm income if two-thirds of a person's or legal entity's average adjusted gross income comes from the other sources of farm income. (Section 1604)

The Managers intend for the Secretary to create a method for determining a person's average adjusted gross farm income by including all income reported on IRS Schedule F (or other schedule for reporting farm or farm-related income), farming, ranching, or forestry related income specifically listed in the statute, and other income as determined by the Secretary to be income related to farming, ranching, or forestry activities. The items described in section 1001D(c) to be included in average adjusted gross farm income are intended to be illustrative and by no means an exclusive list. The Managers expect the Secretary to interpret, implement, and expand the sources of income derived from farming, ranching, or forestry to include the income or benefits from farming and farm-related activities other activities that the Secretary determines are derived directly or indirectly from farm or farm-related activities. Many of these activities may be in addition to those items reported on IRS Schedule F, Form 4853 (farm rental income), farm partnership returns, or other schedules or forms. As farming practices, farming enterprises, and farm-related activities continue to evolve and modernize, the Managers intend that the Secretary will expand the sources of income derived from farming, ranching, or forestry for these purposes to reflect these developments.

(37) Adjustments of loans

The House bill amends section 162 of the 1996 farm bill by inserting "except for cotton and long grain, medium grain, and short grain rice" after "commodity"; extending the provisions; and adding provisions for cotton and rice.

The House bill authorizes the Secretary to make adjustments in the loan rate for cotton for differences in quality factors, and requires the Secretary to revise the marketing assistance loan program for cotton to better reflect market values for cotton. The House bill requires revisions, including: eliminating or revising warehouse location differentials to reflect market conditions;

changing the way premiums and discounts are calculated by using a three-year weighted moving average of spot market data, weighted by each region's share of production; eliminating gaps between premium and discount differentials based on certain fiber lengths; and further capping premiums based on leaf and color considerations.

The House bill provides for discretionary revisions in—adjusting the loan rates schedule using non-spot market price data in addition to spot market data for cotton; and eliminating gaps between premium and discount differentials based on certain longer fiber lengths.

The House bill encourages USDA consultation with the private cotton industry when making the mandatory and discretionary adjustments.

The House bill amends section 162(e) of the 1996 farm bill to provide that "with respect to long grain rice and medium and short grain rice, the Secretary shall not make adjustments in the loan rates for such commodities, except for differences in grade and quality (including milling yields)".

The House bill provides the same as section 162(c) of the 1996 farm bill, which allows the Secretary to establish county loan rates in a manner that results in the lowest loan rate being 95% of the national average loan rate, if those loan rates do not result in an increase in outlays. Prohibits any adjustment resulting in an increase in the national average loan rate for any year.

The House bill provides the same as section 162 of the 1996 farm bill. (Section 1505)

The Senate amendment provides for adjustments in loan rates for loan commodities other than cotton for differences in grade, type, location, and other factors. (Section 1210(a))

Subsection (b) of the Senate amendment provides the same as current law. (Section 1210(b))

Subsection (d) of the Senate amendment provides the same as the House measure, except with respect to mandatory revisions, the Senate amendment eliminates warehouse location differentials.

With respect to discretionary revisions, the Senate amendment provides the same as the House measure.

With respect to consultation, the Senate amendment provides the same as the House provision, except that it requires consultation with the private cotton industry. (Section 1210(d))

With respect to rice, the Senate amendment prohibits the Secretary from making adjustments in the loan rates for long grain rice and medium grain rice, except for differences in grade and quality (including milling yields). (Section 1210(f))

Subsection (c) of the Senate amendment provides the same as current law. (Section 1210(c))

The Senate amendment provides the same as current law specifically for peanuts. (Section 1308)

The Conference substitute adopts the Senate provision with an amendment to simplify language related to the requirement to consult with the cotton industry. (Section 1210)

(38) Personal liability of producers for deficiencies

The House bill provides the same as current law. (Section 1506)

The Senate amendment provides the same as current law. (Section 1709)

The Conference substitute adopts the Senate provision. (Section 1606)

(39) Extension of existing administrative authority regarding loans

The House bill provides the same as current law. (Section 1507)

The Senate amendment provides the same as current law. (Section 1710).

The Conference adopts the Senate provision with an amendment. (Section 1607)

(40) Assignment of payments

The House bill provides the same as current law. (Section 1508)

The Senate amendment provides the same as current law. (Section 1711)

The Conference substitute adopts the House provision with an amendment. (Section 1608)

(41) Tracking of benefits

The House bill requires the Secretary to track the benefits provided under titles I and II directly or indirectly to individuals and entities. (Section 1509)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to give the Secretary discretionary authority to track benefits. (Section 1609)

(42) Upland cotton storage payments

The House bill ends the practice of paying for upland cotton storage, handling and other costs associated with cotton going into the loan starting with the 2011 crop. (Section 1510)

The Senate amendment requires payment of cotton storage costs in the same manner and at the same rates as the Secretary provided for the 2006 crop of cotton effective for the 2008–2012 crop years. (Section 1204(h))

The Conference substitute adopts the Senate provision with an amendment to limit the payments to a percentage of the actual storage rates. (Section 1204(g))

(43) Government publication of cotton price forecasts

The House bill strikes the current prohibition on the publication of cotton price forecasts. (Section 1511)

The Senate amendment provides the same as the House measure. (Section 1714)

The Conference substitute adopts the Senate provision. (Section 1610)

(44) Prevention of deceased persons receiving payments under farm commodity programs

The House bill requires the Secretary to submit a report to Congress which identifies any estate of a deceased person that received payments under this title for more than two crop years following the death of the person. The Secretary is required to promulgate regulations specifying deadlines by which a legal entity that receives payments or other benefits under this title must notify the Secretary of any change in ownership of the entity, including the death of a person with direct ownership interest. Any entity that fails to comply may be denied such payments or benefits. The Secretary is required to recoup erroneous payments made on behalf of a deceased person, and to withhold payments that otherwise would be made to farming operations in which the deceased person was actively engaged until the funds have been recouped. The Secretary is required to biannually reconcile individual tax identification numbers with the Internal Revenue Service for recipients of payments under this title to determine recipients' living status. (Section 1512)

The Senate amendment prohibits the Secretary from providing any agricultural payment under this Act or Act amended by this Act to any deceased individual or estate of such individual after 2 program years after the date of death of the individual. The Secretary is required to submit reports to the respective committees on agriculture that describes the number of payments and the aggregate amount of payments to deceased individuals and estates of deceased individuals; and to specify for each such payment, the length of time the estate of the deceased individual has been open. (Section 11073)

The Conference substitute adopts the House provision with an amendment that provides for the Secretary to issue regulations to allow for the settlement of estates and to preclude payments on behalf of deceased individuals that were not eligible for payment. The Secretary is directed to reconcile Social Security numbers of program participants with the Social Security Administration at least twice annually. (Section 1611)

(45) Hard White Wheat Development Program

The Senate amendment creates a program to compensate producers of hard white wheat. It establishes acreage limitation and payment rates and provides $35 million for the period of fiscal years 2008–2012. (Section 1706)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to make the program subject to appropriations and to modify the period of effectiveness to fiscal years 2009–2012. (Section 1612)

(46) Durum Wheat Quality Program

The Senate amendment authorizes compensation to producers of durum wheat in an amount not to exceed 50% of the actual cost of fungicides applied to a crop of durum wheat of the producers to control wheat scab. It provides $10 million for each of fiscal years 2008 through 2012 subject to appropriations. (Section 1707)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to modify the period of effectiveness to fiscal years 2009–2012. (Section 1613)

(47) Storage facility loans

The Senate amendment establishes a storage facility loan program to provide funds for producers of grains, oilseeds, pulse crops, hay, renewable biomass, and other storable commodities (other than sugar) to construct or upgrade storage and handling facilities for the commodities. It provides the terms of loans, amounts, and security requirements. (Section 1708)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment. (Section 1614)

(48) State, county, and area committees

The Senate amendment provides for producer representation on county or area committees that are combined or consolidated. The provision requires that minority representation of socially disadvantaged farmers and ranchers is maintained. The Senate amendment provides that the producer is eligible to serve only as a member of the county or area committee that the producer elects to administer the farm records of the producer. (Section 1715)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to require the Secretary to develop procedures for the purpose of maintaining representation of socially disadvantaged farmers and ranchers on combined or consolidated committees. (Section 1615)

(49) Prohibition on charging certain fees

The Senate amendment prohibits the Secretary from charging fees or related costs for the collection of commodity assessments. (Section 1716)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1616)

(50) Signature authority

The Senate amendment provides that if the Secretary approves a document containing signatures of program applicants, the Secretary shall not subsequently determine the document is inadequate or invalid because of the lack of authority of any applicant signing the document on behalf of the applicant unless the applicant knowingly and willfully falsified the evidence of signature authority or a signature. (Section 1717)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment ensuring that the Secretary can still seek proper documentation despite the Senate provision and that third party producers who relied upon the prior approval of documents by the Secretary in good faith and substantially complied with farm program

requirements are not denied benefits due to erroneous representations of authority. (Section 1617)

The Managers intend for the Secretary to continue to seek proper affirmation of signature authority from appropriate parties even as this section upholds prior document approval by the Secretary despite inadequate or invalid signature authority.

(51) Modernization of Farm Service Agency

The Senate amendment requires the Secretary to modernize the Farm Service Agency information technology and communication systems to ensure timely and efficient program delivery at national, state, and county offices. (Section 1718)

The House bill contains no comparable provision.

The Conference substitute provides for a report addressing the needs of the Department and a detailed plan to fulfill the Department's needs. (Section 1618)

(52) Geospatial systems

The Senate amendment requires the Secretary to ensure that all agencies of the Department of Agriculture consolidate the geospatial systems of the agencies into a single enterprise system that ensures that geospatial data is shareable, portable, and standardized. (Section 1719)

The House bill contains no comparable provision.

The Conference substitute provides that the Secretary shall ensure that all geospatial data of the agencies of the Department of Agriculture are portable and standardized. (Section 1619)

(53) Leasing of office space

The Senate amendment allows the Secretary to use Commodity Credit Corporation funds to lease space for use by agencies of the Department of Agriculture use provided the space is jointly occupied by the agencies. (Section 1720)

The House bill contains no comparable provision.

The Conference substitute provides for a report on the costs and time associated with complying with U.S. General Services Administration (GSA) leasing procedures. (Section 1620)

(53A) Geographically disadvantaged farmers and ranchers

The Senate amendment establishes a new program to provide geographically disadvantaged farmers and ranchers direct reimbursement payments to cover the cost to transport agricultural commodities or inputs used to produce agricultural commodities. The Secretary may spend up to $15,000,000 per fiscal year from funds appropriated to carry out this program. (Section 6021)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment. (Section 1621)

The Managers recognize the barriers to competition associated with the high transportation costs incurred by geographically disadvantaged farmers and ranchers. The Managers expect the Secretary to develop, in consultation with the eligible areas, an equitable allocation of the funds for such areas. The Managers also ex-

pect the Secretary to consult with eligible areas on administration of the program.

(53B) Implementation

The conference substitute provides $50,000,000 to the Farm Service Agency to implement title I. (Section 1622)

(54) Repeals

The Senate amendment repeals section 1605 of the 2002 farm bill authorizing a Commission on Application of Payment Limitations; repeals section 1617 of the 2002 farm bill renewing availability of market loss assistance and certain emergency assistance to persons that failed to receive assistance under earlier authorities. (Section 1721)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 1623)

TITLE II—CONSERVATION

(1) Definitions (Section 1201 of 1985 Food Security Act (FSA))

The Senate amendment adds definitions in the 1985 FSA for "beginning farmer or rancher", "Indian tribe", "socially disadvantaged farmer or rancher", "nonindustrial private forest land", and "technical assistance". The amendment authorizes the Secretary to employ a reasonable test of net worth or other measure to further qualify a beginning farmer or rancher. (Section 2001 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that removes the test of net worth for a beginning farmer or rancher. The Conference substitute further adopts the definition of a socially disadvantaged farmer or rancher as defined in Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279) and adds a definition of farm, integrated pest management, person and legal entity, and livestock. The definition of livestock is intended to include alpaca and bison. (Section 2001 of Conference substitute)

(2) Review of good faith determinations (Section 1212 of FSA)

The Senate amendment maintains the good faith exemption and provides for a second level review of highly erodible land compliance decisions by the Farm Service Agency State Executive Director with the technical concurrence of the Natural Resources Conservation Service State Conservationist or the Farm Service Agency District Director with the technical concurrence of the Natural Resources Conservation Service Area Conservationist or his or her equivalent. The amendment allows for graduated penalties for compliance violations. (Section 2101 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. Conservation compliance was created in the 1985 FSA. It requires that individuals who farm highly erodible land to develop and apply a conservation plan or lose eligibility for farm program benefits. It

has resulted in reductions in soil erosion but has often been inconsistently applied. Under current law, even a small compliance infraction requires the complete denial of farm program benefits.

The Conference substitute creates a system of graduated penalties, to be based on the severity of the violation. The amendment also creates a process to ensure that the Farm Service Agency Area Director or the Farm Service Agency State Director will review local compliance decisions. The Natural Resources Conservation Service will be involved to provide concurrence on technical issues.

The Managers believe this approach resolves a long-standing problem and provides for increased oversight of the violation process. The Managers are aware however, that current market conditions are encouraging commodity production on additional land and also changing cropping patterns. In light of the increase in new crop production, as well as changes in cropping systems, the Managers expect that the Secretary will increase whatever technical assistance, planning, monitoring, investigation, and enforcement activities may prove necessary to ensure that producers receiving farm program benefits continue to meet the applicable conservation compliance requirements. (Section 2002 of Conference substitute)

(3) Review of good faith determinations (Section 1222 of FSA)

The Senate amendment maintains the good faith exemption and provides for a second level review of wetland compliance by the Farm Service Agency State Executive Director (with the technical concurrence of the NRCS State Conservationist) or the Farm Service Agency district director (with the technical concurrence of the Natural Resources Conservation Service area conservationist or his/her equivalent). (Section 2201 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision.

The Managers intend for this provision to provide for better review and enforcement of wetlands compliance provisions. It requires a second level of review of wetlands violations by the Farm Service Agency with the concurrence of the Natural Resources Conservation Service on technical issues. The Managers intend for the Farm Service Agency to continue its primary role in compliance determinations. (Section 2003 of Conference substitute)

(4) Comprehensive Conservation Enhancement Program (Section 1230 of FSA)

The Senate amendment extends the program through 2012 and adds the Healthy Forests Reserve Program. The Environmental Quality Incentives Program (EQIP) is moved to the Comprehensive Stewardship Incentives Program (CSIP). (Section 2341) It exempts land enrolled in the Conservation Reserve Enhancement Program (CREP), land affected by State or local regulations that prohibit water use for agricultural production, and land in the State of Washington where enrollment is essential to Federal or State plans for sustainable wildlife habitat from the 25 percent county acreage cap. (Section 2301 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute does not reauthorize the program. The Healthy Forest Reserve Program is retained in the Forestry

Title, and the county acreage cap is addressed in "Administrative Requirements for Conservation Programs". (Section 1244 of the FSA). The Conference adopts a provision to exclude CREP acreage and continuous Conservation Reserve Program (CRP) acreage from the 25 percent cap if the county government concurs. This provision is separate and distinct from the existing waiver authority. As such, the Managers do not intend for the Secretary to survey producers, businesses, and other entities as is required by the existing waiver authority to implement this new provision.

The Managers recognize that a loss of access to water by agricultural producers can significantly impact conservation needs and local economies, and that producers need access to a wide range of conservation programs to help comply with a State or local law, order, or regulation prohibiting water use for agricultural production.

In making any determination on the applicability of the 25 percent county cropland CRP enrollment limitation, the Managers encourage the Secretary to maintain maximum flexibility for the enrollment of acreage in CRP that cannot be used for an agricultural purpose or is precluded from planting as a result of a State or local law, order, or regulation prohibiting water use for agricultural production.

(5) Conservation Reserve Program (Sections 1231, 1232, 1234, and 1235 of FSA)

(a) Conservation reserve (Section 1231 of FSA)

The House bill extends CRP until 2012 and gives the Secretary authority to address issues raised by State, regional, and national conservation initiatives. It amends the land eligibility provision to include land the Secretary determines had been planted for 4 of the 6 years preceding the enactment of the Farm, Nutrition, and Bioenergy Act of 2007 (except for land enrolled in CRP as of that date). It maintains the existing maximum enrollment of 39,200,000 acres. It strikes specific enumeration of Pennsylvania, Maryland and Virginia, but maintains the Chesapeake Bay Region as a Conservation Priority Area. The House bill also provides that alfalfa grown as part of a rotation practice is a commodity for cropping history criteria in determining whether land is eligible to be enrolled. It extends the Pilot Program for Enrollment of Wetland and Buffer Acreage in CRP to 2012. (Section 2101 of the House bill)

The Senate amendment extends CRP until 2012 and adds pollinator habitat to the resources to be conserved and improved through the program. The Senate amendment also expands eligible land to include marginal pastureland if native vegetation is grown and the land contributes to the restoration of the long-leaf pine forest or similar rare and declining forest ecosystem. The Senate amendment modifies eligibility of land that would facilitate a net savings in groundwater or surface water to apply only to alfalfa and other forage crops. The section expands eligible land to include land enrolled in the flooded farmland program. The Senate amendment maintains the existing maximum enrollment of 39,200,000 acres. The Senate amendment expands the Chesapeake Bay Priority Area to include all parts in the Chesapeake Bay Watershed

and adds the Prairie Pothole Region, Grand Lake St. Mary's Watershed, and Eastern Snake Plain Aquifer region as Conservation Priority Areas.

The Senate amendment expands the lands eligible for the Pilot Program for Enrollment of Wetland and Buffer Acreage to include shallow water areas that were devoted to a commercial pond-raised aquaculture and agricultural drainage water treatment areas that provide nitrogen removal and other wetland functions. The Secretary, in consultation with the State technical committee, shall establish the maximum size of the buffer acreage to be enrolled along with eligible lands, taking into consideration the farming practices used with respect to the cropland that surrounds the wetland or shallow water area. The section increases the maximum wetland size to 40 contiguous acres and makes all acres eligible for payment. (Section 2311 of the Senate amendment)

The Conference substitute adopts the Senate provision with an amendment. The substitute extends CRP until 2012 and provides the Secretary authority to address issues raised by State, regional, and national conservation initiatives. These "State, regional and national conservation initiatives" may include such things as the North American Waterfowl Management Plan, the National Fish Habitat Action Plan, the Greater Sage-Grouse Conservation Strategy, the State Comprehensive Wildlife Conservation Strategies (also referred to as the State Wildlife Action Plans), the Northern Bobwhite Conservation Initiative, and State forest resource strategies. The Managers intend for the Secretary to consider the goals and objectives identified in relevant fish and wildlife conservation initiatives when establishing State and national program priorities, scoring criteria, focus areas, or other special initiatives. The Managers expect the Department to work with conservation partners and State and Federal agencies, to the extent practicable, to complement the goals and objectives of these additional plans through its programs.

Regarding pollinators, the Managers have placed a provision in "Administrative Requirements for Conservation Programs" (Section 1244 of the FSA), which applies to all applicable conservation programs and encourages the Secretary to give priority to applications that provide pollinator habitat.

The Conference substitute adopts the House provision on land eligibility and updates the provision to include land the Secretary determines has been planted for 4 of the 6 years preceding the enactment of the Food, Conservation, and Energy Act of 2008.

While the Managers agreed to an overall reduction in CRP enrollment to 32,000,000 acres, this should not serve as an indicator of declining or reduced support for CRP. The Managers intend that CRP be implemented at authorized levels, and that the program continue as one of USDA's key conservation programs. USDA shall update rental rates and use incentive payments for continuous CRP practices to make the program competitive with other programs and more economically viable for producers. The Managers support the use of partnership agreements with State wildlife agencies and nongovernmental organizations to assist in program promotion and implementation. Additionally, as general CRP contracts expire, the Managers encourage the enrollment of those

acres in the Conservation Stewardship Program (CSP), Grassland Reserve Program (GRP) and the continuous CRP. The Managers expect that the Department will use incentive payments, promotional efforts, and agreements with the third parties mentioned above to ensure that the portions of general signup acreages that can be maintained in the program will be enrolled through continuous CRP.

The Conference substitute adopts the House language and makes a technical correction to include all States that make up the Chesapeake Bay Region as the Conservation Priority Area.

The substitute clarifies that alfalfa grown as part of a rotation practice is a commodity for cropping history purposes. The Managers encourage the Secretary to enroll irrigated alfalfa lands into ongoing CREP projects that address water quantity and quality issues. (Section 2101 of Conference substitute)

(b) Duties of owner and operators (Section 1232 of FSA)

The House bill maintains current law regarding managed haying and grazing outside of nesting seasons and expands the provision to allow a producer to conduct prescribed grazing for the control of invasive species on CRP lands. It allows for managed grazing and requires the Secretary to reduce the rental payment and require a management plan. It allows dryland crop production and grazing on CREP acres where CREP is initiated to address declining water resources. The Secretary is required to develop a conservation plan, determine eligibility of dryland crop production and grazing for crop insurance, reduce the rental payment, and renegotiate the agreement to allow for dryland crop production and grazing at the request of the State. Such lands shall be considered "noncropland" for crop insurance purposes. (Section 2101 of the House bill)

The Senate amendment adds that approved vegetative cover shall encourage the planting of native species and the restoration of biodiversity. It requires contract holders to actively manage the land throughout the term of the contract and clarifies that managed harvesting and grazing outside of nesting and brood rearing season is permitted if it is part of the conservation plan. The Senate amendment allows prescribed grazing for control of invasive species. The Senate amendment requires that the practices in the conservation plan be compatible with wildlife and wildlife habitat, clearly described and applicable through the duration of the contract, consistent with the Secretary's priorities for local conservation management priorities, and actively managed. (Section 2311 of the Senate amendment)

The Conference substitute adopts the House provision with an amendment. The substitute allows routine grazing, including prescribed grazing for the control of invasive species, with appropriate restrictions. The Managers expect that routine grazing will be performed in a manner that is consistent with the underlying purposes of the program and conducted under a site-specific vegetation plan that provides for grazing frequency (duration of time throughout the year, when authorized, and the number of years during the life of the CRP contract). The Managers further expect that guide-

lines for the vegetation plan and grazing use be developed in consultation with the State technical committee.

The Managers understand that there has been some concern over the current rules related to haying and grazing on CRP land and insufficient flexibility for forage use across varied landscapes while still achieving the purposes of the program. The Managers expect USDA to review rules developed to implement routine grazing and to provide for appropriate flexibility in grazing periods consistent with the conservation goals of the program based on site-specific natural resource conditions.

The Managers understand that there has been some complication in local areas with restricting access to buffers while gleaning the crop residue in a field. The Managers intend that short-term access to buffers that are adjacent to fields be allowed post-harvest without a reduction in payment. While grazing of the buffer is not intended in this action, the proximity to the field crop residue makes restricting access difficult. Due to the short term nature of this activity (60 days maximum), it should not result in a reduced payment and should be done in accordance with the contract. (Section 2107 of Conference substitute)

(c) Payments (Section 1234 of FSA)

The House bill requires the National Agricultural Statistics Service to survey annually the per-acre estimates of county average market dryland and irrigated cash rental rates for all counties with 20,000 acres or more of crop and pastureland. These surveys will be kept on the Department's website and made available to the public. (Section 2101 of the House bill)

The Senate amendment contains a similar provision. In accepting new enrollments, the section requires that if land provides equivalent environmental benefit to a competing offer then the Secretary shall, to the maximum extent practicable, accept an offer from an owner or operator who is a local resident. (Section 2311 of the Senate amendment)

The Conference substitute adopts the Senate provision regarding the NASS survey. In accepting contract offers (Section 1234(c)), the substitute adds a new requirement that the Secretary provide priority to offers from local residents if the offer provides equivalent conservation benefits when compared to other offers. (Section 2110 of Conference substitute)

(d) Contracts (Section 1235 of FSA)

The House bill allows the Secretary to modify a CRP contract to facilitate the transition of CRP land from a retiring owner to a beginning, socially disadvantaged, limited resource farmer or rancher in order to return some or all of the land to sustainable grazing or crop production. It allows the beginning, socially disadvantaged, or limited resource farmer or rancher to make land improvements and to begin the organic certification process one year before the CRP contract expires. The House bill: requires the retiring landowner to sell or lease the CRP land to the beginning, socially disadvantaged, or limited resource farmer for production purposes; requires a conservation plan; allows the farmer to enroll in the Conservation Security Program or EQIP upon taking owner-

ship of the land; and provides CRP payments to the retiring owner/operator for an additional two years after the contract terminates. The House bill allows the beginning, socially disadvantaged, or limited resource farmer or rancher purchasing the CRP land to re-enroll a partial field that is eligible for continuous sign-up and is part of a conservation plan.

The House bill requires the Secretary to allow an operator to terminate a contract that has been in effect for 5 years at any time. The section also provides that land enrolled in continuous sign-up is ineligible for early termination. (Section 2101 of the House bill)

The Senate amendment has no comparable provision to the House language on CRP transition options for beginning, socially disadvantaged, or limited resource farmers. The Senate amendment retains current language on early termination by an owner or operator but expands current law to permit contract termination if the participant is disabled or retired from farming and has endured financial hardship as a result of taxation from rental payments received. (Section 2311 of the Senate amendment)

The Conference substitute adopts the House provision with an amendment regarding the transition of CRP land from a retiring farmer or rancher to a beginning or socially disadvantaged farmer or rancher. In implementing the CRP transition option, the Managers encourage the Department to publicize the availability of the transition option widely, including publicity aimed at CRP landowners who are not extending contracts or re-enrolling in the program and at beginning and socially disadvantaged farmers or ranchers. (Section 2111 of Conference substitute)

(6) Flooded Farmland Program (Section 1235B of FSA)

The Senate amendment adds a new flooded farmland program within CRP, which allows for the enrollment of flooded crop and grazing land or land rendered inaccessible because of flooding caused by the natural overflow of a closed basin in the Northern Great Plains region. The section requires that land enrolled must be at least 5 acres in size, flooded, and rendered incapable of production during the preceding three crop years and have no natural outlet. It provides for enrollment through the continuous sign-up process and requires that land enrolled have a consistent history of being used for the production of crops or used as grazing lands.

The Senate amendment allows enrollment of adjoining land that would enhance the conservation or wildlife value of the tract with reduction in rental payment. During participation in the program, owners are not eligible to participate in or receive federal crop insurance, noninsured crop disaster assistance, or any other federal agricultural crop disaster assistance program benefits for land included in the contract. The section also directs the Secretary to preserve the cropland base, allotment history, and payment yields applicable to the enrolled land and to adjust these values upon contract termination to ensure equitable treatment of the enrolled land relative to comparable land remaining in production in the county. The owner shall take actions as necessary to avoid degrading any wildlife habitat that has developed as a result of the natural overflow on the land covered by the contract. (Section 2312 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute deletes this section and makes modifications to CRP and the Wetlands Reserve Program (WRP) to accomplish the intent of the Senate amendment.

The pilot program for enrollment of wetland and buffer acreage in CRP is expanded to include land that had been cropped during 3 of 10 crop years prior to 2002 and after 1990 and is subject to a natural overflow of a prairie wetland. Wetlands and adjacent buffer areas are enrolled under the continuous sign-up process and are limited to no more than 40 acre tracts. The Managers expect the Secretary to require these enrollments in the CRP wetland pilot program to have ratios of at least two-to-one in upland buffer areas, or greater where practicable, in order to maximize wildlife benefits. Participants must agree to restore wetland hydrology, establish appropriate vegetation, and refrain from commercial use of the land, among other duties during the term of the contract. (Section 2101 of the Conference substitute)

Eligible land in WRP is expanded to include cropland or grassland that was used for agricultural production prior to flooding from the natural overflow of a closed basin lake or pothole. These wetland areas along with functionally dependent uplands, as practicable, are to be enrolled in 30-year easements. In determining the compensation, the Secretary is expected to base the value on the use of the land prior to flooding and the corresponding value of such land in the county where the eligible land is located. The Managers expect that enrolling these permanently and temporarily flooded lands in the program will provide long term benefits for wildlife habitat and water management. To ensure that enrollment opportunity exists for these lands, the Secretary is directed to conduct an annual survey of the demand for enrollment in the Prairie Pothole Region and adjust annual allocation of program funds in these interested States. The Managers intend the allocations made available through this adjustment process to be subject to any annual pooling and reallocation of funds that the Secretary applies to the entire program. (Section 2201 of the Conference substitute)

(7) Wildlife Habitat Program (Sec 1235C of FSA)

The Senate amendment creates, for the years 2008 through 2012, a Wildlife Habitat Program within the CRP. The program would be available to CRP contract holders who have established softwood pine stands. It provides for agreements that shall have management strategies and practices that benefit wildlife, such as thinning, establishing wildlife food plots, burning, and seeding. Contracts are up to 5 years in term. The Secretary shall encourage cooperative arrangements among program participants, State and local government entities, and nongovernmental organizations to achieve the purposes of the program. The section provides cost-sharing and technical assistance to carry out the program. The program terminates on September 30, 2011. (Section 2313 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute deletes this section and makes modification in CRP to accommodate the intent of the Senate amendment. In providing funding and clarifying the availability of

cost-sharing payments related to trees, the Managers encourage the Department to take this opportunity to improve the condition of resources on land enrolled in CRP and planted to trees. The Managers are especially interested in improving wildlife habitat on land in the Southeast in CRP planted to softwood pines. The Managers expect the Department to work with partners to identify areas with the greatest need and potential for improvement. The Managers encourage the use of all appropriate forest-management practices, including thinning and prescribed fire, to achieve the purposes of the program.

(8) Wetland Reserve Program (Section 1237 of FSA)

(a) Establishment (Section 1237(a-f) of FSA)

The House bill authorizes WRP through fiscal year 2012. The section adds wetland creation to the purposes of WRP and authorizes the Secretary to purchase floodplain easements. The section increases the maximum enrollment to 3,605,000 acres; provides for an annual enrollment goal of 250,000 acres, of which up to 10,000 acres may be enrolled as floodplain easements; and changes the program to operate on fiscal year basis. The section amends eligible lands to include riparian areas and floodplains. Flood plain lands are eligible if the land has been damaged by flooding at least once in the preceding calendar year or has been damaged by flooding at least twice in the past 10 years or if the enrollment of other land within the floodplain would aid in flood storage, flow, or erosion control. (Section 2401(a) and Section 2102 (a-c) of the House bill)

The Senate amendment authorizes WRP through fiscal year 2012. The section allows enrollment of 250,000 acres per fiscal year with no enrollments beginning in fiscal year 2013. Indian Tribes may enroll land through 30-year contracts, which shall be equivalent in value to a 30-year easement. The section includes riparian areas and riparian and adjacent areas that are linked to other parcels of wetlands protected under a wetlands reserve agreement or similar device. (Section 2321(1–3) of the Senate amendment)

The Conference substitute adopts the House language with an amendment. The substitute extends WRP to 2012, adds purposes to the establishment section, caps enrollment at 3,041,200, and focuses the program on private land. The substitute changes the program to a fiscal year basis. Enrollment conditions are modified to allow 30-year Tribal contracts. The substitute stipulates that values of such contracts shall be equivalent to 30-year easements.

The substitute does not include the expansion of riparian areas. The Managers recognize that riparian areas often provide extremely important habitat for wildlife, and that restored and protected riparian areas also help improve water quality, reduce sedimentation, and help manage floodwaters. Riparian areas are already eligible lands under WRP and may be enrolled either as uplands that are functionally dependent on a wetland or where they link wetlands that are otherwise protected by easements or a similar mechanism. (Section 2201 of Conference substitute)

(b) Easements and agreements (Section 1237A of FSA)

The House bill states that compensation for easements shall be based on compensation formulas resulting in the lowest cost: percentage of fair market value according to the USPAP or a percentage of the market value determined by an area-wide survey; a geographic cap; or the landowners offer. Non-federal funds may be accepted to administer this program. (Section 2102(e) of the House bill)

The Senate amendment adds a requirement that spraying or mowing is allowed if necessary to meet habitat needs of specific wildlife species. The amendment requires that the Secretary pay the lowest compensation for an easement among several alternative valuation methods. The compensation for easements may be provided to landowners in up to 30 payments of equal or unequal size. The section also adds a Wetlands Reserve Enhancement Program with the authority to enter into unique wetlands reserve agreements that may include compatible uses as reserved rights in the warranty easement deed restriction. (Section 2322(a-c) of the Senate amendment)

The substitute adopts the House provision with an amendment. It revises the process for determining the value of easements and contracts by requiring the Secretary to provide the lowest amount of compensation based on a comparison of the fair market value of the land (as determined by either an appraisal based on the Uniform Standards for Professional Appraisals or an area-wide market survey), a geographic cap, or an offer made by the landowner.

The Managers intend for the Department to develop guidelines and provide direction for States regarding the method for determining the value of easements. The Managers do not intend for the Department to require States to use a specific appraisal process, such as the "Yellow Book" process or an appraisal rather than a market wide survey or analysis. The Department should grant flexibility to State conservationists who, in consultation with State technical committees, should determine the method that best fits the needs of their State.

The substitute provides the Secretary authority to accept non-Federal funds to assist in implementing the program but places this new authority in "Administrative Requirements for Conservation Programs" (Section 1244 of the FSA) so it applies to all conservation programs.

The substitute includes authority for a Wetlands Reserve Enhancement Program (WREP). The WREP authority is intended to allow the Secretary to enter into agreements with States similar to what is done under CREP. It is not intended as a way to enroll State-owned lands in the program. It is the intent of the Managers that the Secretary will implement WREP projects in order to provide focused, targeted resource benefits and to leverage federal funds.

The substitute provides authority for a Reserved Rights Pilot. The Managers intend for the Secretary to explore different warranty easement deeds consistent with the purposes of the program, while allowing a landowner to retain the right to use the land for grazing purposes. The Managers intend that any activities occur-

ring under a reserved right easement be covered by a conservation plan developed and approved by the Secretary.

The substitute provides that easements with values less than $500,000 be paid out over 1 to 30 years. Easements with values greater than $500,000 are to be paid out over 5 to 30 years. The Secretary is granted authority to waive that requirement and make lump sum payments if necessary to carry out the purposes of the program. For land to be eligible for the WRP, the land must have remained under the same ownership for a minimum of 7 years. (Section 2208 of Conference substitute)

(c) Duties of Secretary (Section 1237C of FSA)

The House bill adds criteria for the Secretary to use when evaluating easement offers from landowners for wetlands or floodplains. The Secretary may consider the conservation benefits, the cost effectiveness, and whether the landowner or someone else is offering to contribute to the cost of the easement or other interest in the land to leverage Federal funds. In determining the acceptability of easement offers for flood plains, the Secretary may take into consideration the extent to which the purpose of the program would be achieved on the land, whether the land has flooded repeatedly in the past 10 years, whether the easement would contribute to restoration of surrounding lands, and other factors. (Section 2102(f) of the House bill)

The Senate has no comparable provision.

The Conference substitute adopts the House language for evaluating wetlands. (Section 2207 of Conference substitute)

(d) Payments (Section 1237D of FSA)

The House bill is the same as current law with technical changes. It also changes the paragraph heading "State wetland and environmental enhancement" to "Wetlands Reserve Enhancement". (Section 2102(g) of the House bill)

The Senate amendment makes a conforming change to allow payments for 30-year contracts. (Section 2323 of the Senate amendment)

The Conference substitute adopts the Senate amendment. (Section 2205 of Conference substitute)

(3) Reports (Section 1237G of FSA)

The Senate amendment directs the Secretary to evaluate and report to Congress on the implications of long-term easements on Department of Agriculture resources by January 1, 2010. (Section 2322(d))

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. The Managers are concerned with the long-term implications of managing and monitoring wetland easements. The substitute requires the Secretary to provide a report on the number and location of conservation easements acquired under the WRP and an assessment of the extent to which the oversight of conservation easement agreements impacts the availability of USDA resources, including technical assistance. (Section 2210 of Conference substitute)

(9) Comprehensive Stewardship Incentives Program

The Senate amendment creates a new CSIP to coordinate the two primary working lands programs: EQIP and the Conservation Stewardship Program (CSP). The section defines resources of concern and requires the Secretary to manage EQIP and CSP in a coordinated manner. The Secretary shall ensure that resources of concern are identified at the State level and shall identify not more than 5 resources of concern within a watershed or region within a State. The section directs the Secretary to issue regulations to implement the CSIP, CSP, and EQIP no later than 180 days after the date of enactment of the 2007 Farm bill. (Section 2341 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute does not include CSIP. The substitute includes a provision in "Administrative Requirements for Conservation Programs" (Section 1244 of the FSA) that requires the Secretary to ensure that there is a streamlined application process for all conservation programs.

(10) Conservation Security Program

(a) Conservation Security Program (Section 1238 FSA)

The House bill states that no new contracts may be entered into under the Conservation Security Program after October 1, 2007. However, payments and modifications to existing contracts may be continued to be made until those contracts expire. (Section 2103(b) of the House bill)

The Senate amendment reauthorizes the Conservation Security Program for existing contracts only. The section provides $2,317,000,000 for current contracts to remain available until expended and prohibits new contracts or renewals after enactment of the Farm Bill. (Section 2391 of the Senate amendment)

The Conference substitute adopts the Senate provision and provides such sums as necessary to carry out existing contracts.

(a) Definitions

The House bill defines conservation plan, conservation practice, management intensity, nondegradation standard, priority resource of concern, resource specific index, and socially disadvantaged farmer or rancher. (Section 2103(a) of the House bill)

The Senate amendment defines comprehensive conservation plan, stewardship contract, contract offer, enhancement payment, eligible land, livestock, management intensity, payment, practice, producer, program, resource conserving crop, resource conserving crop rotation, stewardship contract, and stewardship threshold. (Section 2391 of the Senate amendment)

The Conference substitute renames the program as the Conservation Stewardship Program (CSP) and defines conservation activities, conservation measurement tools, conservation stewardship plan, priority resource concern, resource concern, and stewardship threshold. (Section 1238D of the Conference substitute)

The Managers recognize that agricultural drainage systems are valuable conservation practices that can be carried out under the CSP and, in particular, that the installation of drainage man-

agement systems can provide benefits to water quality by reducing nitrogen loading from subsurface drainage as well as managing wildlife habitat. Thus, these practices are included as conservation activities.

The Conference substitute includes planning needed to address a resource concern as a conservation activity. Since CSP is intended to address multiple resource concerns in a coordinated manner, the Managers encourage the Secretary to implement the program in a manner that encourages comprehensive conservation planning through technical and financial assistance under this program. The Managers encourage the Secretary to use site-specific conservation planning as outlined in the National Planning Procedures Handbook and implement the program in a manner that encourages comprehensive conservation planning on all applicable resources through technical and financial assistance under the program.

The Managers are aware of the effort made by NRCS to develop resource-specific indices for implementing CSP and other conservation assistance programs and encourage this development. Where such indices are not available or practical, the Managers urge the Secretary to use substitute tools that measure the degree, scope, and range of conservation activities adopted by a producer to improve and sustain the condition of a resource.

The term stewardship threshold refers to the level of conservation and environmental management required to improve and conserve a resource. The Managers intend the Secretary to set the threshold at a level that ensures substantial and lasting conservation benefits.

(b) Conservation Security Program/Conservation Stewardship Program and duties of the producer

The House bill states that a new Conservation Security Program shall go into effect for fiscal years 2012 through 2017, and that the purpose of the Conservation Security Program is to assist producers in improving environmental quality by addressing priority resources of concern. To be eligible, a producer must already be addressing at least one priority resource of concern to the minimum level of management intensity and have an approved conservation offer. Eligible land includes private agricultural land, forest land, and land owned by Tribes. (Section 2103 of the House bill)

The Senate amendment identifies the purposes of the program as promoting agricultural production and environmental quality as compatible goals and to optimize environmental benefits by assisting producers to promote natural resource conservation. To be eligible, a producer must address priority resources of concern relating to both soil and water to at least the stewardship threshold, adequately address other resources of concern applicable to the operation, and meet or exceed the stewardship threshold for at least 1 additional priority resource of concern by the end of the contract.

The Senate amendment clarifies that eligible land includes cropland, pasture land, rangeland, other agricultural land used for the production of livestock, land used for agroforestry, land used for aquaculture, riparian areas adjacent to eligible land, Tribal lands, public land (if failure to enroll would defeat the purposes of

the program), and State and school owned land. The Senate amendment states that all acres of all agricultural operations within a watershed or region that constitute a cohesive management unit shall be covered by the contract.

The Senate amendment includes provisions on contract offers, contract renewal, contract termination, and optimal crop rotations. (Section 2391 of the Senate amendment)

The Conference substitute establishes the program purpose of encouraging producers to address resource concerns in a comprehensive manner by installing and adopting new conservation activities, and by improving, maintaining and managing conservation activities in place at the operation. The Managers encourage the Secretary to place emphasis on improving and adding conservation activities.

The Conference substitute allows nonindustrial private forest land to be eligible with the limitation that not more than 10 percent of annual acres made available under the program can be forest land.

Under the program, land used for cropland that had not been planted, considered to be planted, or devoted to crop production for 4 of the 6 years prior to the date of enactment of this act shall not be the basis of any payment under the program, unless the reason the land did not meet the requirement is that: it had previously been enrolled in CRP; had been maintained in a long term crop rotation; or was incidental land needed for efficient operation, such as an area of a farm or ranch that had been used for structures that had been subsequently removed. The exceptions only apply if they were the direct cause of the producer's inability to meet the 4-of-6 year requirement.

The Managers want to clarify that the "additional criteria" authority provided in Section 1238F(b)(3) may not supersede or be more heavily weighted than the five required evaluation criteria in section 1238F(b)(1). Instead, the additional criteria may provide extra ranking points to help address specific priorities. Contracts shall permit all economic uses of the land that maintain the agricultural nature of the land and are consistent with the conservation purposes of the program. The Managers intend for this to apply to conservation buffers or any other partial field conservation practice that may be included in the contract.

A producer may renew a CSP contract for an additional 5-year period, provided the terms of the existing contract have been achieved to the satisfaction of the Secretary and the producer agrees to adopt new conservation activities. The Secretary is provided authority to require new conservation activities as part of the contract renewal process. It is the intent of the Managers that this could include expanding the degree, scope, and comprehensiveness of conservation activities adopted by a producer to address the original priority resource concerns or addressing one or more additional priority resource concerns.

The Secretary may allow for contract modification if the Secretary determines that a modification is consistent with achieving the purposes of the program. Modifications envisioned by the Managers include instances in which a producer enrolls a portion of the farm in a land retirement or easement program, gains or loses a

lease, or has a change in production due to market or weather conditions. The Managers also intend for the Secretary to issue guidance for cases in which a producer has a change in production that requires a change to scheduled conservation practices and activities. The Managers expect the Secretary to approve the contract modification only as long as net conservation benefits will be maintained or improved as a result.

Supplemental payments are authorized for producers who adopt a beneficial crop rotation. The Managers intend for the supplemental payment to encourage producers to adopt new, additional beneficial crop rotations that provide significant conservation benefits. The payments are to be available to producers across the country and should not be limited to a particular crop, cropping system, or region of the country. In the Southeast, peanuts are an example of a crop that responds well to increased rotation lengths. Increased rotation lengths help peanut producers conserve water, more effectively control disease, reduce inputs to control disease and increase productivity.

On-farm conservation research and demonstration activities and pilot-testing projects can be approved as part of contract offers under the program. The Managers expect the Secretary to establish and publicize design protocols and application and contract offer procedures for individual producer and collaborative on-farm research and demonstration activities and for pilot testing projects so producers have a clear understanding of how to participate in either of these two options.

The substitute requires the Secretary to provide a transparent means by which producer may initiate organic certification under the National Organic Program while also participating in CSP. The Managers expect the Secretary to coordinate this program and the organic certification process to the maximum extent practicable.

(c) Duties of the Secretary

Under the House bill, the Secretary shall identify not more than 5 priority resources of concern for a watershed or area within a State. The House bill states that the payment amount shall be based on a portion of the actual costs, income forgone, and resource specific indices. The payment limitation on the Conservation Security Program is $150,000 for the 5-year term of the contract.

Under the Senate amendment, an acreage allocation is specified, and contracts are limited to $240,000 for all contracts entered into during any 6-year period. The Senate amendment enrolls 13,273,000 acres annually at a national average cost of $19 per acre. (Section 2391 and 2341 of the Senate amendment)

The conference substitute provides that the allocation of acres to each State shall be based primarily on each State's proportion of eligible acres to the total number of eligible acres in all States. The Secretary shall also consider the extent and magnitude of conservation needs associated with agricultural production in each State, the degree to which implementation of the program is or will be effective in helping producers address those needs and other considerations in order to achieve equitable geographic distribution of funds.

In carrying out the program on a continuing enrollment basis, a producer can apply at any time during the year for the program, but the application will only be ranked at the time determined by the Secretary. The Managers intend for the program to be available nationwide to all agricultural producers, not only in specific watersheds or geographic regions within a State. The Managers specifically intend that the program not be restricted to particular watershed enrollments.

The Conference substitute requires the Secretary to undertake outreach activities and provide appropriate technical assistance to specialty crop and organic producers and to ensure they can effectively compete in the program. In providing outreach and technical assistance, the Managers encourage the Secretary to provide appropriate training to field staff to enable them to work with these producers and to utilize cooperative agreements and contracts with nongovernmental organizations with expertise in delivering organic educational and technical assistance to these producers.

Payments under the program are limited to $200,000 for all contracts entered into by a producer in any 5-year period. This provision requires direct attribution to real persons. The Managers emphasize that direct attribution is a mandatory requirement. The Managers do not intend for the Secretary to pay for no-till or other common practices that have no cost to the producer.

The Managers encourage the Secretary to conduct outreach to encourage producers who are transitioning land out of the conservation reserve program to protect conservation values by enrolling in CSP. As part of this transition from land retirement to working lands conservation, the Managers urge the Secretary to encourage producers to maintain the land in a grass-based production system with appropriate wildlife protections through CSP or to adopt advanced resource-conserving cropping systems through CSP in tandem with placing conservation buffers and other appropriate partial field conservation practices, farmed wetlands, or special wildlife habitat practices in the continuous CRP. (Section 2301 of Conference substitute)

(11) Grassland Reserve Program (Section 1238N–1238Q of FSA)

(a) Establishment and purpose (Section 1238N)

The House bill establishes an enrollment goal of 1,340,000 acres by 2012. It revises the enrollment process to be based on acreage rather than funding and requires that at least 60 percent of program acreage be in long term easements and agreements. It adds a priority for enrolling CRP acres, except that no more than 10 percent of the acreage enrolled in any year may be from CRP; and prohibits duplicate payments for such land enrolled in GRP. It establishes that the method for determining the fair market value of enrolled land will be an appraisal, a market survey, a geographic cap, or the landowner offer; whichever results in the lowest amount of compensation to be paid. It authorizes the Secretary to enter into agreements with States and their subdivisions to advance the purposes of the program through a grassland reserve enhancement option. (Section 2104 of the House bill)

The Senate amendment eliminates short-term rental agreements and the requirement for enrollment of at least 40 contiguous acres. It provides for enrollment of land through 30-year contracts and easements and permanent easements. The 30-year contract option is included to encourage tribal participation in the program. A new authority is added for the Secretary to enter into cooperative agreements with eligible entities for the purpose of purchasing, holding, monitoring, and enforcing easements. The Senate amendment adds a definition of eligible entity, expands eligible land to include land that contains historical or archeological resources or would further goals of certain fish and wildlife plans or initiatives, and specifies that easements of the maximum duration by State law are equivalent to permanent easements. (Section 2381 of the Senate amendment)

The Conference substitute adopts an acreage enrollment goal of an additional 1,220,000 acres by 2012. The Conference substitute includes 10-, 15-, and 20-year rental contracts and permanent easements. Easements of the maximum duration allowed by State law are considered as permanent easements. The Managers expect that the 20-year rental contracts will be used to encourage tribal group participation in the program.

The Conference substitute strikes the House priority for 60 percent of acreage in long term contracts and retains current law that 60 percent of the funds would be dedicated to easements, while 40 percent of the funds would be dedicated to short term contracts. In addition, the Conference substitute adopts a priority for enrollment of CRP land with a modification to clarify that the priority applies upon expiration of the CRP contract.

The Conference substitute adopts the Senate additions to eligible land with technical corrections. It does not include a Grassland Reserve Enhancement provision. It adopts the Senate definition of eligible entity and authority for the Secretary to enter cooperative agreements with entities to purchase easements. It also adopts the House bill provision in regard to the method for determining fair market value with a technical correction.

(b) Requirements relating to easements and contracts (Section 1238O)

The Senate amendment modifies terms and conditions of easements and agreements to permit fire presuppression and addition of grazing-related activities, such as fencing and livestock watering. Criteria for evaluating applications for enrollment are expanded to provide additional flexibility to the Secretary, and in the case of agreements with eligible entities, to provide a priority to applications that include a cash contribution or leverage other resources toward the purchase price of easements.

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment. The Managers expect these additions to encourage improved management of enrolled acreage, particularly where breaking of the soil surface may be required to manage invasive species or improve grazing systems, and to leverage additional resources for the protection of grasslands.

The Conference substitute adds implementation of a grazing management plan as a new general requirement of landowners enrolling in the program. With the inclusion of a grazing management plan, the Managers emphasize the conservation purpose of the program, but further clarify that once established these plans are modified only by mutual agreement of the involved parties.

(c) Payments (Section 1238P)

The Senate amendment strikes rental agreement payments and modifies the rate of compensation for restoration agreements. Permanent easements will be paid at a rate of not less than 90 nor more than 100 percent of the eligible restoration costs. Thirty-year easements and contracts will be at the rate of not less than 50 nor more than 75 percent of the eligible restoration costs. The compensation schedule is lengthened to allow for up to 30 annual payments, corresponding to the newly established 30-year contract agreement.

The House bill has no comparable provision.

The Conference substitute adopts the cost-share rate for restoration agreements of not more than 50 percent of the costs of carrying out restoration activities.

(d) Delegation to private organizations (1238Q)

The House bill expands on the authority of the Secretary to transfer easement titles to private organizations and to also allow entities to own and write easements under this section, subject to periodic inspections by the Secretary.

The Senate amendment provides authority for the Secretary to enter into cooperative agreements with eligible entities for those entities to purchase, own, enforce, and monitor easements. Terms and conditions of cooperative agreements require entities to demonstrate qualifications, specify parcels to be enrolled, allow substitutions as agreed to by the parties, specify entity reporting on fund use, allow entities to use their own easement instruments, require appraisals using an industry approved method, allow a landowner contribution as a share of the purchase price, and specify a payment schedule. The Secretary shall require easements to contain a contingent right to protect the public investment.

The Conference substitute adopts the Senate amendment provision for cooperative agreements between the Secretary and eligible entities with a modification to the language specifying that eligible entities shall assume costs of administering and enforcing easements.

The Conference substitute adopts a requirement for a contingent right of enforcement. In selecting offers from eligible entities for funding, the Managers expect the Secretary to consider the sufficiency of the offer regarding effective monitoring and enforcement, reversionary interest, or other such factors that will affect the long-term integrity of easement being acquired under the program. The Conference establishes that eligible entities shall provide a share of the easement purchase price that is equal to the share provided by the Secretary. (Section 2403 of Conference substitute)

(12) Environmental Quality Incentives Program

(a) Purposes (Section 1240 of FSA)

The House bill adds forest management and organic transition as purposes of the program. It adds forest land and conserving energy to the list of purposes for installing conservation practices. Energy use, organic transition, and forest management are added to the list activities for which the Secretary will assist producers in making cost-effective changes. (Section 2105(a) of the House bill)

The Senate amendment adds forest management as a purpose of the program and adds forest land conservation and pollinators to the list of purposes for installing conservation practices. Fuels management and forest management are added to the list activities for which the Secretary will assist producers in making cost-effective changes. (Section 2351 of the Senate amendment)

The Conference substitute adopts the House bill with amendment. Forest management is added to the program purpose, and forest land and energy conservation are added to the resources to benefit from the installation of conservation practices. Fuels management and forest management are added to the list activities for which the Secretary will assist producers in making cost-effective changes. The Managers recognize the significance of the changes made to the program to reflect new needs and concerns. The Managers expect the Secretary to continue to help producers address conservation needs on their land while promoting agricultural production and environmental quality as compatible goals.

(b) Definitions (Section 1240A)

The House bill adds definitions for integrated pest management, socially disadvantaged farmer or rancher, and adds alpaca and bison to the definition of livestock. It also adds forest management and silviculture to land management practices for purposes of the program.

The Senate amendment adds a definition of producer that includes custom feeders and contract growers. It modifies eligible land to include private nonindustrial forest land and lands used for pond-raised aquaculture production. The amendment adds forest and fuels management and conservation planning to practices for purposes of the program.

The Conference substitute adopts the Senate amendment with an amendment to modify eligible land. The Managers intend for the Department to continue to provide assistance to custom feeders and contract growers through this program.

(c) Establishment (Section 1240B)

The House bill adds organic certification as a practice eligible for cost share payments; amends the exception to establish a 90-percent cost-share rate for beginning and socially disadvantaged farmers or ranchers and provides 90-percent cost-share for use of gasifier technology. It allows for the use of an approved third party for technical assistance. Energy efficient improvements and renewable energy systems are added to practices eligible for incentive payments. Promotion of pollinator habitat is added to the Special Rule for determining incentive payment rates. The Secretary is di-

rected to reserve for 90 days not less than 5 percent of program financial assistance for each of beginning farmers or ranchers and socially disadvantaged farmers or ranchers. It makes market agencies and custom feeding businesses eligible for technical and financial assistance. (Section 2105(c) through (h) of the House bill)

The Senate amendment adds conservation plans to practices eligible for incentive payments, reduces the maximum contract term to 5 years, and strikes the provision on bidding down. The cost-share rate exception for beginning and socially disadvantaged farmers or ranchers is amended to allow variable payment, not to exceed 90 percent, and authority to provide advance payments up to 30 percent for the purchase of materials or contracting. A guaranteed loan eligibility provision is included for eligible applicants that are not accepted into the program. Predator deterrence practices are added to the Special Rule for determining incentive payment rates. The Senate amendment authorizes assistance for water conservation and irrigation efficiency practices, air quality improvement practices and establishes a minimum eligibility requirement for program participation. (Section 2353 of the Senate amendment)

The Conference substitute extends the program through 2012 and maintains the 60 percent livestock funding allocation through 2012. It deletes the Senate provision on contract terms (1240B(b)(2)(B)) and bidding down (1240B(c)).

The Conference substitute does not include the Senate provision on the Special Rule (1240B(e)(2)). The Managers recognize that proactive, non-lethal options to deter predators protected by the Endangered Species Act of 1973, as well as delisted populations of gray wolves, grizzly bears, and black bears, are consistent with the purposes of EQIP.

The Conference substitute deletes the House provision on cost-share for gasifier technology. The Managers recognize the merits of new technologies, including gasification, as a means of safely disposing animal carcasses, thereby minimizing environmental impacts and threat of disease. As such, the Managers encourage the Secretary to consider EQIP applications involving poultry gasification and offer cost-share assistance of up to 75 percent.

The Conference substitute adopts the Senate provision for advance payments for beginning, socially disadvantaged and limited resource farmers or ranchers and deletes the Senate provision for guaranteed loan eligibility. The Conference substitute adopts the Senate provision with an amendment for cost-share rates and advance payments for beginning, socially disadvantaged, and limited resource farmers or ranchers.

The Managers expect EQIP to be available to organic producers for conservation activities related to organic transition and production. The Managers expect EQIP to be available to producers who are transitioning their operations to certified organic production and organic producers who may be transitioning additional acres or animal herds. The Managers are aware that organic conversion is a management-intensive activity and therefore encourage the Secretary to provide levels of technical and education assistance for organic conversion commensurate to the need.

(d) Evaluation of offers (Section 1240C)

The House bill adds criteria to prioritize applications more completely and to evaluate applications in logical groupings relative to similar crop, livestock, or operation types. The Secretary is directed to ensure that the evaluation process is streamlined for applicants that have an environmental management system in place or seek to complete an existing system. (Section 2105(i) of the House bill)

The Senate amendment adds a priority for applications that propose to improve existing practices or to complete a conservation system. (Section 2354 of the Senate amendment)

The Conference substitute adopts the House bill with an amendment on priority for applications. The Managers intend this evaluation process to prioritize State, regional, or local resource concerns, as well as allow for the grouping of applications of similar agriculture operations to allow for more equitable consideration.

(e) Duties of producers (Section 1240D)

The House bill and Senate amendment modify the duties of producers to prohibit owners of enrolled forest land from conducting practices that may defeat the program purposes. (Section 2105(j) of the House bill and Section 2355 of the Senate amendment)

The Conference substitute adopts the House bill provision.

(f) Environmental Quality Incentives Program plan (Section 1240E)

The House bill adds a forest provision to allow a forest management plan, forest stewardship plan, or similar plan to serve as a plan of operations. The House bill authorizes the Secretary to consider a permit required under a regulatory program to serve as a plan of operations in order to avoid duplication in planning. (Section 2105(k) of the House bill)

The Senate amendment allows a producer organization to act on behalf of its membership in submitting applications or conducting similar activities to facilitate program participation. The Senate amendment includes a provision for forest plans similar to the House bill. (Section 2356 of the Senate amendment)

The Senate amendment establishes a Chesapeake Bay Watershed Conservation Program under EQIP to assist producers in applying conservation practices on agricultural and nonindustrial private forestland in the Bay watershed to address natural resource concerns related to agriculture. (Section 2361 of the Senate amendment)

The Conference substitute adopts the House provision regarding forest land.

The Conference substitute strikes the Senate amendment provision on producer organizations. The Managers intend for the Secretary to allow producer associations and farmer cooperatives to act on behalf of their members in submitting applications, plans, or other program materials for their members to participate in this program. The Managers expect the Secretary to clarify this option in any rule or procedure related to this program.

The Conference substitute adopts a modification to the House bill provision to consider a permit required under a regulatory program to serve as a plan of operations. The Managers intend this addition to reduce duplication in planning but expect that the plan developed for a regulatory permit should contain the elements equivalent to those required in a Plan of Operations, including practices to be implemented, objectives of the plan, and any relevant terms and conditions to carry out the plan.

(g) Duties of the Secretary (Section 1240F)

The House bill requires the Secretary to provide assistance for a practice intended to conserve water if it will result in a reduction in consumptive water use, saved water remains in the source, and the practice will not result in increased consumptive use on the producer's operation. (Section 2105(l) of the House bill)

The Senate amendment has no comparable provision.

The Conference substitute retains current law. The Managers address the intent of the House bill under modifications made in Section 1240B to provide assistance for water conservation or irrigation efficiency improvements.

(h) Limitation on payments (Section 1240G)

The House bill moves the limitation on payments to Section 2409. (Section 2409(b) of the House bill)

The Senate amendment includes a provision to require direct attribution of payments. (Section 2357 of the Senate amendment)

The Conference substitute provides for a payment limit of $300,000 over 6 years. The Secretary is provided with the authority to waive that limit to $450,000 in cases of special environmental significance. Projects of special environmental significance include methane digesters, other innovative technologies, and projects that will result in significant environmental improvement. The Secretary is expected to utilize this waiver to achieve the purposes of the program. (Section 2508 of Conference substitute)

(12) Conservation Innovation Grants (Section 1240H of FSA)

The House bill adds forest resource management as an eligible grant activity and adds eligible projects to include those that ensure the efficient and effective transfer of technologies. The House bill provides mandatory funding for a comprehensive conservation planning project in the Chesapeake Bay Watershed, incentive and cost-share payments for air quality concerns, and increased benefits for specialty crop producers.

The Senate amendment clarifies the purpose of the grants are to develop and transfer innovative conservation technology. The amendment seeks to increase participation by specialty crop producers.

The Conference substitute adopts the House provisions related to forest resource management and air quality.

The Conference substitute provides $150,000,000 to help producers address air quality concerns. The Managers expect funds will be used to provide financial assistance to producers for air quality improvements that help them comply with Federal, State, or local air quality requirements associated with agricultural oper-

ations. The funds should be used for cost-effective methods in addressing air quality and to reduce emissions and pollutants from operations, including making improvements in mobile or stationary equipment such as engines.

The Managers believe conservation programs as implemented by USDA should recognize the use of innovative technology such as enhanced efficiency fertilizers. Enhanced efficiency fertilizers, which can protect water quality and reduce greenhouse emissions, include slow and controlled-release fertilizers (absorbed, coated, occluded or reacted) and stabilized nitrogen fertilizers (urease and nitrification inhibitors and nitrogen stabilizers) and are recognized by State regulators of fertilizers. (Section 2509 of Conference substitute)

(13) Ground and surface water conservation (Section 1240I of FSA)

The House bill modifies the purpose of the existing Ground and Surface Water Conservation Program (GSWCP) to allow cooperative agreements between the Secretary, producers, government entities, and Tribes to achieve regional water quality or quantity goals in water quality priority areas. (Section 2106(a) of the House bill)

The House bill requires the Secretary to invite prospective partners to submit competitive grant proposals for a Regional Water Enhancement Program. Proposals will be competitively awarded based on the inclusion of the most lands and producers; the most activities versus costs; contribution to sustaining or enhancing agricultural production or rural economic development; development of performance measures to measure long term effectiveness; the capture of surface water runoff; the participation of multiple interested persons in improving issues of concern; and the assistance provided to producers to meet regulatory requirements that reduce the economic scope of their operation.

The House bill provides $60,000,000 to be available for each of fiscal years 2008 through 2012.

The Senate amendment maintains the existing GSWCP and provides an increase in funding from $60,000,000 to $65,000,000 per year. The provision provides funding for each State that received funding under the program in previous years in an amount that is the simple average of funds provided for fiscal years 2002–2007 or the amount provided in 2007, whichever is greater. For States over the Ogallala Aquifer, not less than the greater of $3,000,000 or the average of funds provided for fiscal years 2002–2007 is provided.

The Conference substitute adopts the House provision with an amendment. The substitute creates the Agricultural Water Enhancement Program (AWEP) and provides an additional $40,000,000 in mandatory funding for the program.

The purpose of AWEP is to address water quality and water quantity concerns on agricultural land. The Managers expect the Department to balance its resources among the needs of producers in performing water quantity and quality activities. The Managers intend for producers to participate in the program directly or with other producers who have come together with a partner. The Managers intend for the Department to manage the program so that a

producer who chooses to participate as an individual has the same opportunities as one who chooses to participate with a partner.

The purpose of authorizing partners in AWEP is to leverage federal funds and to encourage producers to collectively address specific water quality or quantity concerns. The Managers intend for the program to be delivered according to applicable program rules. Any federal funding must be delivered to producers; no federal funding may be used to cover the administrative expenses of partners.

The Managers expect the Department to require partners to clearly state their objectives and describe how they intend to leverage federal funds and the water quantity or water quality issues they intend to address. The Managers encourage the Department to require the measurement and quantification of actual resource outcomes as part of AWEP projects.

The Managers recognize that water quantity conservation is a significant nation-wide concern. The Ogallala Aquifer is a critical source of groundwater for agricultural and municipal uses. Due to the scope and significance of the aquifer, there is a need for regional efforts to address groundwater management in the region. The Managers urge the Department to work with States and agricultural producers in the Ogallala region to coordinate Federal assistance with State programs and to encourage cooperation among States in implementing conservation programs and water reduction practices.

The Managers recognize that water use efficiency projects are an important means to encourage water conservation and expect the Department to continue to support such activities. The Managers intend that additional significance should be placed on water conservation practices that convert irrigated farming to dryland farming to encourage substantial water savings.

To ensure the effectiveness of proposals that convert irrigated farming to dryland farming, the Managers have included provisions to allow the Department to fund proposals for an extended period of five years. In setting the payment rate, the Secretary should take into account the change in the land value of converting an irrigated farming operation to a dryland farming operation.

The Managers intend for the Department to make the construction of small, on-farm reservoirs or irrigation ponds eligible for assistance through AWEP in drought- stricken areas. The Managers intend the Department to use the Drought Monitor as a guide to determine the areas eligible. Any area that has received a D4 drought designation for a month-long period during the previous two years should be eligible. The Managers intend the ponds to be no more than 40 acres in size.

The Managers believe these ponds and related activities will benefit wildlife and demonstrate the potential to capture on-farm surface water runoff in an environmentally beneficial manner. The Managers do not intend for any State water regulation or law to be waived.

In utilizing the authority to waive the eligibility provisions in Section 1001D, the Managers expect the Secretary to take into account the need to accomplish the purposes of the program by en-

rolling land that would be ineligible to participate in other conservation programs.

The Managers intend for the Secretary to give priority to producers in six priority areas: The Eastern Snake Plain Aquifer region, Puget Sound, the Ogallala Aquifer, the Sacramento River watershed, Upper Mississippi River Basin, the Red River of the North Basin, and the Everglades. (Section 2510 of Conference substitute)

(14) Grassroots Source Water Protection Program (Section 1240O of FSA)

The House bill increases the appropriations authorization from $5,000,000 each fiscal year to $20,000,000 each fiscal year through 2012. The provision provides a one-time infusion of $10,000,000 in mandatory funding to be available until expended. (Section 2107 of the House bill)

The Senate amendment is similar but does not include the one-time infusion of $10,000,000 in mandatory funding. (Section 2394 of the Senate amendment)

The Conference substitute adopts the Senate provision. (Section 2603 of Conference substitute)

(15) Conservation private grazing land (Section 1240M of FSA)

The House bill (Section 2108) and the Senate amendment (Section 2392) extend the program through 2012.

The Conference substitute adopts the Senate provision. (Section 2601 of Conference substitute)

(16) Great Lakes Basin Program for Soil Erosion and Sediment Control (Section 1240P of FSA)

The House bill extends the program through 2012. (Section 2109 of the House bill)

The Senate amendment extends the program through 2012 and clarifies that the purpose of the program is to assist in implementing the recommendations of the Great Lakes Regional Collaboration Strategy to Restore and Protect the Great Lakes. (Section 2395 of the Senate amendment)

The Conference substitute adopts the Senate provision with an amendment that includes using the recommendations of the Great Lakes Regional Collaboration Strategy as a basis for soil erosion and sediment control projects. (Section 2604 of Conference substitute)

(17) Discovery Watershed Demonstration Program (Section 1240Q of FSA)

The Senate amendment establishes that the Secretary shall carry out a demonstration program in not less than 30 small watersheds in States of the Upper Mississippi River basin to identify and promote the most cost effective and efficient ways of reducing nutrient loss to surface waters from agricultural lands. It allows for the Secretary to establish or identify appropriate partnerships to select the watersheds and to encourage cooperative efforts among the Secretary and State, local, and nongovernmental organizations. The amendment provides criteria for the selection of watersheds

and prohibits the use of funds for administrative expenses. (Section 2397 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the House provision and does not include the program.

The Managers recognize that the loss of nitrogen and other nutrients from agricultural land impacts water quality in many parts of the nation. This is of particular concern in the States of the Upper Mississippi River basin.

The Discovery Watershed Demonstration Program was intended to address this loss of nutrients in these States through management projects operating on a watershed scale. The projects were to be based on agriculture-related water quality problems and include widespread participation from local producers in the selected watershed.

In Section 2707, the substitute provides for the Cooperative Conservation Partnership Initiative (CCPI), which is designed to encourage these types of activities. Given the cooperative nature of the proposed Discovery Watershed program, the Managers encourage the Secretary to consider locally developed projects for funding under CCPI.

(18) Emergency Landscape Restoration Program (Section 1240R of FSA)

The Senate amendment replaces the Emergency Conservation Program (ECP) and the Emergency Watershed Program (EWP) with a new Emergency Landscape Restoration Program. The purpose of the Emergency Landscape Restoration Program is to rehabilitate watersheds, nonindustrial private forest lands, and working agricultural lands adversely affected by natural catastrophic events.

The amendment authorizes such sums as necessary, provides for the temporary administration of ECP and EWP until final regulations are formulated, and repeals ECP and EWP. (Section 2398 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the House provision and does not include the program.

(19) Farm and Ranchland Protection Program (Section 1238I of FSA)

The House bill establishes a certification process for States. It allows grants to be made to certified States based on the demonstrated need for farm and ranch land protection. Up to 10 percent of those funds may be used for the costs of purchasing and enforcing easements. The bill states that the Secretary may also enter into agreements with eligible entities. The terms and conditions of the agreements must be consistent with the purposes of the program, as well as include a requirement consistent with agricultural activities regarding impervious surfaces. It also requires the use of a conservation plan for highly erodible cropland.

The House bill provides for the Federal Government to retain a Federal contingent right of enforcement or executory limitation

in an easement to ensure its enforcement. This right is not considered an acquisition of property.

The House bill provides cost-share assistance for purchasing an easement, but the assistance may not exceed 50 percent of the appraised fair market value of the easement. The fair market value is determined by an appraisal using an industry-approved method. (Section 2110 of the House bill)

The Senate amendment modifies the definition of eligible forest land to include land that contributes to the economic viability of an operation or serves as a buffer. It also amends the definition to include land that is incidental to other eligible land to ensure efficient administration of the program. The provision requires the Secretary to enter into cooperative agreements with eligible entities as long as the terms and conditions of the cooperative agreement include: entity qualifications, specific projects, substitution of projects, use of funds, flexibility to use unique terms and conditions for easements, impervious surface limitation, appraisal method, and charitable contributions.

The Senate amendment requires the protection of Federal investment through an executory limitation, but specifies that the executory limitation is not a Federal acquisition of real property and will not trigger any Federal appraisal or other real property requirements.

The amendment limits the amount the Secretary can share in the costs of purchasing the easement to 50 percent of the appraised fair market value and establishes minimum amounts entities pay based on the amount of landowner contributions. The Senate amendment requires appraisals based on Uniform standards of Professional Appraisal Practice or any other industry-approved standard. (Section 2371 of the Senate amendment)

The Conference substitute adopts the House provision with amendment.

The Managers expect the changes to the Farmland Protection Program (FPP) will provide flexibility and certainty to program participants. The substitute makes changes to the administrative requirements, appraisal methodology, and terms and conditions of cooperative agreements which shall make the overall program more user-friendly.

The substitute clarifies the purpose of the program as protecting land for agricultural use by limiting nonagricultural uses of the land. The substitute adopts the Senate provision to modify the definition of eligible land to include forestland and other land that contributes to the economic viability of an operation.

The substitute establishes a certification process similar to the House bill for all eligible entities. To become certified, entities must have the authority and resources to enforce easements, polices in place that are consistent with the purposes of the program, and clear procedures to protect the integrity of the program.

The substitute adopts terms and conditions for cooperative agreements similar to the Senate amendment. The cooperative agreement sets forth the working relationship between the Department and the entity in carrying out the program. The terms and conditions will stipulate the length of the agreement; allow for the substitution of qualified projects; and maintain, at a minimum,

that the agreement is consistent with the purpose of the program, provide for adequate enforcement of the easement, and include a limit on impervious surfaces. Once an entity is certified, it may enter into an agreement for a minimum of five years with the Department. Non-certified entities may enter into agreements of not less than 3, but not more than 5 years. In selecting offers from eligible entities for funding, the Managers expect the Secretary to consider the sufficiency of the offer regarding effective monitoring and enforcement, reversionary interest, or other such factors that will affect the long-term integrity of easement being acquired under the program.

The Managers intend any violation of the terms and conditions will result in a penalty to the eligible entity and the agreement will remain in place. It is the expectation that the violation and penalty terms will be outlined in all cooperative agreements between the eligible entity and the Secretary.

The substitute provides for the Federal Government to retain a Federal contingent right of enforcement in an easement to ensure its enforcement. The Managers do not intend this right to be considered to be an acquisition of real property, but in the event an easement cannot be enforced by the eligible entity the Federal Government shall ensure the easement remains in force. (Section 2401 of Conference substitute)

(20) Farm Viability Program (Section 1238J of FSA)

The House bill reauthorizes the program through 2012. (Section 2111 of the House bill)

The Senate amendment reauthorizes the program through 2012. (Section 2396 of the Senate amendment)

The Conference substitute adopts the House provision. (Section 2402 of Conference substitute)

(21) Wildlife Habitat Incentive Program (Section 1240N of FSA)

The House bill reauthorizes the program through 2012. The bill raises the cost-share limitation for long-term projects from 15 percent to 25 percent. It also increases the cost-share rate for long-term agreements and activities that assist producers in meeting a regulatory requirement that impacts the economic scope of their operation from 15 to 25 percent. (Section 2111 of the House bill)

The Senate amendment authorizes Secretary to make incentive payments and increases the percentage of funds that can be used for projects longer than 15 years from 15 percent to 25 percent. The Senate amendment requires the Secretary to give priority to projects that would further the goals and objectives of State, regional, and national fish and wildlife conservation plans and initiatives. (Section 2393 of the Senate amendment)

The Conference substitute adopts the House provision with an amendment. The substitute increases the limitation on cost-share payments for long-term projects to 25 percent and focuses the program on agricultural and nonindustrial private forest lands.

The substitute allows the Secretary to provide priority to projects that address issues raised by State, regional, and national conservation initiatives. These 'State, regional and national conservation initiatives' may include such things as the North Amer-

ican Waterfowl Management Plan, the National Fish Habitat Action Plan, the Greater Sage-Grouse Conservation Strategy, the State Comprehensive Wildlife Conservation Strategies (also referred to as the State Wildlife Action Plans), the Northern Bobwhite Conservation Initiative, and State forest resource strategies. The Managers intend for the Secretary to consider the goals and objectives identified in relevant fish and wildlife conservation initiatives when establishing State and national program priorities, scoring criteria, focus areas, or other special initiatives. The Managers expect the Department to work with conservation partners and State and Federal agencies, to the extent practicable, to complement the goals and objectives of these additional plans through USDA programs. (Section 2602 of Conference substitute)

(22) Agricultural Management Assistance Program (Section 524(b)(1) of Federal Crop Insurance Act)

The House bill adds Virginia and Hawaii as eligible States. It requires that 50 percent of available funds shall be used for construction or improvement of watershed management or irrigation structures, planting trees for windbreaks or improving water quality, and mitigating risk through diversification or various conservation practices; 40 percent may be used for any activity relating to risk management activities, including entering agriculture trade options, futures, or hedging; and 10 percent shall be used for organic certification cost-share assistance. (Section 2201 of the House bill)

The Senate adds Idaho as a participating State, extends the program through 2012, and provides an additional $10,000,000 per year to the program (Section 524(b)(4)(B)(ii)) through 2012. (Section 2601 of the Senate amendment)

The Conference substitute adopts the House provision with an amendment and includes Hawaii as an eligible State. The Conference substitute provides an additional $25,000,000 in mandatory funding for fiscal years 2008 through 2012. (Section 2801 of Conference substitute)

(23) Resource Conservation and Development Program (Section 1528 of Agriculture and Food Act of 1981)

The House bill clarifies that an area plan must be developed through a locally led process, and that the planning process must be conducted by a local council. It also provides that the Secretary shall designate a coordinator to provide technical assistance to councils. (Section 2202 of the House bill)

The Senate amendment is comparable to the House. (Section 2605 of the Senate amendment)

The Conference substitute adopts the Senate provision. (Section 2805 of Conference substitute)

(24) Small watershed rehabilitation (Section 14 of the Watershed Protection and Flood Prevention Act)

The House bill provides $50,000,000 in mandatory funding for fiscal years 2009 through 2012. It authorizes appropriations for fiscal years 2007 through 2012 at the current funding level of $85,000,000 per year. (Section 2203 of the House bill)

The Senate amendment extends program to 2012 and authorizes appropriations for fiscal years 2008 through 2012 as such sums as necessary. (Section 2604 of the Senate amendment)

The Conference substitute adopts the House provision and provides $100,000,000 in mandatory funding for fiscal year 2009 to remain available until expended. (Section 2803 of Conference substitute)

(25) Chesapeake Bay Program for Nutrient Reduction and Sediment Control (Section 1240Q of FSA)

The House bill creates a new program at the Department to provide financial assistance to producers to minimize excess nutrients and sediments in order to restore, preserve, and protect the Chesapeake Bay. The program directs the Secretary to develop and implement a comprehensive plan to provide for innovative approaches to advance the improvement of water quality and enhance wildlife habitat. Critical projects include those in the Susquehanna, Shenandoah, Potomac and Patuxent River basins. The House bill includes a Sense of Congress that the Department is authorized and should be a member of the Chesapeake Bay Executive Council.

The Senate bill has no comparable provision.

The Conference substitute adopts the House provision with amendment.

The Chesapeake Bay is the nation's largest estuary. In 2000, Chesapeake Bay partners agreed to target water quality and habitat restoration as goals to improve the health of the Bay and its living resources. According to current estimates, the Bay will not meet the 2012 agreement without a better coordinated plan and greater targeting of resources.

Farmers in the Chesapeake Bay region are under some of the most stringent environmental regulations in the country. Despite the desire and demand that exists among farmers in the region to participate in conservation programs, current funding levels and program allocations leave many behind. While the reliance upon conservation programs and the need for funding may not be unique to the Chesapeake, it is nonetheless uniquely critical to the success of the Bay restoration strategy and the ability of farmers to meet regulatory requirements.

The Managers intend the Chesapeake Bay Watershed Program be carried out on agriculture and forestlands in the Chesapeake Bay through the use of all conservation programs available to producers in the region. It is the expectation this program will be carried out through existing program mechanisms in coordination with other relevant Federal agencies working in the Bay watershed, such as the Chesapeake Bay Program Office.

The special consideration given to the rivers under this section are areas of critical need to the overall health of the Chesapeake Bay. The Managers intend that the Secretary focus initial program resources in these key basins and build upon successful implementation elsewhere in the Chesapeake Bay Watershed, as appropriate. These funds should be used to install practices to help control erosion and nutrient loading before it reaches the Bay, and that assessments will be made using existing models and information to evaluate the most cost-effective strategies for reducing

nonpoint source nutrient inputs. This program provides $438,000,000 in mandatory funding for fiscal year 2009 through fiscal year 2012. (Section 2605 of Conference substitute)

(26) Voluntary Public Access and Habitat Incentive Program (Section 1240R [House] or 1240S [Senate] of FSA)

The House bill establishes a voluntary public access program under which States and Tribes may apply for grants to encourage owners and operators of privately held farm, ranch, and forest land to make that land available for wildlife-dependent recreation. The Secretary shall give priority to States and tribal governments that have consistent opening dates for migratory bird hunting for both residents and non residents. The House bill authorizes $20,000,000 in discretionary funding for each of fiscal years 2008 through 2012. The program does not preempt a State or tribal government law, including liability law. (Section 2303 of the House bill)

The Senate amendment is comparable to the House bill. It includes a priority to States where the location of participating lands would be available to the public and provides $20,000,000 per year in mandatory funding for each of fiscal years 2008 through 2012. (Section 2399 of the Senate amendment)

The Conference substitute adopts the Senate provision with an amendment. The Conference substitute provides $50,000,000 in mandatory funds for this program. The Conference substitute includes a 25 percent reduction for the total grant amount if the opening dates for migratory bird hunting in the State are not consistent for residents and non-residents. (Section 2606 of Conference substitute)

(27) Muck soils conservation (Section 2303)

The House bill establishes a new program under which owners or operators of eligible land shall receive payments to conserve soil, water, and wildlife resources. Eligible land must be comprised of muck soil, be in agricultural production, have a spring cover crop, a winter crop, and year-round ditch banks seeded with grass. Payments are authorized for between $300 and $500 per acre per year. Appropriations are authorized at $50,000,000 for each of fiscal years 2008 through 2012. (Section 2303 of the House bill)

The Senate amendment has no comparable provision.

The Conference substitute adopts the Senate provision and the provision is deleted. The Managers recognize the unique soils throughout the Hudson Valley of New York that are classified as muck soils. These soils are former wetlands that have been drained with ditches years ago to allow for crop production. Due to the extensive networking of drainage ditches, normal buffer setback requirements associated with current conservation programs take a large percentage of these highly productive lands out of production. The Managers encourage the Secretary to work through the State Conservationist to address the needs of muck soil farmers in the Hudson Valley, using existing conservation programs to conserve soil, water, and wildlife resources on these lands.

(28) Funding for programs under the Food Security Act of 2985 (Section 1241 of FSA)

The House bill provides $1,454,000,000 for fiscal years 2007 through 2012 and $1,927,000,000 for fiscal years 2007 through 2017 for Conservation Security Program contracts entered into before Oct. 1, 2007. Conservation Security Program contracts entered into on or after Oct. 1, 2011, shall be funded in the amount of $5,01,000,000 for fiscal year 2012 and $4,646,000,000 for the period of fiscal years 2013 through 2017.

The Farm and Ranchland Protection Program is funded at $125,000,000 in fiscal year 2008; $150,000,000 in fiscal year 2009; $200,000,000 in fiscal year 2010; $240,000,000 in fiscal year 2011; and $280,000,000 in fiscal year 2012.

EQIP is funded at $1,250,000,000 in fiscal year 2008; $1,600,000,000 in fiscal year 2009; $1,700,000,000 in fiscal year 2010; $1,800,000,000 billion in fiscal year 2011; and $2,000,000,000 in fiscal year 2012.

WHIP is authorized at $85,000,000 each of fiscal years 2008 through 2012. (Section 2401 of the House bill)

The Senate amendment funds programs in title XII of the FSA for each of F 2008–2012 as follows:

Conservation Security Program—$2,317,000,000 for current contracts to remain available until expended;

Conservation Stewardship Program—13,273,000 acres for each of fiscal years 2008–2012;

FPP—$97,000,000 for each of fiscal years 2008–2012;

EQIP—for fiscal years 2008 and 2009: $1,270,000,000; for fiscal years 2010–2012: $1,300,000,000;

WHIP—Same as House;

Voluntary Public Access and Habitat Incentives Program—$20,000,000 for each of fiscal years 2008–2012; and

GRP—$240,000,000 for fiscal years 2008–2012. (Section 2401 of the Senate amendment)

The Conference substitute provides the following in additional new budget authority for these programs:

CSP—$1,100,000,000

EQIP—$3,393,000,000

FPP—$773,000,000 (Section 2701of Conference substitute)

(29) Conservation access (Section 1241 of FSA)

The Senate amendment creates a new Conservation Access program. The provision requires 10 percent of conservation program funds and 10 percent of CRP and WRP acreage enrolled in any year be used to assist beginning and socially disadvantaged farmers and ranchers with annual gross sales of $15,000 or more. Any unused funds are to be re-pooled back to the original program and made available to all persons eligible for assistance.

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment. The Conference substitute provides that 5 percent of CSP acres and 5 percent of EQIP funds will be used to assist beginning farmers or ranchers, and an additional 5 percent of each to assist socially disadvantaged farmers or ranchers.

The Managers recognize the importance of providing intensive technical assistance to beginning and socially disadvantaged farmers or ranchers participating in farm bill conservation programs. The Managers encourage the Department to provide rates of technical assistance to beginning and socially disadvantaged farmers or ranchers commensurate with the special needs to ensure high participation levels and substantial and lasting conservation benefits.

In implementing the conservation access provisions, the Managers encourage the Secretary to develop, implement, and support cooperative agreements with entities, including community-based and nongovernmental organizations and educational institutions that have expertise in comprehensive conservation planning and assistance needs of beginning and socially disadvantaged farmers or ranchers.

The Managers recognize that off-farm employment is a necessity for most beginning farmers or ranchers, and that transition to a full-time agricultural occupation is a substantial challenge. The Managers also recognize the value that sound conservation can contribute to an enduring agricultural operation and a successful farming or ranching livelihood. The Managers intend for the Secretary to give priority to Conservation Access resources to beginning farmers or ranchers who are, or who are working toward, increasing their participation in the farming or ranching operation. (Section 2704 of Conference substitute)

(30) Improved provision of technical assistance under conservation programs (Section 1242 of FSA)

The House bill adds authority for contracting with third party providers to provide technical assistance to program participants, requires that the payment level for third party providers be established based on prevailing market rates where available, and directs the Secretary to consult with producers, extension and others in a review and revision of conservation practice standards to ensure that they are complete and relevant. (Section 2402 of the House bill)

The Senate amendment adds the purpose of technical assistance, provides authority for contracting with third party providers for technical assistance, and defines entities eligible to receive technical assistance under this title. The Secretary is directed to provide technical assistance to all conservation and Agriculture Management Assistance program participants. Where financial assistance is not required, the Secretary may enter technical services contracts with program participants. (Section 2404 of the Senate amendment)

The Conference substitute adopts the Senate amendment with modifications. The Conference substitute reflects the Managers' two priorities for improving the delivery of technical assistance: 1) increasing the availability of technical assistance, and 2) ensuring that conservation technical standards and resources are locally relevant.

The demand for technical assistance exceeds the present supply of technical resources, and the private sector cadre envisioned in the 2002 Farm Bill has not developed. The modifications made in the substitute are intended to correct these deficiencies through

authority for use of mandatory funds and multi-year contracts with third party providers, establishment of fair and reasonable payment rates, and a nationally consistent certification process. The requirement for approval of State-level certification criteria is intended to address the criticism that current requirements, particularly those added at the State level, result in a complicated and overly burdensome process that discourages participation.

The Managers expect that these changes will provide the certainty needed to encourage the development of a successful, skilled, and accountable third party provider sector, diminish the tension caused by tradeoffs between public and private sector resources, and make locally relevant conservation technical assistance from public and private sources increasingly available and accessible to producers. (Section 2706 of Conference substitute)

(31) Cooperative Conservation Partnership Initiative (Section 1243 of FSA)

The House bill requires the Secretary to enter into 2- to 5-year agreements with eligible entities to preferentially enroll producers in specified conservation programs. This will allow multiple producers and others to cooperate on improving specific resources of concern related to farming on a local, State or regional scale. Eligible partners are States, State agencies, State subdivisions including counties and conservation districts, Tribes, and nongovernmental organizations and associations with histories of working with farmers on agriculture conservation issues.

The Conservation Security Program, EQIP, and WHIP are the programs covered by the provision. Not less than 75 percent shall be used for State projects and not more than 25 percent for multi-State projects. It prohibits use of funds to pay for partner overhead or administrative costs. (Section 2403 of the House bill)

The Senate amendment includes "Special Rules Applicable to Regional Water Enhancement Projects" that adds a section to the Partnerships and Cooperation section for Regional Water Enhancement Projects. This section requires the Secretary to identify priority areas and names the following as priority areas: Chesapeake Bay, Upper Mississippi River basin, Everglades, Klamath River basin, Sacramento/San Joaquin River watershed, Mobile River basin, Puget Sound, Ogallala Aquifer, Illinois River watershed (of Arkansas and Oklahoma), Champlain Basin, Platte River watershed (note: drafting error, this should be the Platte River Basin), Republican River Watershed, Chattahoochee River watershed, and the Rio Grande watershed.

The Senate amendment requires proposals to describe geographical location, identification of issues, baseline assessment, activities to be undertaken, and performance measures. It requires competitive awards of multi-year contracts for proposals that have the highest likelihood of success, involve multiple stakeholders, highest percentage of working agricultural lands, highest percentage of on-the-ground activities, the greatest contribution to sustaining agriculture, and suitable performance measures. (Section 2405 of the Senate amendment)

The Conference substitute adopts the House provision with an amendment and names the initiative the Cooperative Conservation Partnership Initiative (CCPI).

The Managers intend that resources made available under CCPI be delivered in accordance with the basic program rules and mechanisms relating to basic program functions, such as appeals, payment limitations, and conservation compliance. The Conference substitute allows the Secretary to make certain programmatic adjustments better fit the local circumstances and goals and objectives of the special project identified for funding under the initiative. Proposed adjustments may be part of the application from the conservation partnership and forwarded to the State Conservationist or the Secretary for consideration. The Conference substitute provides for adjustments to provide producers preferential enrollment in the applicable program as part of the special project.

The Mangers include the following as an example of a CCPI partnership: A cannery has closed and nearby orchards are going out of business. A local watershed council pulls together several partners such as a State university, a wildlife organization, and an organic growers' cooperative. They agree to work together to improve water quality and wildlife habitat while working with interested local producers to transition their orchards to organic grass-based cattle operations.

The watershed council files an application with the Department proposing to conduct local producer outreach; provide training on transitioning to a new agricultural sector, including organic certification and cattle management workshops; assist with tree removal; and assist in implementing habitat diversity practices with workshops, labor, and seed. The council asks for designation of $10,000,000 in EQIP and $250,000 in WHIP.

The State Conservationist agrees with the proposal and sets aside the approved resources, which will go to producers participating in the project. When the producer applies for the programs, they certify that they are a project participant. If they are qualified, they bypass the regular program ranking processes and enter into a contract in the identified program(s). Each program in this example stands on its own and all program rules apply. The difference is the streamlined application and the process that works to make the programs seamless in application.

The Conference substitute applies to all of the Department's conservation programs except CRP, WRP, FPP and GRP. The Managers intend that applications may propose projects for consideration by the State Conservationist or the Secretary that include innovative combinations of covered initiative programs, if such combinations aid significantly in meeting the goals and objectives of the project. It is also the intent of the Managers that applicants may propose projects for consideration by the State conservationist or the Secretary that might work in tandem with the enhancement programs under CRP or WRP. (Section 2707 of Conference substitute)

(32) Regional equity and flexibility (Section 1241 of FSA)

The House bill raises the base amount of conservation funds that a State must receive in order to receive priority funding for

conservation programs from $12,000,000 to $15,000,000. (Section 2404 of House bill)

The Senate amendment also increases the funding from $12,000,000 to $15,000,000 and adds CSP and the Agricultural Management Assistance Program to the programs considered in determining funding. It instructs the Secretary to conduct a review of conservation program allocation formulas to determine the sufficiency of the formulas in accounting for State-level economic factors, level of agricultural infrastructure, or related factors that affect conservation program costs. (Section 2402 of the Senate amendment)

The Conference substitute adopts the Senate provision with an amendment. (Section 2703 of Conference substitute)

(33) Administrative requirements for conservation programs (Section 1244 of FSA)

The House bill authorizes that for socially disadvantaged farmers to be added as a group, the Secretary must provide incentives to encourage participation in conservation programs. The Secretary must establish a single, simplified application process for initial requests of assistance under the conservation programs administered by NRCS. Applicants should not be required to provide information that is already available to the Secretary, and the process itself must minimize complexity and redundancy. (Section 2405 of the House bill)

The Senate amendment requires the Secretary to develop a streamlined application process for conservation programs and provide written notification of completion to Congress not later than 1 year after enactment. It requires the Secretary, at the request of the landowner, to cooperate with the Secretary of the Interior and Secretary of Commerce to make Safe Harbor assurances available to the landowner under the Endangered Species Act. The provision allows producers to apply for conservation programs through a producer organization and that any applicable payment limits shall apply to individuals and not the organization.

The Senate amendment requires the Secretary to immediately implement policies and procedures to ensure proper payment to producers participating in conservation programs and correct other management deficiencies identified in the OIG report 50099–11–SF. It requires the Secretary to monitor and measure performance of conservation programs; to demonstrate the long-term benefits of the programs; and to coordinate program activities with the Soil and Water Resources Conservation Act. (Section 2405 of the Senate amendment)

The Conference substitute adopts the House provision with an amendment to include a pollinator provision. Despite their value, native pollinators such as bees, butterflies, moths, flies, beetles, bats, or hummingbirds often are under-appreciated in terms of their contributions to the U.S. agricultural sector. Insect-pollinated crops directly contributed $20,000,000,000 to the United States economy in 2000 alone. The Managers recognize that many native pollinator groups, particularly those important to agriculture, are facing a serious risk of decline as a result of habitat loss, degradation, and fragmentation, among other factors.

The Managers see conservation programs as an important tool for creating, restoring, and enhancing pollinator habitat quantity and quality. The Managers expect the Secretary to encourage, within appropriate conservation programs, measures to benefit pollinators and their habitat, such as using plant species mixes in conservation plantings to provide pollinator food and shelter; establishing field borders, hedgerows, and shelterbelts to provide habitat in proximity to crops; establishing corridors that can expand and connect important pollinator habitat patches; and encouraging related pollinator-friendly production practices. (Section 2708 of Conference substitute)

(34) Annual report on participation by specialty crop producers in conservation programs (Section 12512 of FSA)

The House bill requires the Secretary to submit a report to the House and Senate Agriculture Committees regarding specialty crop producer participation in conservation programs, that tracks participation by crop and livestock type, includes a plan to improve access of specialty crop producers to conservation programs, and describes the results of this plan. (Section 2406 of the House bill)

The Senate amendment had no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to modify the compliance and performance provisions of Section 1244 of FSA to accommodate the intent of the House bill. (Section 1244 of FSA)

(35) Promotion of market based approaches to conservation/conservation programs in environmental service markets (Section 1245 of FSA)

The House bill directs the Secretary to research, analyze and enter into contracts and agreements to promote the development of uniform standards for quantifying environmental benefits, promoting the establishment of credit registries and third party verification, and facilitating private sector market based approaches for agriculture and forest conservation activities. An Environmental Services Standards Board is established to develop uniform standards for quantifying environmental services in order to help develop credit markets, agriculture and forest conservation activities. (Section 2407 of the House bill)

The Senate amendment directs the Secretary to establish a framework to develop uniform standards, design accounting procedures, and establish a protocol to report environmental services benefits. It also directed the Secretary to establish a registry to report and maintain the benefits and verify that a farmer, rancher or forest land owner has implemented the conservation or land management activity. The Secretary is directed to focus first on carbon markets. (Section 2406 of the Senate amendment)

The Conference substitute adopts the House provision with an amendment. The Secretary is directed to establish technical guidelines, including a verification process that considers the role of third parties. The Secretary is instructed to consult with Federal and State agencies and nongovernmental interests, such as producers, academia, and financial institutions. The Secretary is directed to focus initially on carbon markets, as the Managers recog-

nize that this is the most pressing emerging market in which agriculture may be involved. The Secretary is expected to fulfill the intent of this section with resources available to the Department.

The adoption of this provision recognizes the growing opportunities for agriculture to participate in emerging environmental services markets. The Managers observe that the largest barrier to participation is the lack of standards and accounting procedures that make transparent the benefits that are being produced and marketed. The Managers believe that the most appropriate Federal lead for developing these common standards is the Secretary and expect the Secretary to move expeditiously to accomplish this task. (Section 2709 of Conference substitute)

(36) Establishment of state technical committees (Section 1261 of FSA)

The House bill changes the existing composition of State technical committees to include at least 12 producers representing a variety of crops, livestock, or poultry grown in the State.

The House bill states that State technical committees shall convene subcommittees to provide technical guidance and implementation recommendations. The topics subcommittees must address include: establishing priorities and criteria for State initiatives; private forestland protection issues; water quality and quantity issues; air quality, wildlife habitat, wetland protection, and other issues. (Section 2408 of the House bill)

The Senate amendment requires the Secretary to develop standard operating procedures to be used by the State technical committee in the development of technical guidelines for the implementation of the conservation provisions of this title. It makes local work groups subcommittees of the State technical committee, which exempts them from the Federal Advisory Committee Act. (Section 2501 of the Senate amendment)

The Conference substitute adopts the House provision with an amendment. The substitute requires the Secretary to develop standard operating procedures for the committees, updates the names of participating agencies, and deletes the requirement for establishing specific issue-area subcommittees. The substitute requires that public notice be given for meetings of the State technical committee and adds local working groups as subcommittees. The Managers expect that other relevant Federal agencies will also be invited to participate as needed. (Section 2711 of Conference substitute)

(37) Payment limitation (Section 1246(a-c), 1244(i), 1238C(d), and 1240G of FSA)

The House bill imposes payment limitation of $60,000 per fiscal year for any single program; $125,000 for payments from more than one program. This limitation does not apply to WRP, FPP, or GRP. The House bill requires the Secretary to issue regulations ensuring direct attribution. Further, the Secretary shall issue such regulations as necessary to ensure that the total amount of payments are attributed to an individual by taking into account the individual's direct and indirect ownership interests in a legal entity that receives payments. Payments to individuals shall be combined

with the individual's pro rata share of payments received by an entity in which the individual has a direct or indirect ownership interest. Likewise, payments made to an entity shall be attributed to those individuals with a direct or indirect ownership interest in the entity. (Section 2409 of the House bill)

The Senate amendment requires the Secretary to use direct attribution for all conservation programs. In the case of a producer organization, the limitation on payments on applicable programs shall apply to each participating producer and not to the entity. (Section 2405 and Section 2357 of the Senate amendment)

The Conference substitute moves the payment limitations into each individual program and deletes this Section.

(38) Inclusion of income from affiliated packing and handling operations as income derived from farming for application of adjusted gross income limitation on eligibility for conservation programs (Section 1001D(b)(1) of FSA)

The House bill allows income from packing and handling operations to be included as income derived from farming for purposes of payment eligibility. (Section 2501 of the House bill)

The Senate amendment has no comparable provision.

The Conference substitute adopts the Senate provision and deletes this section.

(39) Encouragement of voluntary sustainability practices guidelines

The House bill provides that the Secretary may encourage the development of voluntary sustainable practices guidelines for producers and processors of specialty crops. (Section 2502 of the House bill)

The Senate amendment has no comparable provision.

The Conference substitute adopts the Senate provision and does not include the provision.

(40) Farmland resource information (Section 1544 of Agriculture and Food Act of 1981)

The House bill provides that the Secretary shall design and implement educational programs emphasizing the importance of farming. One or more farmland information centers shall be designated to provide technical assistance and serve as central depositories for information on farmland issues. The centers shall be funded using no more than 0.05 percent of FPP funds per year but no less than $400,000 annually and must be matched with non-federal funds or in-kind contributions. (Section 2503 of the House bill)

The Senate amendment has no comparable provision.

The Conference substitute adopts the Senate provision and does not include the provision.

(41) Pilot program for four-year crop rotation for peanuts

The House bill directs the Secretary to enter into contracts with peanut producers to implement a four-year crop rotation for peanuts. Funding for this pilot shall not exceed $10,000,000 of mandatory funds for each of fiscal years 2008 through 2012. (Section 2504 of the House bill)

The Senate amendment provides that within CSP the Secretary shall provide additional payments to producers who agree to adopt resource-conserving crop rotations to achieve optimal crop rotations. (Section 2341 of the Senate amendment)

The Conference substitute adopts the Senate provision with an amendment.

(42) Agriculture Conservation Experienced Services Program (Section 307(a) of the Department of Agriculture Reorganization Act of 1994)

The Senate amendment authorizes the Secretary to enter into agreements with organizations to hire individuals 55 and older to provide assistance in administering conservation related programs. Funding for the program is authorized from EQIP, the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a et seq.), and the Older Americans Act (42 U.S.C. 3056). The provision stipulates that agreements may not displace individuals employed by the Department. It allows the Secretary to provide tools, including agency vehicles, necessary to carry out the program. (Section 2602 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that limits individuals employed under this authority to providing only technical assistance. The Managers intend that the program be used solely for technical assistance and not for administrative tasks. (Section 2710 of Conference substitute)

(43) Technical assistance (16 U.S.C 590(a) of Soil Conservation and Domestic Allotment Act and 16 U.S.C. 2001 of Soil and Water Resources Conservation Act)

In the Soil Conservation and Domestic Allotment Act, the Senate amendment clarifies that it is the policy of the United States to preserve soil, water, and related resources and to promote soil and water quality. It defines technical assistance to mean technical expertise, information and tools necessary for the conservation of natural resources on land active in agricultural, forestry or related uses.

In the Soil and Water Resources Conservation Act of 1977, the Senate amendment expands on existing appraisal requirements to include data on conservation plans, conservation practices planned or implemented, environmental outcomes, economic costs, and related matters. The national conservation program's evaluation of existing conservation programs is amended to emphasize monitoring of specific program components in order to encourage further development and adoption of practices and performance-based standards.

The House bill has no comparable provision.

The Conference substitute adopts the Senate amendment to the Soil Conservation and Domestic Allotment Act. The Managers intend to clarify that it is the role of USDA to provide technical assistance to farmers, ranchers, and other eligible entities to assist in the conservation of soil, water, and related resources. The Managers recognize that the natural resource concerns that producers

face are dynamic and preclude an inclusive list as responsibilities for USDA.

The Conference substitute adopts the Senate amendment to the Soil and Water Resources Conservation Act with an amendment. The Act is extended to 2018. The Managers expect the delivery of appraisals and programs to be tied more closely to the Farm bill cycle, with the intent that these evaluations will inform development of future farm policy. (Section 2802 of Conference substitute)

(44) National Natural Resources Conservation Foundation (Section 351 of Federal Agriculture Improvement and Reform Act of 1996)

The Senate amendment updates existing foundation language and expands granting authority of the foundation to include making grants to individuals, entering into agreements with the Federal government, and making gifts to the foundation tax exempt. (Section 2606 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the House provision and does not include the provision.

(45) Desert terminal lakes (Sec 2507 of the Farm Security and Rural Investment Act of 2002)

The Senate amendment extends and reauthorizes through 2012. It allows funds to be used to lease or to purchase land, water appurtenant to the land, and related interests in the Walker River Basin from willing sellers.

The section provides $200,000,000 in mandatory funds for fiscal years 2008 through fiscal year 2012. (Section 2607 in the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide $175,000,000 in mandatory funding. (Section 2807 of Conference substitute)

(46) High Plains water study

The Senate amendment requires that program benefits under the 2007 Farm bill will not be denied to eligible individuals solely on the basis of participation in a one-time study of aquifer recharge potential in the high plains of Texas. (Section 2609 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. The Managers recognize that the ongoing depletion of the Ogallala Aquifer is an acute concern for the eight States that depend on it for agricultural, domestic, industrial uses, and other uses. This provision will allow agricultural producers to participate in a one-time study of aquifer recharge potential that will help inform State and local water conservation investment and policy to aid in managing this critical aquifer. The study is narrowly focused on a small number of playa lakes situated on agricultural land over the Ogallala Aquifer.

Playas are temporary wetlands unique to the High Plains of North America, numbering more than 60,000. Playas not only serve as the primary source of recharge for the Ogallala Aquifer, they are the most important wetland type for wildlife in this region. The Managers encourages the Department to further recognize the importance of playas through increased communication to landowners of the benefits of playas and conservation programs available. The Managers encourage the Department to work with the Playa Lakes Joint Venture to enhance the use of such programs like CRP to help ensure the protection of playas. (Section 2901 of Conference substitute)

(47) Payment of expenses (Section 17(d) of the Federal Insecticide, Fungicide, and Rodenticide Act)

The Senate amendment amends the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC 136 et seq.) to require that the Department of State shall cover expenses incurred by Environmental Protection Agency staff participating on an international technical, economic, or policy review board, committee, or other official body with respect to a related international treaty. (Section 2610 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 14209 of Conference substitute)

(48) Use of funds for salinity control activities upstream of Imperial Dam (Sec202(a) of the Colorado River Basin Salinity Control Act)

The Senate amendment amends Section 202(a) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(a)) to create a Basin States Program to allow the Bureau of Reclamation, to carry out salinity control activities in the Colorado River basin. The provision requires the Secretary of Interior to consult with the Colorado River Basin Salinity Control Advisory Council when providing assistance in the form of grants, grant commitments, or the advancement of funds to Federal or non-Federal entities. It requires a planning report to Congress that describes the proposed implementation of the program and stipulates that no funds may be expended to implement the program until 30 days after the report is submitted to Congress. (Section 2611 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. The Managers intend for this provision to be fiscally neutral both as to appropriations and as to draws on the basin funds. It does not change the cost share ratios already established in Section 205(a) of the Act, nor does it change the percentage split between the two funds or the requirement that no more than 15 percent of the basin States cost share is to come from the Upper Colorado River Basin Fund. It is only intended to clarify the authority through which Reclamation expends the required cost share dollars. (Section 2806 of Conference substitute)

(49) Technical corrections to the Federal Insecticide Fungicide, and Rodenticide Act (Section 33 of FIFRA)

The Senate amendment makes technical corrections to the pesticide registration service fee program in the Federal Insecticide, Fungicide, and Rodenticide Act. (Section 2612 of the Senate amendment)

The House bill has no comparable provision.

The Conference substitute adopts the House provision and does not include the provision. However, the Conference substitute includes a container recycling provision. (Section 14109 of Conference substitute)

The Managers have received concerns from numerous agricultural interests concerning pest resistance to first generation anticoagulant rodenticide products and the importance of low-cost, widely available effective rodenticides. The Managers encourage the Administrator of the Environmental Protection Agency to continue to classify second-generation rodenticides as general use products so as to minimize the potential consequences of reclassifying these materials as restricted use on target species resistance to first-generation rodenticides, potential non-target species poisoning, and cost and availability of rodenticides to the general public.

TITLE III—TRADE

(1) Agricultural Trade Development and Assistance Act of 1954

(a) Short title (Section 1 of the Agricultural Trade Development and Assistance Act of 1954)

The Senate amendment changes the title of the underlying legislation to the Food for Peace Act. It also includes numerous conforming amendments. (Section 3001)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision on changing the title of the underlying legislation to the Food for Peace Act. (Section 3001)

(b) United States policy (Section 2 of the Food for Peace Act)

The Senate amendment deletes a paragraph describing market development as one of the objectives of the programs under this Act. This modification is made to reflect the approach taken in operating the program in recent years. (Section 3002)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision that deletes a paragraph in Section 2 describing market development as one of the objectives of the programs under this Act. (Section 3002)

(c) Food aid to developing countries (Section 3(b) of the Food for Peace Act)

The Senate amendment modifies the Sense of Congress in current law to (1) require the President to seek commitments from other donors; reinforces the need to keep recipient governments, non-governmental organizations, and private voluntary organizations involved in conducting needs assessment and implementing

programs and ensure that a variety of options are available to provide needs-based emergency and non-emergency aid and (2) that the United States should increase food aid contributions consistent with the Uruguay Round Agreement on Agriculture. (Section 3003)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with a minor modification. (Section 3003)

(d) Trade and development assistance (Title I of the Food for Peace Act)

The Senate amendment renames Title I of the newly renamed Food for Peace Act from Development and Trade Assistance to Economic Assistance and Food Security. (Section 3004)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision that renames Title I of the newly renamed Food for Peace Act from Development and Trade Assistance to Economic Assistance and Food Security. (Section 3004)

(e) Agreements regarding eligible countries and private entities (Section 102 of the Food for Peace Act).

The Senate amendment strikes references to potential recipient countries becoming commercial markets and strikes a requirement that organizations seeking funding under the Act prepare and submit agricultural market development plans. (Section 3005)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision that strikes references to potential recipient countries becoming commercial markets and strikes a requirement that organizations seeking funding under the Act prepare and submit agricultural market development plans. (Section 3005)

(f) Use of local currency payments (Section 104 of the Food for Peace Act).

The Senate amendment adds the objective of improving trade capacity of the recipient country to the set of goals to be achieved under agricultural development. It removes authority for specific agricultural development activities such as business development loans, facilities loans, and private sector agricultural development. It also specifies that private voluntary organizations and cooperatives may implement agreements under this title. (Section 3006)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision on modifying language governing the use of local currencies, with the following changes: rather than striking paragraphs (3), (4), (5), and (6), the substitute modifies paragraphs (3), (4), and (5) to update obsolete references and leaves paragraph (6) intact. (Section 3006)

(g) General Authority (Section 201 of the Food for Peace Act)

The House bill amends the purposes of the Title II program to clarify that food deficits to be addressed include those resulting from man made and natural disasters. (Section 3001(a))

The Senate amendment clarifies the objectives for assistance under Title II commodity donations. It adds the promotion of food

security and support of sound environmental practices in paragraph (5); removes feeding programs as an objective in paragraph (6); and adds a new paragraph specifying the protection of livelihoods, provision of safety nets for food insecure populations and to encourage participation in educational, training, and other productive activities. (Section 3007)

The Conference substitute adopts both the House and Senate provisions, with a modification to paragraph (6) of the Senate provision to keep Section 201(6) intact and add a new paragraph (7) to reflect the need to promote economic and nutritional security for food insecure populations. (Section 3007)

The Managers recognize that humanitarian emergencies frequently occur due to a combination of factors, typically encompassing natural disasters, resource mismanagement and poor government policymaking. In most cases, the United States government ought to respond to such catastrophes with emergency assistance. However, if a disaster results mostly from poorly devised or discriminatory governmental policies in the recipient country, the Managers requests that the Administrator brief the relevant Congressional Committees before responding with assistance.

(h) Provision of agricultural commodities (Section 202 of the Food for Peace Act)

The House bill increases the percentage of Title II funding (currently at a range of 5 to 10 percent) that the Administrator may make available to eligible organizations for administrative and distribution costs to a range of 7 to 12 percent.

The House provision also expands the purposes for which such funds may be used to include developing monitoring systems for Title II programs. (Section 3001(b))

The Senate amendment revises current language to clarify that the fact that a project is being proposed in a country that does not have a U.S. Agency for International Development mission or is not part of an overall development plan for the country cannot be used as the sole rationale for denying the proposal.

It modifies the share of Title II funds which can be used to cover logistical expenses incurred by the eligible organizations that carry out Title II programs from between 5 and 10 percent to not less than 7.5 percent.

It clarifies that such funds can be used to cover management, personnel, programmatic, operational activities, internal transportation, and distribution costs for new and existing programs. These funds can also be used to cover the costs of needs assessment and monitoring and evaluation. (Section 3008)

It also strikes language on streamlining program management included in the 2002 farm bill. It also inserts new language which permits the Administrator to use Title II funds to address food aid quality issues, and requires that regular reports on progress on these quality issues be made to the relevant Congressional Committees.

The Conference substitute adopts Senate language on paragraph (1) and paragraph (3) with modifications, providing $4.5 million for fiscal years 2009 through 2011 to be used to study and improve food aid quality for fiscal 2009–2011 from funds made avail-

able under Section 3012. It adopts House language on paragraph (2) with the modifications that the range of Title II funding available for administrative and distributional expenses is increased to between 7.5 percent and 13 percent. (Section 3008)

The Managers urge the Administrator to explore the practicality of allowing Title II recipients to enrich or fortify Title II commodities overseas and produce high-value and processed products to support local manufacturing of food products in recipient countries. Such local products could include ready-to-use therapeutic and therapeutic and supplemental products and other fortified and processed foods that can be used successfully to treat severe and moderate malnutrition among children and provide nutritional support for people living with HIV/AIDS and other vulnerable groups.

(i) Generation and use of currencies by private voluntary organizations and cooperatives (Section 203 of the Food for Peace Act)

The House bill makes a technical correction. (Section 3001(c))

The Senate amendment adds activities involving micro-enterprises and village banking as a valid use of proceeds generated by monetization of commodities donated under Title II. (Section 3009)

The Conference substitute adopts the House provision. (Section 3009)

The Managers recognize that microfinance and village banking, which relies on low dollar loans and collective responsibility, has flourished throughout the developing world for more than 30 years.

The Managers believe that similar activities such as micro-enterprise lending, village banking, and microfinance can be a valuable complement to development assistance projects under Title II of the Food for Peace Act, and encourages the Administrator to view micro-enterprise microfinance, and village banking projects as valid uses of local currency generated by monetization under this Act.

(j) Levels of assistance (Section 204 of the Food for Peace Act)

The House bill extends requirements on overall minimum tonnage and minimum tonnage for non-emergency assistance provided under Title II through 2012. (Section 3001(d))

The Senate amendment extends only the overall minimum tonnage requirement for Title II programs through 2012. (Section 3010).

The Conference substitute adopts the House provision. (Section 3010)

(k) The Food Aid Consultative Group (Section 205 of the Food for Peace Act)

The House bill extends the authority for the Food Aid Consultative Group (FACG). (Section 3001(e))

The Senate amendment requires that a representative of the maritime transportation sector be included in the Group.

It also requires the Administrator to consult with the FACG in developing regulations for the pilot local cash purchase program es-

tablished in Section 3014, and extends the authority for the FACG through 2012. (Section 3011)

The Conference substitute adopts the House provision, and paragraph (1) of the Senate provision. (Section 3011)

(l) Administration (Section 207 of the Food for Peace Act)

The House bill deletes a requirement that if the U.S. Agency for International Development denies a proposal for a Title II project, it must specify conditions that must be met for the approval of such proposal.

It also adds a new provision that requires the U.S. Agency for International Development to establish and report on systems to improve and evaluate Title II assistance, including early warning systems to prevent famines. (Section 3001(f) and (g)) The Senate amendment provides more flexibility to the Administrator in terms of the time available to evaluate and determine whether to accept a proposal for assistance under Title II, and clarifies the intent of the law with respect to notifying an applicant why their proposal was rejected.

It deletes a requirement for handbooks which are no longer used within the Title II program. Information previously contained in such handbooks is now available through other outlets, such as the U.S. Agency for International Development website.

It deletes a specific deadline for submitting commodity orders, which on occasion can have the effect of slowing down the process, and substitutes a requirement that orders should be provided on a timely basis and it pushes back the date from December 1 to June 1 for a report on the programs, countries, and commodities approved to date within a fiscal year under Title II.

It adds language that allows the Administrator to use Title II funds to pay for assessment, data collection and management, and monitoring activities, and to hire contract workers to undertake such work in recipient or neighboring countries, without limiting existing authority to hire contractors to help address emergency food needs.

The Senate amendment also adds language allowing the Administrator to pay the World Food Program of the United Nations for indirect support costs of the commodities donated under Title II, requiring that the Administrator report to relevant Congressional committees on such payments. It also clarifies the authority of the Administrator to pay indirect costs associated with funds received or generated for programs to PVO's and cooperatives. It also requires that project reports should be submitted in such a form as can be readily displayed for public use on the U.S. Agency for International Development website. (Section 3012)

The Conference substitute adopts House language to require specific oversight, monitoring, and assessment activities and provides up to $22 million annually of Title II funds for monitoring and assessment activities for non-emergency programs. It provides that no more than $8 million of these funds may be used for the Famine Early Warning Systems Network, but only if at least $8 million is provided for this system from accounts funded pursuant to the Foreign Assistance Act of 1961. It also provides up to $2.5 million of the $22 million to upgrade the information technology

systems associated with the food aid program in fiscal year 2009, to enhance the monitoring of these programs.

The Conference substitute also adopts Senate language on paragraphs (2) and (3), and provides contracting authority for personal service in order to undertake monitoring and assessments for non-emergency programs, as part of paragraph (5). It does not provide for additional authority to pay indirect support costs to the World Food Program or to private voluntary organizations. (Section 3012).

The Managers recognize the use of handbooks in Title II is no longer an efficient method of providing information to foster development of programs under this title by eligible organizations. Realizing the need for clear communication of guidelines and regulations to eligible organizations, the Managers expect the Administrator to ensure the accessibility and clarity of information previously dispensed in the handbooks such as in an electronic form readily available to the public, in addition to other means as determined appropriate by the Administrator.

The Managers believe that the provision of commodities overseas must be carried out in a timely manner and in a manner that is consistent with planned delivery schedules.

The Managers are aware that the U.S. Agency for International Development has received significant cuts in operating expenses in the President's budget and in Congressional appropriations over the last several years to carry out their operating expense which increasingly affects the Agency's ability to monitor its programs. Although the Managers appreciate these constraints, it expects the Administrator to make every effort to improve the monitoring and evaluation of U.S. food assistance programs. Therefore, the Managers provide the Administrator with the authority to contract for personal services from persons not employed by the U.S. Government to carry out monitoring and oversight activities. The Managers have been concerned that, in the past, the U.S. Agency for International Development has not had the authority or the resources for monitors for non-emergency food aid programs. The April 2007 Government Accountability Office report on U.S. food assistance programs found that monitoring of food assistance programs in-country by the U.S. Agency for International Development has been insufficient due to various factors, including limited staff, competing priorities, and legal restrictions on the use of food assistance resources. The Managers are concerned about the significant gaps in monitoring and evaluation of U.S. international food assistance programs and expects the Administrator to address this problem immediately by establishing a system to monitor food assistance programs. The language in this new subsection will allow the Administrator to address this criticism by employing non-emergency food aid monitors.

The Managers expect the Administrator to continue to use existing authority to pay those expenses required and agreed upon to the World Food Program.

(m) Assistance for stockpiling and rapid transportation, delivery, and distribution of shelf-stable, prepackaged foods (Section 208 of the Food for Peace Act)

The House bill extends the authorization and increases annual funding for such grants from $3 million to $7 million. (Section 3001(h))

The Senate amendment reauthorizes this program and also increases the level that can be appropriated to assist in the development of shelf-stable, prepackaged foods for use in food aid programs from $3 million to $8 million. (Section 3013)

The Conference substitute adopts the Senate provision (Section 3013)

The Managers recognize the value added to U.S. food aid programs through cost sharing by implementing partners and recognize that preference is given to organizations that are able to provide such additional program funds. The Managers are supportive of the Administrator evaluating the inclusion of in-kind contributions when administering guidelines for cost sharing by non-profit organizations.

(n) General authorities and requirements (Section 401 of the Food for Peace Act)

The Senate amendment strikes the requirement that the Secretary make a determination about domestic supply of the commodity before releasing commodities for the food aid program. (Section 3015)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision (Section 3014).

(o) Definitions (Section 402 of the Food for Peace Act)

The Conference substitute consolidates several references to the appropriate committees of Congress with respect to reporting activities under the Food for Peace Act. (Section 3015).

(p) Use of Commodity Credit Corporation (Section 406 of the Food for Peace Act).

The Senate amendment clarifies that costs incurred to improve food aid quality to the list of activities and functions can be covered by the Commodity Credit Corporation through advance appropriations acts. (Section 3016)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision (Section 3016).

(q) Administrative provisions (section 407 of the Food for Peace Act)

The House bill extends the authorization for prepositioning of commodities and increases the limit on funding available for prepositioning such commodities overseas from $2 million to $8 million. The bill also authorizes assessment and possible establishment of additional prepositioning sites. (Section 3001(i))

The Senate amendment reauthorizes pre-positioning of U.S. commodities abroad and increases the limit on funding available

for prepositioning in foreign countries from $2 million to $4 million. It also requires that resource requests for multi-year or ongoing non-emergency assistance agreements be approved by October 1 of the fiscal year when the commodities will be delivered.

It also pushes the completion date for an annual report concerning the programs and activities of this Act from January 15 to April 1, and requires the Administrator to make the report available to the public by electronic and other means. (Section 3017)

The Conference substitute adopts the Senate provision, but increases funding for prepositioning to $10 million, and adds the House language on studying the need for additional prepositioning sites (Sections 3017 and 3018(a)).

(r) Consolidation and modification of annual reports regarding agricultural trade issues (Section 407 of the Food for Peace Act)

The House bill amends requirements of the report the President must prepare on food aid programs that are carried out under the Act. (Section 3001(j))

The Senate amendment has no comparable provision.

The Conference substitute consolidates a number of reporting requirements and date changes for reports from both Senate and House bills (Section 3018).

(s) Expiration of assistance (Section 408 of the Food for Peace Act)

The House bill reauthorizes agreements under the Act through 2/31/12. (Section 3001(k))

The Senate amendment reauthorizes agreements under the Act through December 31, 2012. (Section 3018)

The Conference substitute adopts the House provision (Section 3019).

(t) Authorization of Appropriations (Section 412 of the Food for Peace Act).

The House bill extends the Act through 2012, and sets authorization levels for Title II to $2.5 billion. (Section 3001(l))

The Senate amendment reauthorizes appropriations for the Act through 2012. It also strikes subsection (b) and removes the President's authority to transfer funds between the programs under this Act. (Section 3019)

The Conference substitute adopts the House provision, modifying it with technical changes. (Section 3020).

(u) Micronutrient Fortification Programs (Section 415 of the Food for Peace Act)

The House bill extends authorization for the program through 2012 and amends the purposes. (Section 3001(m))

The Senate amendment reauthorizes the Micronutrient Fortification Program from the Farm Security and Rural Investment Act of 2002 and adds new authority to assess and apply technologies and systems to improve food aid. It also strikes subsection (b), which limits the number of countries in which this program can be implemented. (Section 3020)

The Conference substitute adopts the Senate provision (Section 3023).

(v) John Ogonowski and Doug Bereuter Farmer-to-Farmer Program (Section 501 of the Food for Peace Act)

The House bill provides a floor level of funding for the Farmer-to-Farmer program of $10 million and extends the program through 2012. The House bill also increases authorization of appropriations for specific regions from $10 million to $15 million. (Section 3001(n))

The Senate bill reauthorizes the Farmer-to-Farmer program. (Section 3022)

The Conference substitute adopts the House provision (Section 3024).

The Managers recognize that organizations such as the Foods Resource Bank provide vital financial and technical assistance to agricultural production in developing countries in areas of financing, market access and knowledge, and development assistance. This assistance is generated through sale of crops grown in a cooperative effort between members of urban and rural churches and other organizations. These growing projects are an outstanding example of harnessing the grass-roots energy and generosity of Americans. Through use of these proceeds, these members of churches and organizations help to increase the technical knowledge and available capital, for farmers and others in targeted developing countries. These efforts enhance food security and increase productivity in these countries.

The Managers understand that in the recent years, the Foods Resource Bank has received matching funds through the Global Development Alliance established by the U.S. Agency for International Development. The Managers encourage the Administrator to continue this funding and consider entering into longer term agreements with these organizations to provide for more certainty in project planning.

The Managers believe that providing funds to match such contributions leverage the government's investment and provide an incentive to expand the effort of growing projects working in the United States to raise money. Such an action would also increase public awareness of the plight of farmers in developing countries.

(2) Export Credit Guarantee Program (Sections 203 and 211 of the Agricultural Trade Act of 1978)

The House bill reduces the tenor of the GSM–102 Export Credit Guarantee Program to six months beginning in fiscal year 2008. (Section 3002)

The House bill and the Senate amendment both repeal authority for the Supplier Credit program, which provides guarantees to buyers of U.S. commodities in foreign countries for a period of not more than 180 days.

Both bills repeal authority for the GSM–103 Intermediate Credit Guarantee Program which provides guarantees for loans to purchase U.S. agricultural commodities with duration of between three years and ten years, and repeal the one percent cap on loan origination fees for the GSM–102 export credit guarantee program.

The Senate amendment reduces the tenor of the GSM–102 export credit guarantee program to no more than six months beginning in fiscal year 2012. The Senate amendment also clarifies how the U.S. Department of Agriculture should conduct evaluations of the creditworthiness of countries participating in export credit guarantee programs, and reduces the minimum amount that can be allocated to the export credit programs from its current $5.5 billion to $5 billion. (Section 3101)

The Conference substitute adopts the Senate provision, with the following modification: in lieu of the reduction in tenor for the GSM–102 program beginning in fiscal year 2012, the conference amendment includes a cap on the credit subsidy for the program of $40 million annually (Section 3101).

The Managers eliminated proposals to limit the tenor of export credit guarantees to periods shorter than 3 years in length. In order to garner budget savings while preserving the 3 year tenor and effectiveness of the program to support U.S. agricultural exports, subsection (b) limits the available budget authority for the cost of the program, as determined on a net present value basis under the Federal Credit Reform Act of 1990.

Specifically, the Commodity Credit Corporation must make available each year GSM–102 guarantees in an amount not less than $5.5 billion, or the amount of guarantees that can be supported by $40 million in budget authority (plus any budget authority carried over from prior years)—whichever amount is less. It is expected that the U.S. Department of Agriculture can make available approximately $4 billion annually in export credit guarantees on $40 million in budget authority.

The Managers remain concerned that the U.S. Department of Agriculture has consistently failed to meet its statutory obligation to make available at least $5.5 billion in export credit guarantees, to the detriment of U.S. agricultural exports and the ability of food importing countries to meet their food, feed, and fiber needs.

The Managers expect the U.S. Department of Agriculture to use this authority to design and operate the export credit guarantee program to maximize the export sales of agricultural commodities and to assist food importing countries' efforts to meet their food, feed, and fiber needs, by making available and utilizing guarantees equal to at least the statutory minimum, and more as necessary to meet program demand.

Finally, the Managers believe that the changes in this section satisfy U.S. commitments to comply with the Brazil cotton case with regard to the export credit programs.

(3) Market Access Program (Sections 203 and 211 of the Agricultural Trade Act of 1978)

The House bill extends the program and makes organic commodities eligible for the program. It increases funding by $25 million annually. (Section 3003)

The Senate amendment makes organic commodities eligible for the program. It also increases funding for the program from its current level of $200 million for fiscal year 2007, raising it by $10 million annually until fiscal year 2011, when it returns to baseline levels. (Section 3102)

The Conference substitute adopts the Senate provision, without the increase in funding above baseline levels (Section 3102).

(4) Food for Progress Act of 1985

The House bill extends the Food for Progress Act (7 United States Code 1736o) through 2012. (Section 3004)

The Senate amendment reauthorizes the program through 2012, and makes recipient governments, intergovernmental organizations, and private entities ineligible for the program. It also increases the amount that can be spent transporting commodities under Food for Progress from $40 million to $48 million for fiscal years 2008–through 2010. This figure is the effective cap on this program. (Section 3106)

The Conference substitute adopts the House provision and adds a provision requiring the Secretary to establish a project in Malawi under this program (Section 3105).

(5) McGovern-Dole International Food for Education and Child Nutrition Program

The House bill extends program through 2012, requires the Secretary of Agriculture to carry out the program, and provides mandatory funds of: $0 for fiscal year 2008; $140,000,000 for fiscal year 2009; $170,000,000 for fiscal year 2010; $230,000,000 for fiscal year 2011; $300,000,000 for fiscal year 2012; and $0 for fiscal year 2013. (Section 3005)

The Senate amendment establishes the U.S. Department of Agriculture as the permanent home for this program and reauthorizes the program through fiscal year 2012. Up to $300 million may be appropriated annually to fund this program. (Section 3107)

The Conference substitute adopts the Senate provision, except it provides $84 million in mandatory money for this program for fiscal year 2009, to be available until expended (Section 3106).

(6) Bill Emerson Humanitarian Trust

The House bill extends the Bill Emerson Humanitarian Trust through 2012. (Section 3006)

The Senate amendment specifies that the Trust can be held as a combination of commodities and cash, not to exceed the equivalent of 4 million metric tons and allows the commodities to be exchanged for funds available under Title II or the McGovern-Dole program. The Secretary may sell commodities in the Trust onto the market if such sales will not disrupt the domestic market. It permits the Secretary to manage the funds held under the Trust to maximize its value.

The Senate amendment further clarifies the rules under which commodities or funds can be released from the Trust, and defines the term "emergency" for the purpose of release. It also clarifies the rules by which the Trust is managed by the Secretary, including specifying that price risks must be managed and allowing the funds held in the Trust to be invested in low-risk short-term securities or instruments. Instructs the Secretary to maximize the value of the Trust and instructs the Secretary to transfer saved storage costs back to the Trust from the CCC. The Senate amendment replaces the word "replenish" with the word "reimburse" throughout

the language, reinforcing the notion that resources can be held through cash as well as commodities under this program. The program is reauthorized through fiscal year 2012. (Section 3201)

The Conference substitute adopts the Senate provision, with the following modifications: it removes the 4 million ton cap entirely, and no longer allows the Secretary to engage in futures market transactions with funds in the Trust. It also does not allow the exchange of funds available under Title II or the McGovern-Dole International Food for Education and Child Nutrition program, nor require transfer of foregone storage charges into the Trust (Section 3201).

The Managers expect the Trust to be used in a manner that recognizes its unique availability as a resource for food emergencies worldwide. The sale of commodities in the Trust should be undertaken in such a way as to prevent market disruptions and dramatic price fluctuations in the domestic market.

(7) Technical assistance for specialty crops

The House bill extends the Technical Assistance for Specialty Crops through fiscal year 2012 and increases funding from $2 million annually to $4 million in 2008, ramping up to $10 million for fiscal years 2011 and 2012. (Section 3007)

The Senate amendment extends Technical Assistance for Specialty Crops through fiscal 2012 and increases funding by $19 million over the baseline. (Section 1833)

The Conference substitute adopts the House provision with annual funding ramped up to $9 million in fiscal years 2011 and 2012, and adds a report (Section 3203).

(8) Representation by the United States at international standard-setting bodies

The House bill authorizes the Secretary to enhance U.S. Department of Agriculture staff support for international standard-setting bodies, such as the Codex Alimentarius, the International Plant Protection Convention, and the World Animal Health Organization. (Section 3009)

The Senate amendment has no comparable provision.

The Conference substitute strikes this provision.

(9) Foreign Market Development Cooperator Program (Section 702 of the Agricultural Trade Act of 1978)

The House bill extends the program through fiscal year 2012. (Section 3010)

The Senate amendment increases funding for the Foreign Market Development Program from its current level of $34.5 million annually for fiscal year 2007 by $5 million for fiscal years 2008 and 2009, by $10 million in fiscal year 2010, and returns to baseline levels in fiscal year 2011. (Section 3105)

The Conference substitute adopts the House provision (Section 3104).

(10) Emerging Markets and Facilities Loan Guarantee Program

The House bill extends the program through fiscal year 2012. (Section 3011)

The Senate amendment reauthorizes the Emerging Markets and Facilities Guarantee Loan Program through fiscal year 2012.

It permits the Secretary to waive requirements that U.S. goods be used in the construction of a facility under this program, if such goods are not available or their use is not practicable. It also permits the Secretary to provide a guarantee for this program for the term of the depreciation schedule for the facility, not to exceed 20 years. (Section 3202)

The Conference substitute adopts the Senate provision (Section 3204).

(11) Export Enhancement Program (Section 301 of the Agricultural Trade Act of 1978)

The House bill extends the program through fiscal year 2012. (Section 3012)

The Senate amendment repeals authority for the program. (Section 3103)

The Conference substitute adopts the Senate provision (Section 3103).

(12) Minimum level of nonemergency food assistance

The House bill provides that of Title II funds, the U.S. Agency for International Development must use at least $450 million for non-emergency programs unless Congress provides otherwise with new legislation. (Section 3014)

The Senate amendment establishes a "safe box" for non-emergency, development assistance projects under Title II of $600 million annually to be obligated and expended each fiscal year. (Section 3019)

The Conference substitute adopts the House provision, modified to reflect a phasing in of the safe box level beginning at $375 million in fiscal year 2009 and ending at $450 million in fiscal year 2012. It also provides an exception to the safe box designation, allowed to be exercised only if the President determines that an extraordinary food emergency exists and that resources available from the Bill Emerson Humanitarian Trust have been exhausted, and if the President has submitted a request for additional appropriations to Congress equal to the reduction in safe box and Emerson Trust levels (Section 3022).

(13) Global Crop Diversity Trust

The House bill requires the U.S. Agency for International Development to make a contribution on behalf of the United States to the Global Crop Diversity Trust of up to $60 million over 5 years. United States contributions may not exceed one fourth of the total of funds contributed to the Trust from all sources. (Section 3014)

The Senate amendment requires the U.S. Agency for International Development to make contributions to the Global Crop Diversity Trust to assist in conservation of genetic diversity of key food crops around the world. Appropriations of $60 million are authorized for the period of the fiscal year 2008 through 2012 for this purpose, with a cap equal to 25 percent of all funds contributed to the Trust from all sources. (Section 3021)

The Conference substitute adopts the House provision, with a title change for the section (Section 3202).

(14) Report on Efforts to improve procurement planning

The House bill requires that not later than 90 days after the date of the enactment the U.S. Agency for International Development and the U.S. Department of Agriculture shall submit to Congress a report on efforts taken to improve planning for food and transportation procurement, including efforts to eliminate bunching of food purchases. (Section 3015)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision (Section 3022).

(15) International disaster

The House bill requires that for each of fiscal year 2008 through 2012, $40 million of amounts made available to carry out Section 491 of the Foreign Assistance Act of 1961 shall be made available for famine prevention. (Section 3016)

The Senate amendment authorizes a pilot program for local/regional cash purchase. Subsection (a) provides several key definitions for the section. Subsection (b) establishes authority for the pilot program. Subsection (c) establishes the purposes for which the pilot program can be used. Subsection (d) establishes criteria for local or regional procurement. Subsection (e) requires the Administrator to initiate an external review of prior local/regional cash purchase activities by other donor countries, PVO's and intergovernmental organizations within 30 days of enactment. A report detailing the results of this review is also to be provided to the relevant Congressional Committees. This information would be used to assist in developing guidelines for the request for proposals. Subsection (f) authorizes the Administrator to request and approve applications for grants from eligible organizations under this section, and requires any projects authorized under this section to be completed by Sept. 30, 2011, to allow time to complete study of pilot results before expiration of authorized appropriations in subsection (k). Subsection (g) establishes requirements for specific projects in selecting proposals for grants. Subsection (h) lists information that would need to be included in grant applications. Subsection (i) requires the Administrator to arrange for independent evaluation of the pilot program results, and a report to the relevant Congressional Committees. It also lays out the factors that would have to be examined in the report. Subsection (j) requires the Administrator to promulgate guidelines for the operation of this pilot program. Subsection (k) authorizes appropriations of $25 million for each year between fiscal 2009 and fiscal 2011 for this program, to be available until expended. (Section 3014)

The Conference substitute adopts the Senate provision, modified to provide that the project be conducted by the Secretary with $60 million in mandatory funding between fiscal 2009 and 2012. It establishes requirements for undertaking such activities and requires the Secretary to promulgate rules or guidelines in order to award grants or cooperative agreements to conduct field-based projects using local or regional procurement. It also requires enti-

ties receiving grants or entering into agreements under this section to provide data about market parameters and methodologies used to acquire eligible commodities locally or regionally, intended to be used to evaluate the effectiveness of local or regional procurement (Section 3206).

(16) Importation of agricultural products made with child labor

The Senate amendment requires the Secretary of Agriculture, in cooperation with the Secretary of Labor, to develop standards that importers of agricultural products into the United States could choose to use to certify that those products were not produced with the use of abusive forms of child labor. (Section 3104)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision, modified to establish a consultative group of interested stakeholders charged with developing recommendations on practices that would enable companies to monitor and verify whether the food products they import are made with the use of child or forced labor. Guidelines developed from these recommendations would be released after a public comment period (Section 3205).

The Managers strongly support efforts to reduce and eliminate the use of child and forced labor. The Managers expect the Secretary of Agriculture to work with the multi-stakeholder Consultative Group to develop the recommendations for best practices for the voluntary, third-party certification initiative that will provide producers, importers, retailers and consumers with reasonable assurances as to what measures have been taken to ensure that the products are not produced with child labor. After the Consultative Group has issued its recommendations, the Managers expect the Secretary to develop guidelines for such best practices and release the guidelines for public comment. The outcome expected by the Managers is a voluntary, third-party certification effort is designed to reduce the likelihood that products produced with forced labor or child labor are imported into the United States as directed in the Trafficking Victims Protection Act of 2005.

The Managers recommend that the Secretary select officials from the Foreign Agricultural Service and the Agricultural Marketing Service to serve on the consultative group as the representatives of the U.S. Department of Agriculture. Additionally, the Managers recommend that the Department of Labor be represented by an individual from the Bureau of International Labor Affairs, and that the Department of State be represented by the Director of the Office to Monitor and Combat Trafficking in Persons of the Department of State.

(17) Biotechnology and Agricultural Trade Program

The Senate amendment reauthorizes the Biotechnology and Agricultural Trade Program through 2012. (Section 3203)

The House bill has no comparable provision.

The Conference substitute does not include this provision.

(18) Technical assistance for international trade disputes

The House bill and the Senate amendment both authorize the Secretary to provide technical assistance for limited resource

groups involved in trade disputes. This program is subject to appropriations. (House Section 3008 and Senate Section 3204)

The Conference substitute does not include this provision.

The Managers understand that the U.S. Department of Agriculture currently possesses the authority to provide technical advice, analytical support, and other assistance to help limited resource organizations and others involved in exporting U.S. agricultural commodities. The Managers encourage the U.S. Department of Agriculture to provide such assistance, particularly to entities that both face unfair trading practices and do not possess adequate internal resources to address these practices given the size of their domestic industry or membership. The Department is encouraged to seek appropriations for this purpose as needed.

(19) Importation of high protein food ingredients

The Senate amendment requires the Secretary of Health and Human Services to report to Congress on the importation and use of high protein food ingredients. (Section 3206)

The House bill contains no comparable provision.

The Conference substitute does not include this provision.

(20) U.S.-Canada Softwood Lumber Agreement

The Senate amendment expresses the Sense of the Senate with respect to ensuring that imports of Canadian softwood lumber are consistent with the Softwood Lumber Agreement with Canada. (Section 11093)

The House bill contains no comparable provision.

The Conference substitute includes a softwood lumber importer declaration program. The purpose of the program is to assist in the enforcement of any international obligations that the United States and our trading partners assume with respect to trade in softwood lumber and softwood lumber products.

The Managers are concerned that existing U.S. importer declaration requirements are not sufficient to ensure compliance with such obligations. If the issue is not addressed, imports of noncompliant softwood lumber and softwood lumber products can harm U.S. producers.

The section amends the Tariff Act of 1930 by adding a new Title VIII, the "Softwood Lumber Act of 2008". The Act directs the President to establish a softwood lumber importer declaration program. The program requires U.S. importers of softwood lumber and softwood lumber products to take certain steps to help the United States and its trading partners ensure that trade in these products is consistent with the terms of any relevant international agreement.

As part of the program, U.S. importers must provide certain information about each shipment of softwood lumber or softwood lumber products at the time the importer files the entry summary documentation. The importer must also declare that the importer has made appropriate inquiries about the shipment and that, to the best of the importer's knowledge and belief, the imports of softwood lumber are consistent with certain terms of any relevant international agreement entered into by the country of export and the United States. The Act requires the Secretary of Treasury to

reconcile the transaction-specific information provided by the U.S. importer with transaction-specific information provided by the country of export to the United States, if any. Such reconciliation is to include any revised transaction-specific export prices provided by the country of export. The Secretary of Treasury must also periodically verify the accuracy of the importer declarations. The Act provides for the assessment of penalties against any person who knowingly violates the Act. The Act, however, holds harmless importers who have made appropriate inquiries and who maintain and produce substantiating documentation.

The Managers intend that the requirement for the importer to provide the estimated export charges, if any, is meant to apply to export charges estimated to be due at the time of shipment, recognizing that the exporter's final liability could increase or decrease at the time of final assessment.

The Managers intend that, in implementing the program, the President or his designee avoid placing an unnecessary burden on U.S. importers. In this respect, the Managers note that the statutory language creating the program neither includes nor references any authority for the President or his designee to establish user fees, processing fees, or any other fees of any kind. It is the intention of the Managers that any expenses associated with the administration of this program be covered with appropriated funds.

The Managers intend that this program meet all bilateral and multilateral obligations of the United States, including adherence to international rules and procedures regarding trade in softwood lumber. The Managers intend the program to be consistent with U.S. obligations under the Uruguay Round Agreements, including the General Agreement on Tariffs and Trade 1994, and any other bilateral or multilateral trade agreements to which the United States is a Party.

The Managers recognize the subject matter set forth in the Act falls under the jurisdiction of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

TITLE IV—NUTRITION PROGRAMS

(1) Renaming the Food Stamp Program

The House bill amends the Food Stamp Act of 1997 (FSA) by renaming the Food Stamp Program the Secure Supplemental Nutrition Assistance Program (SSNAP). Conforming amendments are made to other laws, documents, and records that reference either the Food Stamp Act or Food Stamp Program. (Section 4001)

The Senate amendment amends the short title of the FSA by renaming the Act the Food and Nutrition Act of 2007. It amends the renamed Food and Nutrition Act of 2007 to change the term "food stamp program" each place it appears to "food and nutrition program".

The Senate amendment also makes conforming amendments to other laws that reference the Food Stamp Act/program. (Section 4001, Section 4909)

The Conference substitute adopts the Senate provisions with an amendment to rename the Food Stamp Program as the "Supple-

mental Nutrition Assistance Program" and to incorporate these changes into section 4001; and to incorporate technical changes and conforming amendments necessary to reflect the new title of the program and Act into section 4002. (Section 4001; Section 4002)

(2) Definition of Drug Addition or Alcoholic Treatment and Rehabilitation Program

The House bill amends section 3(f) of the FSA by mandating that drug addiction or alcoholic treatment and rehabilitation programs meet the FSA's definition regarding such programs if the State Title XIX agency certifies that: the program is eligible to receive funds under Part B of Title XIX of the Public Health Service Act (even if no funds are being received); or is operating to further the purposes of Part B.

This section also provides that nothing in the FSA's definition of a drug addiction or alcoholic treatment and rehabilitation program is to be construed as requiring State or Federal licensure. (Section 4002)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision.

(3) Nutrition education

The House bill amends section 4(a) of the FSA by authorizing the Secretary, subject to appropriated funds, to administer the food stamp nutrition education program to eligible households.

Section 11(f) of the FSA is amended by specifically giving State agencies the discretion to implement nutrition education programs that promote healthy food choices that are consistent with the Dietary Guidelines for individuals who receive, or are eligible to receive program benefits.

States are given the discretion to deliver nutrition education directly to eligible recipients through agreements with the Cooperative State Research, Education and Extension Service and other State and community health and nutrition providers and organizations.

States wishing to provide nutrition education must submit a plan that identifies the uses of the funding for local projects and conforms to standards set forth by the Secretary in regulations or guidance.

States must, whenever practicable, notify applicants, participants, and eligible program participants of the availability of nutrition education.

The federal matching funds requirement is continued. (Section 4003)

The Senate amendment is the same as the House bill, with technical differences. (Section 4213)

The Conference substitute adopts the Senate provision. (Section 4111)

(4) Food distribution on Indian reservations

The House bill amends section 4 of the FSA by permitting the distribution of commodities, with or without the Secure Supplemental Nutrition Assistance Program, on Indian reservations

whenever a request is made for concurrent or separate food program operations by a tribal organization.

Tribal organizations are permitted to be responsible for the commodity distribution, should the Secretary determine that they are capable of doing so. The prohibition from approving plans that permit households to simultaneously participate in the SSNAP and FDPIR programs is continued.

An appropriation of $5,000,000 is authorized for fiscal years 2008 through 2012 for a traditional and local foods fund to distribute traditional and locally-grown foods, designated by region, on Indian reservations. At least 50 percent of the food distributed through the fund must be produced by Native American farmers, ranchers, and producers.

The Secretary is required to submit a report to Congress on the FDPIR food package. The report is to include: a description of the process for determining the contents of the food package; the extent to which the package conforms to the 2005 Dietary Guidelines for Americans; the extent to which the food package addresses nutritional and health challenges specific to Native Americans and the nutritional needs of Native Americans; and plans to revise the food package (or any rationale for not revising it). (Section 4004)

The Senate amendment is similar to the House bill with technical differences but: (1) provides that, subject to the availability of appropriations, the Secretary may purchase bison meat for distribution through FDPIR, and (2) requires the Secretary to survey participants to determine which traditional foods are most desired. (Section 4501)

The Conference substitute adopts the Senate provision with amendments to require that, where practicable, at least 50 percent of the food distributed through the traditional and locally grown foods fund be produced by Native American farmers, ranchers, and producers, and to require a report describing the activities carried out under the traditional and locally grown foods fund. (Section 4211)

(5) Excluding combat related pay from countable income

The House bill amends section 5(d) of the FSA by specifically excluding combat-related military pay when determining income for program eligibility and benefits. (Section 4005)

The Senate amendment is the same as the House bill, with technical differences. (Section 4101)

The Conference substitute adopts the Senate provision with an amendment to specify that the exclusion of combat-related military pay becomes effective on October 1, 2008. (Section 4101)

(6) Increasing the standard deduction

The House bill amends section 5(e)(1) of the FSA by increasing the minimum standard deduction and indexing it for inflation as measured by the Consumer Price Index (CPI–U).

The minimum standard deduction is raised to:

$145 (for the 48 contiguous States and the District of Columbia);

$248 (for Alaska);

$205 (for Hawaii);

$128 (for the Virgin Islands);
and $291 (for Guam).

The alternative minimum of 8.31 percent of the poverty guidelines is not changed.

On October 1, 2008 (and each October thereafter) the minimum dollar-denominated standard deductions (noted above) would be adjusted by the CPI–U change (for all items other than food) over the 12 months ending the previous June 30th (and rounded down to the nearest whole dollar). (Section 4006)

The Senate amendment amends section 5(e)(1) to increase the minimum standard deduction and index it for inflation as measured by the CPI–U.

The minimum standard deduction is raised to:

$140 (for the 48 contiguous States and the District of Columbia);
$239 (for Alaska);
$197 (for Hawaii);
$123 (for the Virgin Islands); and
$281 (for Guam).

As in the House bill, the alternative minimum of 8.31% of the poverty guidelines is not changed, and the amounts specified for the standard deduction would be adjusted for annual changes in the CPI–U and rounded down. (Section 4102)

The Conference substitute adopts the Senate provision with an amendment to increase the minimum standard deduction to:

$144 (for the 48 contiguous States and the District of Columbia);
$246 (for Alaska);
$203 (for Hawaii);
$127 (for the Virgin Islands); and
$289 (for Guam).

The Conference substitute indexes these amounts for inflation as measured by the CPI–U, rounded down and specifies that these increases become effective on October 1, 2008. (Section 4102)

(7) Deducting dependent care expenses

The House bill amends section 5(e)(3) of the FSA by removing the caps on dependent care deductions. (Section 4007)

The Senate amendment is the same as the House bill.

The Conference substitute adopts the House provision with an amendment to make the removal of the caps on dependent care deductions effective on October 1, 2008. (Section 4103)

(8) Adjusting countable resources for inflation

The House bill amends section 5(g) of the FSA by requiring that the resource (asset) dollar limits for SSNAP households be indexed. Limits are to be indexed annually for inflation (measured by the CPI–U) and adjusted to the nearest $100. (Section 4008)

The Senate amendment amends section 5(g) by increasing the dollar limits on financial resources that an eligible household may own to $3,500 (or $4,500 for households with elderly or disabled members), and requiring that they be indexed annually for inflation (measured by the CPI–U) rounded down and adjusted down to the nearest $250. (Section 4101(a))

The Conference substitute adopts the Senate provision with amendments to specify that the existing asset dollar limits be indexed annually for inflation as measured by the CPI–U and adjusted down to the nearest $250, to specify that such policy become effective on October 1, 2008, and to make other technical changes. (Section 4104)

(9) Excluding education accounts from countable income

The House bill amends section 5(g) of the FSA by excluding tax-qualified education savings as countable financial resources. (Section 4009)

The Senate amendment is the same as the House bill, with technical differences. (Section 4104(c))

The Conference substitute adopts the Senate provision with an amendment to specify that such exclusions become effective on October 1, 2008, and to make other technical changes. (Section 4104)

(10) Excluding retirement accounts

The House bill amends section 5(g) of the FSA by excluding all tax-qualified retirement accounts/savings as countable financial resources. (Section 4010)

The Senate amendment is the same as the House bill with technical differences. (Section 4104(b))

The Conference substitute adopts the Senate provision with an amendment to specify that such exclusions become effective on October 1, 2008; and to make other technical changes. (Section 4104)

(11) Simplified reporting

The Senate amendment amends section 6(c)(1) to allow States to require periodic reporting of changes in household circumstances (as opposed to reporting changes when they occur) by households with elderly/disabled members, migrant/seasonal farmworker households, and households in which all members are homeless. This provision limits the frequency with which these households must report changes (other than changes whereby they exceed the program's gross monthly income eligibility limits). Elderly/disabled households with no earned income are required to report no more often than once a year; migrant/seasonal farmworker and homeless households could be required to report no more often than once every 4 months. (Section 4105)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to specify that the simplified reporting policy change becomes effective on October 1, 2008. (Section 4105)

(12) Deobligate food stamp coupons

The House bill amends the FSA by prohibiting States from issuing coupons, stamps, certificates or authorization cards, effective upon enactment of the Farm Bill.

The House bill provides that, effective one year after enactment of this Act, only Electronic Benefit Transfer (EBT) cards will be eligible for exchange at retail food stores that participate in the SSNAP.

The House bill also provides that coupons will no longer be an obligation of the Federal government, effective one year after enactment of the Farm Bill, thereby requiring that coupons be redeemed within that one-year period. (Section 4011)

The Senate amendment is similar to House bill with technical differences but: (1) directs the Secretary to require a state agency to issue or deliver benefits using alternative methods if the Secretary determines, in consultation with the Inspector General, that it would improve the integrity of the food and nutrition program; and (2) provides that no interchange fees shall apply to electronic benefit transfer transactions under the food and nutrition program. It also makes necessary conforming amendments as in the House bill. (Section 4202, 4001)

The Conference substitute adopts the Senate provision with amendments to strike the study relating to the use of program benefits and to make other technical changes. While this provision does generally prohibit the use of coupons in the Supplemental Nutrition Assistance Program (SNAP), it is not the Managers' intention to prohibit States from issuing benefits in a form other than EBT cards as part of efforts through SNAP to provide food assistance to eligible individuals affected by a disaster. (Section 4115)

(13) Eligibility for single unemployed adults

The Senate amendment amends section 6(o) to lengthen the eligibility period for ABAWDs who are not working or in an employment/training or workfare program to 6 months in every 36-month period.

The Senate amendment eliminates the current provision of law under which an ABAWD who gains eligibility by meeting one of the 3 work-related tests, but subsequently fails to meet any of them, may remain eligible for an added 3 months. (Section 4107)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

(14) Transitional benefits

The Senate amendment amends section 11(s) to permit States to provide transitional food assistance benefits to households with children that cease to receive cash assistance under a *state-funded* public assistance program. (Section 4108)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to make the transitional benefits policy change effective on October 1, 2008. (Section 4106)

(15) Allow for the accrual of benefits

The House bill amends section 7(i) of the FSA by authorizing States to establish procedures for recovering electronically issued benefits from a household due to inactivity in the household's EBT account.

The House bill provides States with the discretion to recover benefits if an EBT account has been inactive for: (1) 3 months during which it continuously had a balance greater than $1,000 (adjusted for inflation); or (2) 12 months, whichever is less.

The House bill also provides that a household whose benefits are recovered must receive notice, and have its benefits made available again, upon request not less than 12 months after the recovery of the benefits. (Section 4012)

The Senate amendment amends section 7(i) of the FSA to (1) require that States establish procedures for recovering electronically issued benefits from inactive benefit accounts and allow them to store recovered benefits off-line if the household has not accessed the account after 6 months and (2) require States to expunge benefits that have not been accessed by a household for 12 months.

States would also be required to notify households of stored benefits and make them available not later than 48 hours after a household's request. (Section 4106)

The Conference substitute adopts the Senate provision. (Section 4114)

(16) Increasing the minimum benefit

The House bill amends section 8(a) of the FSA by increasing the amount of the minimum benefit for 1 and 2-person households to 10 percent of the inflation-indexed "Thrifty Food Plan" for a 1-person household. (Section 4013)

The Senate amendment is the same as the House bill except that the effective date is stipulated as October 1, 2008.

The Conference substitute adopts the House provision with an amendment to specify that the minimum benefit shall be equal to 8 percent of the maximum benefit for a household of one, and to make the increase in the minimum benefit effective on October 1, 2008. The Managers understand that the Thrifty Food Plan changes on a monthly basis, and expect that the minimum benefit, as amended by this provision, will be calculated on an annual basis. (Section 4107)

(17) State option for telephonic signature

The House bill amends Section 11(e)(2)(C) of the FSA by authorizing State agencies to establish a system for applicant households to sign an application by providing a recorded, verbal assent over the telephone.

The system must record the applicant's verbal assent, as well as the information to which the assent was given.

The State system is required to include safeguards against impersonation and identity theft.

The provision specifies that a household's right to apply for food stamps in writing not be precluded.

The provision further specifies that if there are any errors in the application, the applicant must return a copy of the application with instructions for correcting such errors.

Applicants must satisfy all the requirements associated with a written signature on an application to ensure that the verbal assent triggers the effective date of the submission of the application. (Section 4014)

The Senate amendment is the same as the House bill with technical differences.

The Conference substitute adopts the Senate provision. (Section 4119)

(18) Technical clarification regarding eligibility

The Senate amendment amends section 6(k) to require that the Secretary establish procedures to ensure that States use consistent procedures that disqualify individuals whom law enforcement authorities are actively seeking for the purpose of holding criminal proceedings. (Section 4201)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4112)

(19) Split issuance

The Senate amendment amends section 7(h) to require that any method for staggering the issuance of benefits throughout a month not include splitting any household's monthly benefit into multiple issuances—unless a benefit correction is necessary. (Section 4203)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. The Managers recognize that there may be situations in which individuals that leave a group home before the end of the month will still be eligible to receive program benefits. The Managers intend that, in such a situation, the Secretary interpret the term "benefit correction" to allow a second issuance of program benefits in a month. (Section 4113)

(20) Privacy protection

The Senate amendment amends section 11(e)(8) to clarify rules pertaining to the disclosure of information obtained from applicant households. The provision bars use of this information by persons having access for any purpose other than program administration/enforcement activities, and also makes clear that applicants' information may be used to comply with requirements for certifying schoolchildren as eligible for free school meals based on their family's eligibility for food and nutrition assistance program benefits. (Section 4205)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4120)

(21) Civil rights compliance

The Senate amendment amends section 11(c) to specify in law that administration of the program must be consistent with the rights of households under the Age Discrimination Act, section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and title VI of the Civil Rights Act. (Section 4207)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4117)

(22) Employment and training

The Senate amendment amends section 6(d)(4) to include—as an eligible employment and training program activity—job retention services provided (for up to 90 days after securing employ-

ment) to individuals who have received other employment/training services under the program.

The Senate amendment also modifies section 6(d)(4) to permit individuals voluntarily participating in employment and training programs to participate beyond the required maximum of 20 hours a week (or a number of hours based on their benefit divided by the minimum wage). (Section 4208)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to make the changes authorized by this provision effective on October 1, 2008. (Section 4108)

(23) Codification of access rules

The Senate amendment amends section 11(e)(1) to clarify that States must comply with the Secretary's regulations requiring the use of appropriate bilingual personnel and materials. (Section 4209)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 4118)

(24) Expanding the use of EBT at farmers markets

The Senate amendment requires the Secretary to make grants to carry out projects to expand the number of farmers' markets that accept Food and Nutrition program electronic benefit transfer (EBT) cards. Grants may not be made for ongoing costs and may only be provided to entities that demonstrate a plan to continue to provide EBT card access. Mandatory funding of $5 million is provided for these grants. (Section 4210)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision. Language incorporating the goals and objectives of the Senate provision appears in Section 10106 of the Horticulture and Organic Agriculture title.

(25) Review of major changes in program design

The House bill amends section 11(e)(6) of the FSA by specifying that only State agency Merit System employees are authorized to:

(1) represent the State in any communications with prospective food stamp applicants, food stamp applicants, or recipient households regarding their application or participation in the food stamp program;

(2) participate in making determinations regarding a household's compliance with the requirements of the FSA or its implementing regulations; or

(3) make any other determinations required under this section.

The provision specifies that non-profit agencies that assist low-income individuals and households in applying for SSNAP benefits by helping the individuals and households complete and submit applications are exempted. The non-profit exemption applies to general application assistance, which is currently allowed as a food

stamp outreach activity, and specialized projects that are operating under a waiver of the FSA and its implementing regulations.

State agencies are not prohibited from contracting for automated systems or issuance services or for assistance in verifying an applicant's identity.

Funds from any appropriations act are prohibited from being used for implementing or continuing any contract that fails to meet the specifications regarding State Merit System employees.

State agencies are prohibited from using Federal funds to: (1) perform or carry out contracts that fail to comply with the specifications regarding Merit System employees; or (2) pay any cost associated with the termination, breach, or full or partial abrogation of any contact that does not comply with the specifications regarding State Merit System employees.

State agencies are prohibited from conducting projects that fail to comply with the specifications regarding State agency Merit System employees.

State agencies are prohibited from privatizing food stamp eligibility determinations via the simplified food stamp program.

The Secretary of Agriculture may authorize a State agency, on a temporary basis, to use non-Merit State employees to determine eligibility for a disaster SSNAP program.

States have 120 days to bring any activities inconsistent with this section into compliance. (Section 4015)

The Senate amendment amends section 11(a) to clarify State responsibility for program administration (including cases where the program is operated on a state or locally-administered basis) and to require that program records kept to determine whether the State is in compliance with the Act/regulations, that such records be available for review in any action filed by a household to enforce the Act/regulations, and to specify that inspection and audit requirements are subject to privacy requirements contained elsewhere in the Food and Nutrition Act.

The provision also amends section 11(a) to require the Secretary to develop standards for identifying major changes in State agency operations—such as substantial increases in reliance on automated systems, or potential increases in administrative burdens placed on applicant or recipient households. It further mandates that, if a State implements a major change in operations, it must notify the Secretary and collect any information the Secretary needs to identify and correct any adverse effects on program integrity or access. (Section 4211)

The Conference substitute adopts the Senate provision. (Section 4116)

(26) Preservation of access and payment accuracy

The Senate amendment amends section 16(g) of the FSA to require that computerized systems for State program operations receiving federal matching payments must (1) be tested adequately before and after implementation (including through pilot projects evaluated by the Secretary), and (2) be operated under a plan for continuous updating (to reflect changed policy and circumstances) and testing (for effects on households and payment accuracy). (Section 4212)

The House bill has no comparable provision.

The Conference substitute accepts the Senate provision. (Section 4121)

(27) Grants for simple application and eligibility determination systems and improved access to benefits

The House bill provides no changes to the Secretary's authority to make grants and amends section 11(t)(1) of the FSA by extending the grant program through Fiscal Year 2012.

The Senate amendment amends section 11(t) of the Food and Nutrition Act to permanently extend the authority provided under that section. (Section 4801)

The Conference substitute adopts the Senate provision with an amendment to make technical changes and to link the authority for grants for simple application and eligibility determination systems and improved access to benefits to the availability of appropriations provided through section 18(a) of the Supplemental Nutrition Assistance Program (SNAP). The language for this provision is incorporated into a single section reauthorizing SNAP and other domestic nutrition assistance programs. (Section 4406)

(28) Civil money penalties and disqualification of retail food stores and wholesale food concern

The House bill amends section 12 of the FSA by increasing the civil money penalties for retail stores and wholesale food concerns to $100,000 for each violation of the FSA or its regulations. The requirement that a determination as to the assessment of civil money penalties be based on whether there would be hardship for recipient households is removed.

The provision stipulates that the period of disqualification:

(1) for a first violation is not to exceed 5 years; and

(2) for a second violation is not to exceed 10 years.

The provision does not change the permanent disqualification rules, or other requirements, governing applications containing false information.

The House bill requires the Secretary, in consultation with USDA's Inspector General, to establish procedures whereby participating food concerns may be immediately suspended for "flagrant violations," pending administrative and judicial appeal. Unsettled benefit claims would be subject to forfeiture—or returned to the food concern if the disqualification action is not upheld (without interest). (Section 4017)

The Senate amendment is the same as the House bill, with technical differences. (Section 4017) It also amends section 12 to generally ease the conditions under which bonds are required of violating food concerns wishing to be re-approved for participation. The Secretary would be permitted to require bonds from food concerns disqualified for 180+ days (or subjected to a civil money penalty in lieu of a 180+ day disqualification). Bonds could be required for a period of not more than 5 years. Where a food concern has been sanctioned and commits a subsequent violation, the Secretary may require a collateral bond or irrevocable letter of credit regardless of the length of the disqualification period. (Section 4303)

The Conference substitute adopts the Senate provision with an amendment to make technical changes. (Section 4132)

(29) Major systems failures

The House bill provides that no changes are made to the methods by which a State agency is authorized to collect overissuances of coupons.

The prohibition on the amount of the reduction in a household's monthly allotment that a State agency is allowed to collect in the instance where overissuance of coupons has occurred is continued.

Section 13(b) of the FSA is amended by providing the Secretary with the discretion to determine that a State agency has overissued benefits to a substantial number of households as the result of a "major systemic error" by the State.

A State agency is given the option to appeal the Secretary's determination. However, if the State agency fails to appeal the Secretary's determination, or, in the case of an appeal, if the State agency is held liable, the State agency is required to reimburse to the Secretary the amount for which the State agency is liable.

The Secretary is authorized to prohibit, upon making a determination that over-issuances have occurred, the State agency from collecting the over-issuances from some or all of the affected households. (Section 4018)

The Senate amendment is the same as the House bill, with technical differences.

The Conference substitute adopts the House provision. The Managers have provided the Secretary with discretionary authority to determine when it is appropriate to prohibit a State agency from collecting overissuances from households that have been affected by a major system failure. In certain instances, it may be appropriate for the Secretary to allow the State to collect overissuances from households. The Managers expect that the Secretary will exercise this authority judiciously, and further expect that in circumstances where a major systems failure is attributable to a specific and deliberate action by the State, that states will not be allowed to pass along the costs associated with such systems failures to households. (Section 4133)

(30) Funding for employment and training programs

The House bill provides no program changes. The funding level remains the same and is extended for each of the fiscal years 2008 through 2012. (Section 4019)

The Senate amendment amends section 16(h)(1) to limit the time unspent unmatched federal funding for employment and training program expenses may remain available to 2 years (as opposed to until expended). Also rescinds unspent employment and training program funds for any fiscal year before fiscal year 2008. It also provides permanent authorization for funding of employment and training programs. (Section 4304; Section 4801)

The Conference substitute adopts the Senate provisions with amendments to allow funds to remain available for 15 months rather than two years, to strike the requirement that any unobligated employment and training funds be rescinded, and to link the

authority for funding for employment and training programs to the availability of appropriations provided through section 18(a) of the Supplemental Nutrition Assistance Program (SNAP). The language from subsection (b) of section 4801 of the Senate amendment is incorporated into a single section reauthorizing SNAP and other domestic nutrition assistance programs. (Section 4122)

(31) Reductions in payments for administrative costs

The House bill amends section 16(k) of the FSA by extending the requirement to reduce State administrative cost payments through fiscal year 2012. (Section 4020)

The Senate amendment amends section 16(k) to permanently extend the requirement to reduce State administrative cost payments. (Section 4801)

The Conference substitute adopts the Senate provision with an amendment to make technical changes. The language for this provision is incorporated into a single section reauthorizing SNAP and other domestic nutrition assistance programs. (Section 4406)

(32) Performance standards for bio-metric identification technology

The Senate amendment amends section 16 of the FSA to establish the conditions under which the Secretary may pay States the federal share (50%) of costs associated with the acquisition and use of biometric identification technology (e.g., fingerprints, retinal scans). In order to gain federal cost-sharing, States must provide a statistically valid and otherwise appropriate analysis of the cost effectiveness of using biometric identification technology to detect program fraud, demonstrate that the proposed technology is cost effective in reducing fraud and that no other fraud-detection methods are at least as cost-effective, and demonstrate that the system will comply with privacy protection rules. (Section 4302)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

(33) Cash payment pilot projects

The House bill amends section 17(b)(1)(B)(vi) of the FSA by extending the authority for cash-payment pilot projects through October 1, 2012. (Section 4021)

The Senate amendment amends section 17(b)(1)(B)(vi) by permanently extending existing authority for cash-payment pilot projects to households whose members are 65 years old or entitled to SSI benefits. (Section 4801)

The Conference substitute adopts the Senate provision with an amendment for technical changes. The language for this provision is incorporated into a single section reauthorizing SNAP and other domestic nutrition assistance programs. (Section 4406)

(34) Findings of Congress regarding Secure Supplemental Nutrition Assistance Program education

The House bill contains Congressional findings regarding the Food Stamp Program noting that the FSA "plays an essential role in improving the dietary and physical activity practices of low-income Americans, [by] helping to reduce food insecurity, prevent[ing] obesity, and reduc[ing] the risks of chronic disease."

The Secretary is encouraged to support the most effective interventions for nutrition education under the FSA, including public health approaches and traditional education, to increase the likelihood that recipients and potential recipients of benefits under the SSNAP program choose diets and physical activity practices that are consistent with the Dietary Guidelines for Americans. (Section 4022)

The Senate amendment is the same as the House bill with technical differences.

The Conference substitute deletes both the House and Senate provisions. The Managers recognize that nutrition education plays an essential role in improving the dietary and physical activity practices of low-income individuals in the United States, helping to reduce food insecurity, prevent obesity, and reduce the risks of chronic disease. Expert organizations, such as the Institute of Medicine, indicate that dietary and physical activity behavior change is more likely to result from the combined application of public health approaches and education than from education alone.

The Managers expect that the Secretary will support and encourage implementation of the most effective methods, informed by current science, for nutrition education under the Food and Nutrition Act, including those that are consistent with recommendations and actions of expert bodies to promote healthy eating and physical activity behavior change. Funds provided under the Food and Nutrition Act should be used for activities that promote the most effective implementation of programs to increase the likelihood that recipients of, and those potentially eligible for, supplemental nutrition assistance program benefits will choose diets and physical activity practices consistent with the Dietary Guidelines for Americans. The Managers recognize that state nutrition education activities under the Food and Nutrition Act work best when coordinated with other federally funded food assistance and public health programs and when policies are implemented to leverage public/private partnerships to maximize the resources and impact of the programs.

(35) Eligibility disqualification

The Senate amendment amends section 6 of the FSA to disqualify (for a period determined by the Secretary) persons found by a court or administrative agency to have intentionally obtained cash by misusing program benefits to obtain money for return of deposits on containers. It also modifies section 6 to disqualify (for a period determined by the Secretary) persons found by a court or administrative agency to have intentionally sold any food that was purchased using program benefits. (Section 4305)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. The Managers do not intend for this provision to include inadvertent de minimis actions such as an individual who purchases a brownie mix with program benefits, then makes brownies and sells them at a school bake sale. (Section 4131)

(36) Definition of staple foods

The Senate amendment amends section 3 to (1) add dietary supplements to the list of accessory food items that are not classified as staple foods for the purpose of approving the participation of food concerns in the program, and (2) require the Secretary to issue regulations to ensure that adequate stocks of staple foods are available on a continuous basis in approved food concerns. (Section 4401)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

(37) Accessory food items

The Senate amendment amends section 9 of the FSA to require that, within 1 year of enactment, the Secretary issue proposed regulations defining dietary supplements: multivitamin-mineral supplements providing prescribed minimum amounts of essential vitamins and minerals that do not exceed prescribed daily upper limits and certain prescribed amounts of folic acid or calcium. Final regulations as to dietary supplements must be issued within 2 years of enactment. No dietary supplements may be purchased with program benefits until the earlier of (1) the date of final regulations with regard to dietary supplements, or (2) the date the Secretary certifies a voluntary system of labeling for identification of eligible dietary supplements. (Section 4402)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

(38) Nutrition education and promotion initiative to address obesity

The House bill amends section 17 of the FSA by adding a new section that authorizes the Secretary to establish a demonstration program, to be known as the "Initiative to Address Obesity Among Low-Income Americans," to develop and implement strategies to reduce obesity among low-income Americans.

The Secretary is authorized to enter into competitively awarded contracts, cooperative agreements, or grants with public or private organizations or agencies.

Agencies are required to submit applications to the Secretary, and the Secretary is to evaluate demonstration proposals using a variety of criteria, including: (1) identifying a low-income target audience that corresponds to individuals living with incomes at or below 185 percent of the poverty level; (2) incorporating scientifically-based strategies that are designed to improve diet quality through more healthful food purchases, preparation, or consumption; and (3) a commitment to a demonstration plan that allows for rigorous outcome evaluation, including data collection.

Projects that limit the use of SSNAP program benefits are prohibited from receiving funding. The Secretary is authorized to use funds to pay costs associated with monitoring, evaluating, and disseminating the Initiative's findings.

An appropriation of $10,000,000 is authorized for fiscal years 2008 through 2012. No new grants are to be made after September 30, 2012. (Section 4023)

The Senate amendment amends section 17 to require and fund pilot projects to develop and test methods of using the Food and

Nutrition program to improve the dietary and health status of participants and to reduce overweight, obesity, and associated comorbidities. Among other initiatives, projects may include those providing increased program benefits, increased access to farmers' markets, incentives to participating vendors to increase the availability of healthy foods, adding vendor approval requirements with respect to carrying healthy foods, point-of-purchase incentives to encourage program participants to buy fruits, vegetables, and other healthy foods, and providing integrated communication and education programs (including school-based nutrition coordinators).

These pilot health and nutrition promotion projects would include independent evaluations and annual reports on their status.

Mandatory funding of $50 million is provided, and up to $25 million must be used for point-of-purchase incentive projects. (Section 4403)

The Conference substitute adopts the House provision with amendments to specify that the purpose of the section is to carry out pilot projects to develop and test methods for improving the dietary and health status of households in the Supplemental Nutrition Assistance Program, as well as to reduce obesity and other diet-related diseases in the United States; specify the types of pilot projects that the Secretary may consider; include a requirement relating to evaluations and reports of the pilot projects; specify mandatory funding amounts and require that the Secretary use not more than $20 million of that mandatory funding to carry out a point-of-purchase pilot project to encourage households to purchase fruits, vegetables, or other healthy foods. (Section 4141)

(39) Hunger free communities

The Senate amendment requires the Secretary to conduct and periodically update a study of major matters relating to hunger in the United States. The study would assess data on hunger and food insecurity and measures that have been carried out or could be carried out to achieve goals of reducing domestic hunger. It also would contain recommendations for removing obstacles to domestic hunger goals and otherwise reducing domestic hunger.

The Senate amendment authorizes grants to food program service providers and local nonprofit organizations (like emergency feeding organizations) for the federal share (up to 80%) of projects that assess community hunger problems and meet, or develop new resources/programs to meet, goals for achieving hunger-free communities.

The provision authorizes matching grants to emergency feeding organizations for infrastructure development.

Appropriations of $50 million a year (through fiscal year 2012) are authorized. (Section 4405)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with amendments to strike the definition of food security; strike the study and report relating to hunger; specify that not more than 50 percent of the funds made available under this section be used for the federal share of collaborative grants; strike requirements relating to the contents of collaborative grants and priority for eligible

entities that meet certain criteria; and to make other technical changes. (Section 4405)

(40) State performance on enrolling children receiving program benefits for free school meals

The Senate amendment requires the Secretary to submit annual reports that assess the effectiveness and practices of each State in enrolling school-aged children in households receiving food stamp benefits for free school meals using "direct certification" (a current-law procedure allowing children in families receiving program benefits to be deemed automatically eligible for free school meals). (Section 4406)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to add the House Committee on Education and Labor to the list of recipients of the reports produced by the Secretary in accordance with this section. The Managers recognize the time and data constraints for developing the report scheduled to be provided on or before December 31, 2008, and expect that this report will include as much data as possible given such constraints. (Section 4301)

(41) Authorization of appropriations

The House bill amends section 18(a)(1) of the FSA by reauthorizing appropriations to carry out that Act through 2012. (Section 4024)

The Senate amendment amends section 18(a)(1) of the Food and Nutrition Act by permanently reauthorizing appropriations to carry out the Act. (Section 4801)

The Conference substitute adopts the Senate provision with an amendment to make technical changes and to extend authority for appropriations to carry out the Supplemental Nutrition Assistance Program (SNAP) through fiscal year 2012. The language for this provision is incorporated into a single section reauthorizing SNAP and other domestic nutrition assistance programs. (Section 4406)

(42) Consolidated block grants for Puerto Rico and American Samoa

The House bill amends section 19(a)(2)(A) of the FSA by extending to 2012 the Secretary's authority to provide funds to Puerto Rico and American Samoa to administer their nutrition assistance programs. (Section 4025)

The Senate amendment amends section 19(a)(2)(A)(ii) of the Food and Nutrition Act by permanently extending the Secretary's authority to provide funds to Puerto Rico and American Samoa to administer their nutrition assistance programs. (Section 4801)

The Conference substitute adopts the Senate provision with an amendment to make technical changes and to link the authority for consolidated block grants for Puerto Rico and American Samoa to the availability of appropriations provided through section 18(a) of the Supplemental Nutrition Assistance Program (SNAP). The language for this provision is incorporated into a single section reauthorizing SNAP and other domestic nutrition assistance programs. (Section 4406)

(43) Study on comparable access to nutrition assistance program benefits for Puerto Rico

The House bill amends section 19 of the FSA by authorizing the Secretary to conduct a study on the feasibility of including Commonwealth of Puerto Rico in the SSNAP program, in lieu of providing Puerto Rico with a block grant.

The study is to include, among other findings: (a) an assessment of the administrative, financial, and other changes that would be required for Puerto Rico to establish a comparable SSNAP program; (b) a discussion of the appropriate program rules under other sections of the FSA, such as benefit levels, income eligibility standards, and deduction levels for Puerto Rico to establish a comparable SSNAP program; (c) an estimate of the impact on Federal and Commonwealth benefit and administrative costs; and (d) an estimate on the impact of the SSNAP program on hunger and food insecurity among low-income Puerto Ricans. (Section 4026)

The Senate amendment is the same as the House bill (with technical differences), but provides mandatory funding of $1 million to conduct the study. (Section 4206)

The Conference substitute adopts the Senate provision. (Section 4142)

(44) Reauthorization of community food project competitive grants

The House bill continues the Secretary's authority to make grants. Section 25 of the FSA is amended by authorizing an appropriation of $30,000,000 a year through fiscal year 2012 for community food projects. The eligibility requirements remain unchanged.

Section 25 of the FSA is amended by expanding the list of preferences for selecting community food projects to include projects that are designed to serve special needs in the areas of: (1) emergency food service infrastructure; (2) retail access to underserved markets; (3) integration of urban and metro-area food production in food projects; and (4) technical assistance for youth, socially disadvantaged individuals, and limited resource groups.

The Federal share of the cost of establishing or carrying out a community food project is not to exceed 75 percent of the cost of the project during the time of the grant.

The maximum term of a grant is increased to 5 years.

No changes are made to the Secretary's authority.

The Secretary is required to allocate, for each of the fiscal years 2008 through 2012, out of the funds made available to carry out community food projects, $500,000 for the project to address common community problems.

The Senate amendment amends section 25 of the Food and Nutrition Act to provide $10 million a year in mandatory funding for community food projects, through fiscal year 2012.

The Conference substitute adopts the Senate provision with amendments to authorize the establishment of and provide a grant to the Healthy Food Urban Enterprise Development Center; to provide authority for the Center to provide subgrants to eligible entities for the purpose of carrying out feasibility studies, as well as to establish and facilitate enterprises that process, distribute, aggregate, store, and market healthy affordable foods; to provide mandatory funding of $1,000,000 a year for fiscal years 2009

through 2011 for the Center, and to incorporate these changes into section 4402. The Senate provision providing mandatory funding of $5 million a year for the Community Food Projects competitive grants appears in section 4406. (Section 4402; Section 4406)

(45) Emergency Food Assistance Program

The House bill amends section 27 of the FSA by increasing the Emergency Food Assistance Program (TEFAP) commodity purchase requirement. In fiscal year 2008, the Secretary is authorized to purchase a total of $250,000,000 in commodities; for fiscal years 2009 through 2012, the dollar amount is to be indexed annually for food-price inflation. (Section 4028)

The Senate amendment is substantially similar to the House bill with technical differences and without the requirement to index the base amount of $250 million per year. (Section 4110)

The Conference substitute adopts the Senate provision with amendments to increase mandatory funding to $190,000,000 in fiscal year 2008, $250,000,000 in fiscal year 2009 and subsequently indexed for food-price inflation during fiscal years 2010 through 2012. (Section 4201)

(46) Authorization of appropriations

The House bill amends section 204(a) of the Emergency Assistance Food Act of 1983 by increasing the authorization of appropriations to $100,000,000 a year, through fiscal year 2012. (Section 4201)

The Senate amendment amends section 204(a) of the Emergency Food Assistance Act by permanently increasing the authorization of appropriations to $100 million a year. It also requires that State TEFAP agencies submit operation and administrative plans every 3 years (as opposed to every 4 years under current law) and makes clear that funds may be applied to the cost of administering wild game donations. (Section 4802, 4601)

The Conference substitute adopts the Senate provisions with amendments to specify that amendments to State operation and administrative plans may be submitted as necessary; and to combine sections 4802 and 4601 into a single section. (Section 4201)

(47) Distribution of commodities special nutrition projects

The House bill provides that no changes are made to the mandate encouraging reprocessing agreements, with respect to surplus commodities.

Section 1114(a)(2)(A) of the Agriculture and Food Act (AFA) is amended by extending, through fiscal year 2012, the requirement for the Secretary to encourage reprocessing agreements. (Section 4202)

The Senate amendment is the same as House bill with technical differences. (Section 4802)

The Conference substitute adopts the Senate provision with an amendment for technical changes. The language for this provision is incorporated into a single section reauthorizing the Supplemental Nutrition Assistance Program and other domestic nutrition assistance programs. (Section 4406)

(48) Commodity Distribution Program

The House bill amends section 4(a) of the Agriculture and Consumer Protection Act of 1973 (ACPA) by extending the Secretary's authority through fiscal year 2012.

Section 5 of the ACPA is amended by extending through fiscal year 2012 the ACPA requirement concerning inflation-indexed caseload slot grants.

Section 5(d)(2) of the ACPA is amended by extending the requirement that the Commodity Credit Corporation (CCC) furnish cheese and nonfat dry milk for the Community Supplemental Food Program (CSFP) through fiscal year 2012.

Section 5(g) of the ACPA is amended by mandating that local agencies are to use funds made available under the CSFP to provide assistance to low-income elderly individuals, women, infants, and children in need for food assistance in accordance with any regulations the Secretary may prescribe. Conforming amendments are made stipulating that CSFP benefits are available to low-income elderly individuals.

Section 5 of the ACPA is further amended by requiring the Secretary to establish maximum income eligibility standards for the CSFP that are the same for all applicants. The standards are not to exceed the maximum income limits established for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)—i.e., 185 percent of the federal poverty income guidelines. (Section 4203)

The Senate amendment amends section 4(a) of the ACPA by permanently extending the Secretary's authority to purchase and distribute agricultural commodities for food assistance programs (including the Commodity Supplemental Food Program).

The Senate amendment permanently extends the ACPA requirement in section 5 for inflation-indexed caseload slot grants, and permits State to serve low-income elderly persons with income up to 185% of the federal poverty income guidelines, if the Secretary determines that annual appropriations have enabled every State seeking to participate in the CSFP to participate.

Section 4602 bars the Secretary from requiring any State or local CSFP program to prioritize assistance to a particular group of individuals that are low-income elderly persons or women, infants, and children. (Section 4802, 4602)

The Conference substitute adopts the Senate provisions with amendments to make technical changes to incorporate the reauthorization of the Commodity Supplemental Food Program into Section 4406; incorporate language relating to the prohibition on requiring State or local agencies to prioritize assistance to certain groups of individuals into section 4221. (Section 4406; Section 4221)

The Managers recognize the importance of the Commodity Supplemental Food Program (CSFP) as a critical nutrition program that serves primarily the vulnerable population of low-income elderly Americans. CSFP provides nutritious food, often in the form of food boxes for home delivery, that are designed to meet the dietary needs of seniors, women, and children in 32 states, two Indian tribal organizations, and the District of Columbia. In fiscal year 2007, 93 percent of the recipients were elderly individuals with an

annual income at or below $13,273. CSFP serves a unique niche by providing nutritious commodities to homebound seniors who are at severe risk for hunger.

The Managers fully support the continued operation of this program and recognize the need for a substantial expansion of the CSFP. The Managers note that there are five states that have currently been approved by USDA for entry into CSFP (Arkansas, Delaware, Oklahoma, New Jersey and Utah) subject to the availability of appropriations. Provided that sufficient funds are appropriated by Congress, the Managers encourage the Secretary to approve all remaining states for expansion and to expand caseload in all participating states.

(49) Periodic surveys of foods purchased by school food authorities

The Senate amendment amends section 6 of the Richard B. Russell National School Lunch Act to require periodic nationally representative surveys of food purchased by schools participating in the school lunch program. It also provides funding of $3 million for each survey. (Section 4901)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide one-time funding of $3,000,000 to carry out the section. (Section 4307)

(50) Healthy Food Education and Program replicability

The Senate amendment amends section 18(i) to provide that sponsored projects may promote healthy food education and that the Secretary must give priority to projects that can be replicated in schools. It also authorizes a new pilot project (at $10 million) in not more than 5 States under which grants are made to "high-poverty" schools for initiatives with hands-on gardening. No cost-sharing is required. (Section 4903)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to strike the authorization of appropriations to carry out the provision. (Section 4303)

(51) Purchase of fresh fruits and vegetables for distribution to schools and service institutions

The House bill amends section 10603 of the Farm Security and Rural Investment Act of 2002 (FSRIA) by increasing the dollar amount of fresh fruits, vegetables and other specialty foods the Secretary must procure for schools and service institutions participating in programs under the National School Lunch Act to at least $50,000,000 a year for each of the fiscal years 2008 and 2009 and $75,000,000 a year for each of the fiscal years 2010 through 2012. As under current law, these amounts may be spent through the Department of Defense (DoD) Fresh Program. (Section 4301)

The Senate amendment provides that, in lieu of purchases required under Sec. 10603, the Secretary purchase fruits, vegetables, and nuts for use in domestic food assistance programs using Section 32 funds.

Purchase amounts are set at: $390 million for fiscal year 2008, $393 million for fiscal year 2009, $399 million for fiscal year 2010,

$403 million for fiscal year 2011, and $406 million for fiscal year 2012 and each year thereafter.

Items purchased may be in frozen, canned, dried, or fresh form.

The Senate amendment also allows the Secretary to offer value-added products containing fruits, vegetables or nuts after taking into consideration whether demand exists for the value-added product and the interest of entities that receive fruits, vegetables and nuts under this program. (Section 4907)

The Conference substitute adopts the House language with an amendment to retain the current $50 million a year requirement to acquire fresh fruits and vegetables for distribution in accordance with section 6(a) of the Richard B. Russell National School Lunch Act. The Managers expect the purchases of fresh fruits and vegetables previously made through the Department of Defense Fresh Program will continue under an equivalent procurement mechanism. (Section 4404)

(52) Buy America requirements

The House bill includes Congressional findings that: (1) Federal law requires that commodities and products purchased with Federal funds be, to the extent practicable, of domestic origin; (2) Federal Buy American statutory requirements seek to ensure that purchases made with Federal funds benefit domestic producers; and (3) the School Lunch Act requires the use of domestic food products for all meals served under the program, including food products purchased with local funds. (Section 4302)

The Senate amendment is the same as the House bill, with technical differences. (Section 4906).

The Conference substitute adopts the House provision. (Section 4306)

(53) Expansion of Fresh Fruit and Vegetable Program

The House bill amends section 18(f) of the Richard B. Russell National School Lunch Act (NSLA) by expanding the fresh fruit and vegetable program in elementary and secondary schools. Mandatory funding is increased from $9,000,000 to $70,000,000 a year, and the program is to be available nationwide in: (A) 35 elementary and secondary schools in each State; and (B) additional elementary and secondary schools in each State in proportion to the student population of the State.

The Senate amendment replaces the current fresh fruit and vegetable program, beginning with the 2008–2009 school year. The new program would provide mandatory funding ($225 million in the first year, indexed for inflation in later years) and authorize additional appropriations for a program to make free fresh fruits and vegetables available in participating elementary schools nationwide.

Participating elementary schools would be selected by States with priority generally given to schools with the highest proportion of children eligible for free or reduced-price school meals, those that partner with entities that provide non-federal resources, and those that evidence efforts to integrate the program with other efforts to

promote sound health and nutrition, reduce overweight and obesity, or promote physical activity.

Funding would be allocated among States under a formula distributing roughly half of the funds equally among States and apportioning the remainder based on State population. At least 100 schools chosen to participate must be operated on Indian reservations. Per-student grants would be determined by the State but could not be less than $50, or more than $75, annually.

An evaluation is required and provided funding of $3 million to remain available until expended.

The Senate amendment changes the final report's due date to December 31, 2012.

The Secretary is authorized, in selecting schools to participate in the program, to encourage plans for implementation that include locally grown foods.

The Secretary is required to establish requirements to be followed by States in administering the Fresh Fruit and Vegetable Program—the initial set of requirements must be established not later than 1 year after the enactment.

The Secretary is allowed to reserve up to 1% of program funding for administrative expenses related to the program. States may use up to 5% of program funding for administrative expenses. (Section 4904)

The Conference substitute adopts the Senate provision with several amendments. The substitute deletes Senate language allowing a consortia of schools to apply for funding. The substitute includes a new requirement that state agencies administering the program initiate special outreach to schools with significant numbers of children eligible for free or reduced price meals informing them of their eligibility for the program. The substitute includes a new provision to ensure that states currently receiving funding under the program do not see a reduction in their funding as the program is phased in over time. The substitute includes an amendment which allows states to reserve funding for program administration, in accordance with regulations promulgated by the Secretary. And the substitute includes several provisions intended to aid the Secretary as the program transitions from the existing requirements of section 18(f) to the new requirements established by this section. Mandatory funding is provided through section 32 of the Act of August 24, 1935 in the amounts of $40,000,000 on October 1, 2008; $65,000,000 on July 1, 2009; $101,000,000 on July 1, 2010; $150,000,000 on July 1, 2011; $150,000,000 indexed for inflation according to the CPI–U on July 1, 2012. (Section 4304)

It is the intent of the Managers to specifically target available program funding to schools with the highest proportion of children who are eligible for free and reduced price meals, in accordance with (d)(1)(B). Accordingly, the Managers expect that, provided the rest of a school's application is acceptable, that a school with a higher proportion of children eligible for free and reduced-price meals will be selected to participate rather than a school with a lower proportion of children eligible for free and reduced-price meals.

As the name of the program makes clear, it is the intent of the program to provide children with free fresh fruits and vegetables.

It is not the intent of the Managers to allow this program to provide other products, such as nuts, either on their own or comingled with other foods, such as in a trail mix. The Managers support the inclusion of all fruits and vegetables in the federal nutrition programs where supported by science and will continue to work with the Department on promoting access to all fruits and vegetables.

(54) Purchases of locally produced foods

The House bill amends section 9(j) of the NSLA by authorizing the Secretary to:

(1) encourage institutions that receive funds under the NSLA and the Child Nutrition Act (CNA) to purchase, to the maximum extent practicable and appropriate, locally-produced foods;

(2) advise institutions about the policy related to purchasing locally-produced foods and post information related to this policy on the website maintained by the Secretary; and

(3) allow institutions receiving funds under the NSLA and the CNA, including the DoD Fruit and Vegetable Program, to use geographic preference in their procurement of locally- produced foods. (Section 4304)

The Senate amendment is the same as the House bill, except that Senate amendment pertains to locally produced fruits and vegetables. (Section 4902)

The Conference substitute adopts the House provision with an amendment to specify that the Department of Agriculture is required to allow institutions to use a geographic preference for the procurement of unprocessed, locally grown and raised agricultural products. (Section 4302)

The Managers do not intend that the Food and Nutrition Service interpret the term "unprocessed" literally, but rather intend that it be logically implemented. In specifying the term "unprocessed," the Managers" use of the term intends to preclude the use of geographic preference for agricultural products that have significant value added components. The Managers do not intend to preclude de minimis handling and preparation such as may be necessary to present an agricultural product to a school food authority in a useable form, such as washing vegetables, bagging greens, butchering livestock and poultry, pasteurizing milk, and putting eggs in a carton.

(55) Seniors Farmers' Market Nutrition Program

The House bill amends section 4402 of FSRIA by: (1) extending mandatory funding of $15,000,000 for the Senior Farmers' Market Nutrition Program through fiscal year 2012; and (2) authorizing additional appropriations of $20,000,000 for fiscal year 2008, $30,000,000 for fiscal year 2009, $45,000,000 for fiscal year 2010, $60,000,000 for fiscal year 2011, and $75,000,000 for fiscal year 2012.

Honey is added to the list of items to be covered by program vouchers.

The value of benefits provided to eligible Senior Farmers' Market Nutrition Program recipients is prohibited from being considered income or resources for any purposes under any Federal, State

or local law. State and local governments are also prohibited from collecting taxes on food purchased with vouchers distributed under the program. (Section 4401)

The Senate amendment amends section 4402 by permanently extending mandatory funding for the senior farmers' market nutrition program (at $15 million a year). It also mandates additional funding of $10 million a year.

Provisions regarding the treatment of senior farmers' market nutrition program benefits are the same as in the House bill. (Section (4701, 4702)

The Conference substitute adopts the House provision with an amendment to strike the authorization of additional appropriations to carry out the program, and to make other technical changes. The Senate provision requiring additional mandatory funds is adopted and appears in section 4405 with an amendment to increase current mandatory funding to $20,600,000 a year. (Section 4231)

(56) Congressional Hunger Center

The House bill amends section 4404 of FSRIA with provisions similar to those contained in current law. Provisions in this section differ from those in current law by authorizing annual appropriations of $3,000,000 a year, through fiscal year 2012, and by specifically naming the Congressional Hunger Center as the administering entity for Emerson and Leland fellowships. (Section 4402)

The Senate amendment is the same as the House bill, with technical differences and requires: 1) issuance of a grant from USDA to the Congressional Hunger Center to administer the program (as opposed to a contract in the House bill); and (2) an appropriations authorization set at "such sums as are necessary." (Section 4404)

The Conference substitute adopts the Senate provision with an amendment to strike language pertaining to congressional findings, and make other technical changes. (Section 4401)

(57) Joint Nutrition Monitoring

The House bill amends Subtitle D of Title IV of FSRIA by authorizing the Secretary of Agriculture, along with the Secretary of Health and Human Services, to continue to provide jointly for national nutrition monitoring and related research activities.

Among other duties, the two Secretaries are required to: (a) collect continuous dietary, health, physical activity, and diet and health knowledge data on a nationally representative sample; (b) periodically collect data on special at-risk populations as identified by the Secretaries; (c) distribute information on health, nutrition, the environment, and physical activity to the public in a timely fashion; (d) analyze new data that becomes available; (e) continuously update food composition tables; and (f) research and develop data collection methods and standards. (Section 4403)

The Senate amendment is the same as the House bill, with technical differences. Freestanding provision. (Section 7501)

The Conference substitute adopts the House provision with a technical amendment to structure the language as a freestanding provision. (Section 4403)

(58) Team Nutrition Network

The Senate amendment provides mandatory funding for Team Nutrition Network activities—$3 million a year through fiscal year 2012. (Section 4905)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

(59) Agricultural policy and public health

The Senate amendment requires the Government Accountability Office (GAO) to assess whether the agricultural policies of the U.S. have an impact on health, nutrition, overweight and obesity, and diet-related chronic disease. (Section 4908)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

(60) Sense of the Congress

The House bill expresses the sense of Congress that food items provided pursuant to the Federal School Meal Program should be selected so as to reduce the incidence of juvenile diabetes and to maximize nutritional value. (Section 4404)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision.

(61) Grain Pilot Program

The Senate amendment amends the Richard B. Russell National School Lunch Act to establish a pilot project to provide grain products in selected elementary and secondary schools. Funding of $4 million is provided—to be supplied from funds available for the senior farmers' market nutrition program and community food projects. (Section 4912)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with amendments to purchase whole grain products for distribution in the school lunch and breakfast programs; provide an evaluation of the pilot program; and to require that funding to carry out this program be utilized from funds made available under Section 32 of the Act of August 24, 1935. (Section 4305)

(62) Report on Federal hunger programs

The Senate amendment requires the Government Accountability Office (GAO) to submit a report that surveys all federal programs that seek to alleviate hunger or food insecurity or improve nutritional intake. (Section 4913)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

(63) Food Employment Empowerment and Development Program

The Senate amendment authorizes a "food employment empowerment and development" program under which grants would be made to encourage the effective use of community resources to combat hunger and the causes of hunger through food recovery and job training initiatives. (Section 4914)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision. The Managers note that the activities authorized under the Senate provision are eligible for funding under the Community Food Projects (CFP) competitive grants program, and encourage organizations seeking federal assistance to carry out such activities to submit an application for funding through CFP.

The Managers recognize the Community Food Projects (CFP) program is designed to provide one-time grant funding for projects that meet the food needs of low-income people, increase the self-reliance of communities in providing for their own food needs, and plan for long-term solutions to address such needs. The Managers acknowledge that the Food Employment Empowerment and Development (FEED) Program meets the requisite eligibility standards for funding under the CFP program.

The goal of the FEED Program is to encourage the effective use of community resources to combat hunger and the root causes of hunger by creating opportunity through food recovery and job training. In general, eligible participants of the FEED Program, such as school based programs, will focus their efforts in the following areas:

(1) Recovery of donated food from area restaurants, caterers, hotels, cafeterias, farms, or other food service businesses and distribution of meals or recovered food to nonprofit organizations.

(2) Training of unemployed and underemployed adults for careers in the food service industry.

(3) Carrying out of a welfare-to-work job training.

The Managers expect USDA to give full consideration to CFP grant applications that meet the goals of the FEED program.

(64) Infrastructure and transportation grants to support rural food bank delivery of perishable foods

The Senate amendment authorizes competitive grants—totaling $10 million a year through fiscal year 2012—to expand the capacity and infrastructure of food banks to improve their ability to handle "time-sensitive" (perishable) food products, to improve identification of potential providers of donated food, and to support the procurement of locally-produced food from small and family farms and ranches. (Section 4915)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with amendments to structure the provision as an amendment to the Emergency Food Assistance Act of 1983; provide a requirement that the Secretary use not less than 50 percent of grant funds for rural areas; specify authorized levels of appropriations; and to make other technical changes. (Section 4202)

(65) Reauthorization and application

The House bill extends the various expiring authorities through fiscal year 2012 in sections 4016, 4019, 4020, 4021, 4024, 4025, 4027, 4028, 4201, 4202, and 4203 of this Act, except for the authorization of appropriations for the nutrition information and awareness program established by Section 4403 of FSRIA. (Section

4016, 4019, 4020, 4021, 4024, 4025, 4027, 4028, 4201, 4202 and 4203)

The Senate amendment extends most expiring authorities indefinitely. Community food projects, authority in section 1114(a)(2) of the AFA, and the nutrition information and awareness program are extended through FY2012.

The Senate amendment also stipulates that, except as otherwise provided, the amendments made in the Nutrition title take effect April 1, 2008. It also provides that States may implement amendments made in Sections 4101 through 4110 beginning on a date determined by the State during the period between April 1 and October 1, 2008. States are given the option to implement amendments made by sections 4103 and 4104 for a certification period that begins not earlier than an implementation date between April 1 and October 1, 2008 (as determined by the State).

This section provides that the amendments made in sections 4101–4104, 4107–4109, 4110(a)(2), 4208, 4701(a)(3), 4801(g), and 4903 terminate September 30, 2012. (Section 4801, 4802, 4803, 4910, 4911)

The Conference substitute adopts the Senate provision with amendments for technical changes, to extend various expiring authorities through fiscal year 2012, and to link various expiring authorities to the availability of appropriations provided through section 18(a) of the Supplemental Nutrition Assistance Program (SNAP). The language for this provision is incorporated into a single section reauthorizing SNAP and other domestic nutrition assistance programs. (Section 4406)

(66) Study on purchases of food with program benefits

The Senate amendment requires GAO to conduct a study of the effects of a rule requiring that food stamp benefits only be used to purchase food included in the most recent thrifty food plan market basket. (Section 4202)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

TITLE V—CREDIT

(1) Farming experience

The Senate amendment amends section 302(a)(2) of the Consolidated Farm and Rural Development Act (Con Act) by clarifying that the Secretary may take into consideration all farming experience of a loan applicant when considering eligibility for farm ownership loans. (Section 5001)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 5001)

(2) Refinancing of guaranteed farm ownership loans for beginning farmers or ranchers

The Senate amendment amends Section 303 of the Con Act by allowing beginning farmers or ranchers to refinance a delinquent guaranteed farm ownership loan with a direct farm ownership loan. (Section 5002)

The House bill as no comparable provision.

The Conference substitute deletes the Senate provision.

(3) Conservation loan guarantee program

The House bill amends section 304 of the Con Act by creating a conservation loan guarantee program. The Secretary is authorized to provide loan guarantees and interest subsidies, or both, to farmers, ranchers, and other entities that are controlled by farmers and ranchers and primarily and directly engaged in agricultural production to carry out qualified conservation projects.

The Secretary is required to give priority to: qualified beginning farmers or ranchers; socially disadvantaged farmers or ranchers; owners or tenants who use the loans to convert to sustainable or organic agricultural production systems; and producers who use the loans to build conservation structures or establish conservation practices to comply with section 1212 of the Food Security Act of 1985.

The term "qualified conservation loan" is defined as a loan in which: the proceeds are used to cover the costs of the borrower in carrying out a qualified conservation project; the principal amount of the loan is not more than $1 million; the loan repayment period is 10 years; and the total amount of all processing fees does not exceed an amount to be prescribed by the Secretary.

The term "qualified conservation project" is defined as conservation measures that address provisions of the borrower's conservation plan.

The term "conservation plan" is defined as a plan, approved by the Secretary, that for a farming or ranching operation, identifies the conservation activities that will be addressed with the conservation loan, including the installation of conservation structures; the establishment of forest cover for sustained yield timber management, erosion control, or shelter belt purposes; the installation of water conservation measures; the installation of waste management systems; and the establishment of improvement or permanent pasture; compliance with section 1212 of the Food Security Act of 1985; and any other emerging or existing conservation practices, techniques, or technologies approved by the Secretary.

The amount of the interest subsidies the Secretary may provide is limited to 500 basis points, if the principal amount of the loan is less than $100,000; 400 basis points, if the principal amount of the loan is not less than $100,000 and is less than $500,000; and 300 basis points in all other cases.

The Secretary is prohibited from approving any application for the program unless the Secretary determines that the loan sought by the applicant, as described in the application, would be a qualified conservation loan, and the project for which the loan is sought is likely to result in a net benefit to the environment.

Necessary appropriations are authorized for each of the fiscal years 2008 through 2012. (Section 5001)

The Senate amendment amends section 304 of the Con Act. The transition to organic and sustainable farming practices is to be an eligible loan purpose. The implementation of one or more practices under the Environmental Quality Incentives Program is also to be an eligible loan purpose.

Beginning farmers or ranchers and socially disadvantaged farmers or ranchers are to be given priority in this program.

The loan restriction of $50,000 is eliminated. (Section 5003)

The Managers agreed to include the House provision in the Conference substitute, with an amendment. The amendment establishes a conservation loan and loan guarantee program where eligible borrowers may get a loan or loan guarantee to carry out qualified conservation projects. The Secretary shall guarantee 75 percent of the principle loan amount guaranteed under this program. It is the intent of the Managers that the loan program established in the section should complement financial assistance offered in the conservation title of this Act. In addition to the priorities established under the program, the Secretary shall give strong consideration to loan applicants who are awaiting funding under conservation programs authorized and established under title XII of the Food Security Act of 1985. (Section 5002)

Qualified conservation projects eligible to receive funding under this program must have a conservation plan that identifies the conservation activities that will be addressed by a loan made under this program. It is the Managers' view that conservation structures that address soil, water and related resources include sod waterways, permanently vegetated stream boarders and filter strips, wind breaks, shelterbelts, living snow fences, and other vegetative practices.

It is also the Managers' intent that the Farm Service Agency operating loan limitations established in section 312 of the Con Act are to apply to a loan or loan guaranteed under this program.

(4) Limitations on amount of ownership loans

The House bill amends section 305(a)(2) of the Con Act by setting the farm ownership loan limit at $300,000.

The Secretary is required to establish a plan, in coordination with the activities under section 359, 360, 361, and 362 of the Con Act, to encourage borrowers to graduate to private commercial or other sources of credit. (Section 5002)

The Senate amendment is the same as the House bill but has no comparable provisions requiring the Secretary to establish graduation criteria. (Section 5004)

The Conference substitute adopts the Senate provision. (Section 5003)

(5) Down payment loan program

The House bill amends section 310E of the Con Act by: including socially disadvantaged farmers or ranchers in the down payment loan program; setting the Farm Services Administration (FSA) portion of the loan at 45 percent; fixing the interest rate for the program at 4 percent below the regular direct farm ownership interest rate or 1 percent, whichever is greater; setting the duration of the loan at 20 years; requiring a borrower down payment of 5 percent; and setting the maximum price for the farm or ranch at $500,000.

The Secretary is authorized to establish annual performance goals to promote the use of the down payment loan program and other joint financing participation loans as the preferred choice for

direct real estate loans made by lenders to qualified beginning farmers or ranchers or socially disadvantaged farmers or ranchers. (Section 5003)

The Senate amendment amends section 310E of the Con Act by: allowing socially disadvantaged farmers or ranchers to be eligible for the down payment loan program; setting the FSA portion of the loan at 45 percent; and adjusting the interest rate for the down payment loan to the greater of 4 percent below the interest rate for the regular farm ownership loan or 2 percent.

The duration of the loan, the borrower payment, and the maximum price are the same as the House bill.

The Secretary is required to establish annual performance goals to promote the use of the down payment loan program and joint financing arrangements. (Section 5004)

The Conference substitute adopts the House provision with an amendment to adjust the interest rate to 4 percent below the regular direct farm ownership interest rate or 1.5 percent, whichever is greater. (Section 5004)

(6) Beginning farmer and rancher contract land sales program

The House bill amends section 310F of the Con Act by: expanding the beginning farmer and rancher contract land sales program to include socially disadvantaged farmers or ranchers; making the program permanent and expanding it nationwide; requiring program participants to provide a down payment of 5 percent of the purchase price of the farm or ranch; setting the maximum purchase price for the farm or ranch that is the subject of the contract land sale at $500,000; and setting the loan guarantee period, for a loan provided under this program, at 10 years.

The land seller is given the option of choosing either a prompt payment guarantee or a standard guarantee. A prompt payment guarantee consists of either three amortized annual installments or an amount equal to three annual installments (including an amount equal to the total cost of any tax and insurance incurred during the period covered by the annual installments. A standard guarantee plan covers an amount equal to 90 percent of the outstanding principle of the loan. (Section 5004)

The Senate amendment is the same as the House bill except socially disadvantaged farmers or ranchers are not added as eligible participants. In addition, the Senate amendment does have a standard guarantee plan. (Section 5006)

The Conference substitute adopts the House provision with amendment. The amendment clarifies that in order for a private seller to use the standard guarantee plan they must obtain a servicing agent who will be responsible for servicing activities associated with the contract land sale. Further, the amendment allows the Secretary to phase-in use of the standard guaranteed option. (Section 5005)

(7) Loans to purchase highly fractioned lands

The House bill amends section 1 of Public Law 91–229 (25 U.S.C. 488) by giving the Secretary of Agriculture the discretionary authority to make and insure loans, as provided in section 309 of the Con Act, to eligible purchasers of highly fractioned lands, pur-

suant to section 204(c) of the Indian Land Consolidation Act. (Section 5005)

The Senate amendment is the same as the House except it amends section 205(c) of the Indian Land Consolidation Act. (Section 5401)

The Conference substitute adopts the Senate provision. (Section 5501)

(8) Farming experience; direct operating loan term limitations

The Senate amendment amends section 311(a) of the Con Act by clarifying that the Secretary may take into consideration all farming experience of a loan applicant when considering eligibility for farm operating loans. The period that a participant is eligible for direct operating loan assistance is extended by 1 year. (Section 5105)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to delete the provision that extends the period of time a borrower is eligible for direct farm operating loan assistance. (Section 5101)

(9) Limitations on amount of operating loans

The House bill amends section 313(a)(1) of the Con Act by limiting the amount of an operating loan other than one guaranteed by the Secretary to $300,000. (Section 5012)

The Senate amendment includes the same provision as the House bill. (Section 5102)

The Conference substitute adopts the House provision. (Section 5102)

(10) Suspension of limitation on period for which borrowers are eligible for guaranteed assistance

The House bill amends section 5102 of the Farm Security and Rural Investment Act of 2002 (FSRIA) by suspending, until January 1, 2008, a limitation placed on the number of years that borrowers are eligible to receive guaranteed assistance on operating loans. (Section 5012)

The Senate amendment repeals section 319 of the Con Act. This section provides a limitation on the number of years a borrower is eligible to receive guaranteed assistance on operating loans. (Section 5103)

The Conference substitute adopts the Senate provision with amendment. The amendment extends the waiver on guaranteed operating loan term limits through December 31, 2010. (Section 5103)

(11) Beginning farmer and rancher individual development accounts

The Senate amendment amends the Con Act by adding an after section that establishes the New Farmer Individual Development Account Pilot Program (IDA). Its purpose is to match the savings of beginning farmers or ranchers to help them establish a pattern of savings and build assets which will help their long term farm viability.

The terms demonstration program, eligible participant, individual development account, qualified entity are defined. Subsection (a) creates definitions that will be used throughout this section.

The Secretary is authorized to establish a pilot program to be administered by the FSA in at least 15 states. Each qualified entity that receives a grant under the pilot program must provide a 25 percent non-Federal match of the grant awarded. An eligible participant will enter into a contract with a qualified entity that requires: a monthly deposit into a personal savings by the eligible participant; an agreement on the eligible expenditure for which the savings will be used when the contract is completed; and an agreed-upon match of not more than 3 to 1 for every dollar saved by the eligible participant provided by the eligible entity. An eligible participant cannot receive more than $9,000 in matching funds for each fiscal year of the contract.

The Senate amendment establishes an application process in which eligible entities receive a grant to administer the IDA program. When considering applications for the program, the Secretary is to give preference to qualified entities that have a track record of serving eligible participants and expertise in dealing with financial management aspects of farming. The maximum grant a qualified entity may receive is $300,000 to carry out the IDA program.

Qualified entities that receive a grant must submit, to the Secretary, an annual report that includes the following: an evaluation of the demonstration project's progress; the amounts in the reserve fund; the amounts deposited in each IDA; the amounts withdrawn from the IDA and the purpose for which the money was withdrawn; and information about the demonstration program and participants.

The Secretary is authorized to promulgate regulations that ensure the termination of pilot program and control of the reserve fund in case of early termination of a demonstration program.

An appropriation of $10,000,000 is authorized for each fiscal year 2008 through 2012. The Secretary is prohibited from using more than 10 percent of the funds made available to administer the program and provide technical assistance to qualified entities. (Section 5201)

The House bill has no comparable provisions.

The Conference substitute adopts the Senate provision with amendment.

The amendment increases the non-Federal match of the grant amount from 25 percent to 50 percent. Federal grant money used for administrative costs is limited to 10 percent. The amendment caps the savings match a qualified entity may provide under the program at not more than 200 percent of the participant's savings. Furthermore, the amendment reduces the maximum federal grant amount to $250,000. (Section 5301)

The Managers are aware that farmers over the age of 65 outnumber those below the age of 35 by more than 2 to 1. Access to credit and land are two of the largest problems facing beginning farmers or ranchers today. The increased cost of farmland, equipment, and other farm inputs have created a significant barrier to

farm entry. To ensure the future viability of U.S. farming, the Managers are aware of the need to develop public policies that address the unique challenges beginning farmers and ranchers face. The New Farmer Individual Development Accounts Pilot Program (IDA) is designed to help those with modest means save and build assets and enter the financial mainstream. This pilot program would assist beginning farmers or ranchers by using matched savings accounts, the proceeds of which may be used toward capital expenditures for a farm or ranch operation, including expenses associated with the purchase of farmland, buildings, equipment, livestock, infrastructure, or the acquisition of training. The Managers intend that the IDA established by a qualified entity for an eligible participant will be separate from the personal savings of the eligible participant. The IDA account and funding shall be controlled by the qualified entity. Upon completion of an IDA contract by an eligible participant, the qualified entity shall supply funds from the IDA account directly toward the eligible purchase on behalf of the eligible participant.

It is the Managers' intent that eligible participants must also complete financial training established by the qualified entity establishing the IDA for the participant. Such training may involve education and technical assistance related to budgeting, business planning, recordkeeping, banking, farm credit management, cash flow management, market development, equity investment, land access and land tenure options, and other similar financial training needs. It is the intent of the Managers that eligible entities may create their own financial management training programs or utilize curricula and training events of other organizations, businesses, and institutions. The Managers encourage FSA to coordinate with eligible entities who may want to make use of the borrower financial and farm management training programs established under Section 359 of the Con Act as part of their financial management training offering. The Managers believe when considering applications to carry out eligible demonstrations the term 'new farming opportunities' used in the application criteria means either starting a farm or converting to other production.

(12) Inventory sales preferences

The House bill amends section 335(c) of the Con Act by restoring the first priority given to socially disadvantaged farmers or ranchers whenever the Secretary sells or leases property. The Secretary is required to ensure that socially disadvantaged farmers or ranchers are included in the process whenever property is sold or leased. (Section 5021)

The Senate amendment amends section 335(c) of the Con Act by making socially disadvantaged farmers or ranchers eligible for inventory property in the first 135 days the Secretary is able to sell the inventory property. If one or more eligible socially disadvantaged or beginning farmers offer to purchase the same property in the first 135 days, the buyer is to be chosen randomly. (Section 5202)

The Conference substitute adopts the Senate provision. (Section 5302)

(13) Loan authorization levels

In section 346(b)(1) of the Con Act the Senate Amendment increases the loan authorization for FSA loan programs to $4,226,000,000.

Section 346(b)(2)(A) increases the loan authorization for direct loans to $1,200,000,000. The authorization for the direct farm ownership loan program is increased to $350,000,000, and the authorization for the direct operating loan program is increased to $850,000,000. (Section 5204)

The House bill has no comparable provisions.

The Conference substitute adopts the Senate provision. (Section 5303)

(14) Loan fund set-asides

The House bill amends section 346(b)(2)(A)(i)(I) of the Con Act by increasing the amount of direct farm ownership loans that the Secretary is to reserve for beginning farmers or ranchers to 75 percent. Of the funds reserved for beginning farmers or ranchers in the direct farm ownership program, 66 percent of those funds are reserved for the down payment loan program and joint financing arrangements.

Section 346(b)(2)(A)(ii)(III) of the Con Act is amended by increasing the amount of direct operating loans the Secretary is to make available to beginning farmers or ranchers to 50 percent.

Section 346(b)(2)(B)(i) of the Con Act is amended by increasing the amount of guaranteed farm ownership loans that the Secretary is to reserve for beginning farmers or ranchers to 40 percent. (Section 5022)

The Senate amendment is the same as the House provision. (Section 5204)

The Conference substitute adopts the Senate provision. (Section 5302)

(15) Transition to private commercial or other sources of credit

The House bill amends section 344 of the Con Act by requiring the Secretary, when making or insuring a real estate or operating loan, to establish regulations that have as their goal transitioning borrowers to other sources of credit, including private commercial credit, in the shortest practicable period of time. (Section 5023)

The Senate amendment is the same as House provision.

The Conference substitute adopts the House provision. (Section 5304)

(16) Interest rate reduction program

The Senate amendment amends section 351(a) of the Con Act by clarifying that interest assistance is to be available for new guaranteed operating loans or restructured guaranteed operating loans. (Section 5205)

The House bill has no comparable provisions.

The Conference substitute deletes the Senate provision.

The Managers are aware that the Secretary has amended regulations under the guaranteed loan program to limit the availability of interest rate reduction authorized under section 351 of the Con Act to new guaranteed operating loans. The Managers be-

lieve that non-statutory limitations in the program's regulations will deter the immediate availability of funds that may be appropriated in the future for interest rate reductions for other categories of guaranteed loans. It is the Managers' expectation that the regulations and policies for the guaranteed loan program should clarify that interest rate reduction may be available for all new and restructured guaranteed loans.

(17) Extension of the right of first refusal to reacquire homestead property to immediate family member of borrower-owner

The House bill amends section 352(c)(4)(B) of the Con Act by extending, in the case of a socially disadvantaged farmer or rancher, the right of first refusal to reacquire a homestead property to members of the immediate family of the borrower.

It allows, in the case of a socially disadvantaged farmer or rancher, for an independent appraisal of the property by an appraiser selected by the immediate family member of the borrower. (Section 5024)

The Senate amendment has no comparable provisions.

The Conference substitute adopts the House provision. (Section 5305)

(18) Deferral of shared appreciation recapture amortization

The Senate amendment amends section 353(e)(7)(D) of the Con Act by clarifying that deferral is an available servicing tool and limits any deferral to 1 year. (Section 5206)

The House bill has no comparable provisions.

The Conference substitute deletes the Senate provision.

The Managers are aware that under subsection (e)(7)(D) of section 353 of the Con Act, the Secretary has permitted borrowers to seek only re-amortization of amortized Shared Appreciation recapture payments despite the reference in that section to all "loan service tools under section 343(b)(3) [7 USC 1991(b)(3)]." It is the Managers' expectation that the Secretary will amend program regulations and policies to clarify that the full range of loan service tools set out in subsection (b)(3) of section 343 of the Con Act is available for modification of amortized Shared Appreciation recapture payments.

(19) Rural development and farm loan program activities

The House bill amends Subtitle D of the Con Act by prohibiting the Secretary from completing a study or entering into a contract with any private party to carry out, without a specific authorization in an Act of Congress, a competitive source activity of the Secretary, including USDA support personnel, relating to rural development or farm loan programs. (Section 5025)

The Senate amendment amends the Con Act by adding a new section, 365, that prohibits the Secretary from completing or entering into a contract with a private party to carry out competitive sourcing activities relating to rural development, housing, and farm loan programs at the United States Department of Agriculture. (Section 5207)

The Conference substitute adopts the House provision. (Section 5306)

The managers intend this provision to cover USDA's Rural Development mission area, including rural cooperative, business, housing, and energy programs.

(20) Technical correction

The Senate amendment amends section 3.3(b) of the Farm Credit Act (FCA) of 1971 by making a technical correction. It strikes "per" in the first sentence and inserts "par". (Section 5302)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 5402)

(21) Banks for cooperatives voting stock

The House bill amends section 3.3(c) of the FCA by authorizing the board of a bank for cooperatives to determine the terms and conditions for the issuance and transfer of bank voting stock to bank for cooperatives customers and other Farm Credit System associations.

A conforming amendment is made to section 4.3A(c)(1)(D) of the FCA to add to the list of borrowers eligible to hold voting stock under the bylaws of the banks for cooperatives persons and entities eligible to borrow from banks for cooperatives. (Section 5031)

The Senate amendment has no comparable provisions.

The Conference substitute adopts the House provision. (Section 5403)

(22) Confirmation of the Farm Credit Administration Chair

The Senate amendment amends section 5.8(a) of the FCA by requiring the advice and consent of the Senate for the confirmation of chairman of the Farm Credit Administration. (Section 5303)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

(23) Rural utility loans

The House bill amends section 8.0(9) of the FCA to allow rural utility loans (loans, or interest in a loan, for electric and telephone facilities) to be considered as "qualified loans". (Section 5032)

The Senate amendment amends section 8.0(9) of the FCA by adding a new subparagraph to allow rural utility loans (loans, or interest in a loan, for electric and telephone facilities) to be considered as "qualified loans" for Federal Agricultural Mortgage Corporation financing.

Section 8.6(a)(1) of the FCA is amended by making conforming and technical changes to the standards established under section 8.8(a) of the FCA related to agricultural real estate loans and rural utility loans.

Section 8.8(a) of the FCA is amended by authorizing the creation of appropriate underwriting, security, and repayment standards for agricultural mortgage loans and rural utility loans.

Minimum criteria standards are set for agricultural real-estate loans focused on individual borrower traits (loan-to-value ratio, sufficient cash flow, documentation standards, appraisal process, actively engaged in farming, speculation in real estate, and consider-

ation of real estate tax purposes). These standards do not apply to rural utility loans.

Loan amounts for agricultural production are established. The limitation does not apply to rural utilities loans. (Section 5306)

The Conference substitute adopts the Senate provision. (Section 5406)

(24) Farm Credit System Insurance Corporation

The House bill amends section 1.12(b) of the FCA to change the method that each Farm Credit System (FCS) bank must use to assess associations and other financing institutions to cover the costs of making Farm Credit System Insurance Corporation (FCSIC) premium payments under Part E of Title V of the FCA. FCS banks are required to compute the assessments on lenders in an "equitable manner."

Section 5.55(a) of the FCA is amended by mandating that the premiums due from System institutions will no longer to be collected annually when the aggregate amount in the Farm Credit Insurance Fund does not exceed the secure base amount. The premium due from any insured System institution is to be based on the average outstanding insured debt.

Section 5.55(b) of the FCA is amended by allowing the FCSIC to collect premiums more frequently than annually.

Section 5.55(c) of the FCA is amended by authorizing FCS banks to deduct a percentage of investments guaranteed by the Federal government and a percentage of investments guaranteed by State governments when calculating the secure base amount.

Section 5.55(d) of the FCA is amended by authorizing the FSCIC to use the principal outstanding on all loans made by an insured FCS bank or the amount outstanding on all investments made by an insured system bank for purposes of premium calculations and secure base amount calculations.

Section 5.55(e) of the FCA is amended by requiring the FCSIC to use year-end numbers in calculating excess funds, with respect to the secure base amount. The formula concerning payments from the Farm Credit Insurance Fund Allocated Insurance Reserve Accounts is simplified.

Section 5.56(a) of the FCA is amended by authorizing FCS banks to file certified statements quarterly.

Section 5.58(10) of the FCA is amended by clarifying that FCSIC has the authority to adopt rules and regulations concerning section 1.12(b) of Title I of the FCA, the "Authority to Pass Along Cost of Insurance Premiums." (Section 5033)

The Senate amendment amends section 1.12 (b) of the FCA to allow FCS banks to have flexibility in deciding how to pass along insurance premiums to their affiliates. This section specifies that premiums are to be computed in an equitable manner. (Section 5301)

The Senate amendment also amends section 5.55(a) of the FCA by allowing the total insured debt obligations on which premiums are assessed to be subtracted by 90 percent for investments guaranteed by the Federal government and 80 percent for investments guaranteed by State governments.

Section 5.55(b) of the FCA is amended by allowing the FCSIC to collect premiums more frequently than annually.

Section 5.55(c) of the FCA is amended by adjusting the outstanding insured obligations of all insured System banks by excluding an amount equal to the sum of 90 percent of federal government guaranteed loans and investments and 80 percent of state government-guaranteed loans and investments when calculating the "secure base amount".

Section 5.55(d) of the FCA is amended to determine the principal outstanding on all loans made by an insured System bank, or the amount outstanding on all investments made by an insured System bank, for the purpose of premium calculations and "secure base amount" collections.

Subsection 5.55(e) of the FCA is amended by allowing the Farm Credit System Insurance Fund to use year-end numbers rather than the average daily balance when calculating excess funds and simplifying the current formula concerning payments from the Allocated Insurance Reserve Accounts. (Section 5304)

Section 5.56(a) of the FCA is amended by allowing System banks to collect insurance premiums quarterly rather than annually. (Section 5305)

Section 5.58(10) of the FCA is amended to clarify that FCSIC has the authority to adopt rules and regulations concerning section 1.12(b) the FCA. (Section 5301)

The Conference substitute adopts the Senate provision with technical amendments. (Sections 5401, 5404, and 5405)

(25) Risk-based capital levels

The House bill amends section 8.32(a)(1) of the FCA by allowing FSCIC to calculate risk-based capital levels for rural electric and telephone loans. (Section 5034)

Section 8.32(a)(1) of the FCA is amended by creating a new subparagraph (B) that directs the FCA to establish a risk-based capital standard for rural utility loans. (Section 5306)

The Conference substitute adopts the Senate provision. (Section 5406)

(26) Farm Credit System equalization

The Senate amendment amends the FCA by establishing a new section, 7.7, which equalizes lending authorities among FCS associations in Alabama, Mississippi, and Louisiana.

The Federal Land Banks or Credit Associations are given the ability to make short- and intermediate-term loans, and Production Credit Associations are given the ability to make long-term loans. The new authorities can only be exercised if the board of directors of the association and a majority of voting stockholders approve.

The FCA is authorized to issue charter amendments to reflect the new lending authority. (Section 5307)

The House bill has no comparable provision.

The Conference substitution adopts the Senate provision. (Section 5407)

(27) Emergency loans for equine farmers and ranchers

The Senate amendment amends section 321(a) of the Con Act to allow equine farmers and ranchers to be eligible for FSA emergency loans. (Section 5404)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 5201)

The managers are aware that family farmers and ranchers who breed and raise horses are eligible for the FSA's emergency loan program. In order to be eligible for a loan under this section, the farmer or rancher must meet all of the relevant requirements of the Con Act, including the credit elsewhere test. The farmer or rancher must also be primarily engaged in the operation and must not have an operation larger than a family farm. Horse owners who use horses for racing, showing, recreation, or pleasure are not eligible for the emergency loan program. Further, the regulation that implements a specifically authorized equine disaster assistance program is not applicable to the change made by this provision.

(28) Operating loan assistance for commercial fisherman

The Senate amendment amends section 343(a)(1) of the Con Act by amending the definition of farmer and farming to include commercial fishing for the purposes of operating loans.

Section 343 of the Con Act is amended by adding a new subsection, (c) that defines farm to include a commercial fishing enterprise; the owner or operator of which is unable to obtain credit from a bank or other lender, as determined by the Secretary. (Section 6020)

The House bill has no comparable provision.

The conference substitute deletes the Senate provision.

TITLE VI—RURAL DEVELOPMENT

(1) Definition of rural

The House bill directs the Secretary to prepare and submit a report to the House and Senate Agriculture Committees that: (a) assesses the varying definitions of rural used by the U.S. Department of Agriculture (USDA); (b) describes what effect those varying definitions have on USDA programs; and (c) makes recommendations on ways to better target the funds provided through rural development programs. (Section 6001)

The Senate amendment amends section 343(a)(13) of the Consolidated Farm and Rural Development Act (Con Act) to provide a standard definition for "rural" and "rural area to exclude: (1) cities of 50,000 or more; (2) any urbanized area contiguous and adjacent to a city of 50,000 or more, except for narrow strips of urbanized areas; and (3) any collection of contiguous census blocks with a housing density of 200 housing units per square mile that is adjacent to a city of 50,000 or adjacent to an urbanized area, except for narrow strips of such territory. An exception to this definition is provided for Honolulu and Puerto Rico where cities and counties are coterminous. An applicant may appeal the determination of the Secretary with regard to the housing density factor.

The Senate amendment retains the rural area eligibility in current law for the water and waste disposal loans and grants program, as a city, town, or unincorporated area that has a population of no more than 10,000 inhabitants. For purposes of determining eligibility for Community Facility loans, the Senate amendment applies the standard definition's housing density requirement, thereby making the definition of rural for the purposes of eligibility for such loans any area that meets the standard definition's criteria and is less than 20,000 in population.

The Undersecretary for Rural Development may designate a place to be of rural character and include in that designation any cluster of census blocks that would otherwise be considered not in a rural area only because the cluster is adjacent to not more that 2 census blocks that are otherwise considered not in a rural area.

The Secretary is required to submit a report, once every 2 years, to the House and Senate Agriculture committees on the various definitions of "rural" and "rural area" that are used with respect to USDA programs, the effects the definitions have on those programs, and recommendations on how to better target funds provided through rural development programs.

The Senate amendment makes changes to other definitions. "Sustainable agriculture" is defined as a system of plant and animal production that will satisfy human food and fiber needs, enhance environmental quality and the natural resources, make efficient use of nonrenewable resources and integrate biological cycles and controls, sustain the viability of the farming operation, and enhance the quality of life for farmers and society. "Technical assistance" is defined as managerial, financial, operational, and scientific analysis and consultation. The definition of "farmer" and "farming" is amended to include commercial fishermen, and for the purpose of the Farm Service Agency operating loan program the definition of "farm" is amended to include a commercial fishing enterprise in which the owner or operator is unable to obtain commercial credit from a bank or other lender. (Section 6020)

The Conference substitute adopts the Senate amendment with several modifications. The housing density criterion in the Senate amendment is struck from the standard definition of "rural" and "rural area" and from Community Facilities Program eligibility. However, USDA is directed to conduct a rulemaking to develop additional restrictions on areas that consist of any collection of contiguous census blocks with a housing density of 200 housing units per square mile that is adjacent to a city of 50,000 or adjacent to an urbanized area. The exception for the standard definition of "rural area" for Honolulu and Puerto Rico is retained, as is the eligibility of isolated census blocks that would otherwise be considered nonrural simply because they are connected by not more that 2 census blocks to an urbanized area.

The eligibility for water and waste disposal loans and grants program and the community facility program are unchanged from current law.

To address urbanized area mapping complications, the Undersecretary for Rural Development is provided with the authority to determine a place to be of rural character if: (1) it is located in an urbanized area with localities at least 40 miles apart and not lo-

cated next to a city of more than 150,000 people; or (2) is within one-quarter mile of a rural/non-rural boundary. This authority may not be delegated and must be done in consultation with State rural development directors and Governors. The consideration of a petition for such a determination must be made public and is subject to appeal. A report must be submitted to the Congress annually on the use of this authority.

The Conference substitute adopts the Senate provision requiring a report, once every 2 years, on the definitions of "rural" and "rural area" that are used with respect to USDA programs, the effects the definitions on those programs, and recommendations on how to better target funds provided through rural development programs.

The Conference substitute strikes the definitions of technical assistance, sustainable agriculture, and the modifications made to "farmer" and "farming". (Section 6018)

The Managers have authorized the Secretary of Agriculture to make areas of the Commonwealth of Puerto Rico and the County of Honolulu, Hawaii eligible for Rural Development programs because the unique governmental structure of those entities prevents Census Bureau maps from adequately capturing the demographics of these island areas. The Managers do not expect the Secretary to provide access to rural development programs to areas that are urban or do not meet other requirements of the applicable programs, but do expect the Secretary to recognize areas that meet the intent and spirit of the law.

(2) Water, waste disposal and wastewater facility grants

The House bill extends the authorization for appropriations in section 306(a)(2)(A) of the Con Act through 2012. (Section 6002)

The Senate amendment is the same as the House bill. (Section 6001)

The Conference substitute adopts the House provision. (Section 6001)

(3) Rural business opportunity grants

The House bill extends the authorization of appropriations for 306(a)(11)(a) of the Con Act through 2012. (Section 6003)

The Senate amendment is the same as the House bill. (Section 6002)

The Conference substitute adopts the Senate provision. (Section 6003)

(4) Rural water and wastewater circuit rider program

The House bill amends section 306(a)(22)(A) of the Con Act by increasing the authorization of appropriations for the rural water and wastewater circuit rider program to $25,000,000 for each of the fiscal years 2008 through 2012. (Section 6004)

The Senate amendment increases the authorization to $20,000,000. (Section 6004)

The Conference substitute adopts the House provision. (Section 6006)

(5) Tribal college and university essential community facilities

The House bill amends section 306(a)(25)(B) of the Con Act by prohibiting the Secretary from requiring non-Federal financial support in an amount that is greater than 5 percent of the total cost of developing essential community facilities at tribal colleges and universities. The authorization is extended to 2012. (Section 6005)

The Senate amendment provides that the maximum Federal grant tribal colleges and universities may receive for the cost of developing essential community facilities in rural areas is 95 percent. The authorization is extended through 2012. (Section 6007)

The Conference substitute adopts the House provision. (Section 6007)

(6) Child day care facility grants, loans, and loan guarantees

The Senate amendment amends section 306(a)(19) of the Con Act (the community facilities program) by providing $40,000,000 in mandatory funding, to remain available until expended, starting in 2008. The Secretary is authorized to make grants, loans and loan guarantees to pay the Federal share of the cost of developing and constructing day care facilities for children in rural areas. The mandatory funding provided under this section is to be in addition to any other funds and authorities relating to development and construction of rural day care facilities. (Section 6003)

The House contains no comparable provision.

The Conference substitute provides that the program will not receive mandatory funding, but the current set-aside for this purpose in the community facility program will be extended from April 1 to June 1. (Section 6004)

(7) Community facility loans and grants for freely associated States and outlying areas

The Senate amendment reserves 0.5 percent of community facility loans and grants for freely associated States and outlying areas. If, after 180 days within a fiscal year, an insufficient number of applications have been received to account for 0.5 percent then the unused funds are to be reallocated to make loans and grants to otherwise eligible entities located in the States. (Section 6008)

The House contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers note the higher infrastructure costs faced by those in the freely associated States and outlying areas of the United States due to the very considerable distances involved in transporting building materials and equipment necessary for infrastructure projects to these areas. In addition, severe storms that are common to these areas cause repeated damage to infrastructure. USDA resources from the community facilities program and from the Rural Utilities Service programs can be of tremendous help in alleviating these serious problems. The Managers expect the Secretary to fully take into account the higher costs that are involved in infrastructure projects in this region and to provide assistance to allow improvements to infrastructure that will be resilient to storms and less likely to be damaged by them even though those costs of construction are higher.

(8) Priority for community facility loan and grant projects with high non-Federal share

The Senate amendment provides that priority will be given to community facility projects with non-Federal funding that is substantially greater than the minimum requirement. (Section 6009)

The House contains no comparable provision.

The Conference substitute deletes the Senate provision.

(9) Emergency and Imminent Community Water Assistance Grant Program

The House bill is the same as section 306A of the Con Act, which authorizes the Secretary to provide grants to assist residents in rural areas and small communities comply with the Water Pollution Control Act or the Safe Drinking Water Act. The authorization of appropriations remains the same and is extended through 2012. (Section 6006)

The Senate amendment provides the same as the House bill. (Section 6011)

The Conference substitute adopts the House provision. (Section 6008)

(10) Water systems for rural and native villages in Alaska

The House bill amends section 306D(d)(1)(a) of the Con Act by extending the authorization of appropriations through 2012. (Section 6007)

The Senate amendment provides that the Denali Commission may be eligible for grants to improve solid waste disposal sites that are contaminating or threatening to contaminate rural drinking water in the State of Alaska. The program is extended through 2013. (Section 6012)

The Conference substitute includes the House provision, with an amendment to provide a $1,500,000 authorization for each of the fiscal years 2008 through 2012 under the Solid Waste Disposal Act for the Denali Commission to provide assistance to municipalities in Alaska. (Section 6009)

(11) Grants to finance water well systems in rural areas

The House bill provides for an extension of the authorization of the program through 2012 and provides that the level of matching funds is not to be taken into account when determining priority in awarding grants. The payment by a grant recipient of audit fees, business insurance, salary, wages, employee benefits, printing costs, and legal fees associated with the purpose of the grant program is to be considered as the providing of matching funds by the grant recipient. (Section 6008)

The Senate amendment extends the program through 2012. (Section 6013)

The Conference substitute adopts the House provision with a modification to strike the change with respect to consideration of the matching fund levels, and to increase the limitation on the amount that can be expended on each well from $8,000 to $11,000. (Section 6010)

(12) Grants to develop wells in isolated areas

The Senate amendment amends section 306F of the Con Act by authorizing $10,000,000 for a new program for each of the fiscal years 2008 through 2012. The new program allows the Secretary to make grants to nonprofit organizations to develop and construct household, shared, and community wells in isolated areas when a traditional water system is not practical due to distance, geography and limited number of households present. Priority is given to applicants that have experience in developing similar types of wells in rural areas. As a condition of receipt of a grant, the water from the well is to be tested annually for quality and the results made available to well users and the appropriate State agency. The grant amount is limited to an amount not to exceed the lesser of $50,000 and the amount that is 75 percent of the costs of a single well and associated system. Grants are prohibited in areas where a majority of users' household incomes exceed the nonmetropolitan median household income. (Section 6013)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(13) Rural cooperative development grants

The House bill amends section 310B(e)(5) of the Con Act by authorizing the Secretary to give preference to grant applications that—

(A) demonstrate a proven track record in administering activities to promote and assist in the development of cooperatively and mutually owned businesses;

(B) demonstrate previous expertise in providing technical assistance in rural areas to promote and assist in the development of cooperatively and mutually owned businesses;

(C) demonstrate the ability to assist in the retention of businesses, facilitate the establishment of cooperative and new cooperative approaches, and generate employment opportunities that will improve the economic conditions in rural areas;

(D) commit to providing technical assistance and other services to underserved and economically distressed areas in rural areas of the U.S.;

(E) demonstrate a commitment to—

(i) networking with and sharing the results of its efforts with other cooperative development centers and other organizations involved in rural economic development efforts; and

(ii) developing multi-organization and multi-State approaches to address the cooperative and economic development needs of rural areas; and

(F) commit to provide a 25-percent matching contribution with private funds and in-kind contributions, except that the Secretary is prohibited from requiring non-Federal financial support in an amount that is greater than 5 percent in the case of a 1994 institution.

The Secretary is authorized to award 1-year grants to centers that have not received prior funding and evaluate programs that receive grant funding. The Secretary is given the discretion to award grants for a period of more than 1 year, but not more than

3 years, to programs that the Secretary determines are meeting the criteria of the program. The Secretary is also given the discretion to extend for only 1 additional 12-month period the period in which a grantee may use a grant made under this section. The Secretary is authorized to enter into a cooperative research agreement with one or more qualified academic institutions for the purpose of conducting research on the national economic effects of all types of cooperatives.

The Secretary is authorized to reserve 20 percent of appropriated funds for grants for cooperative development centers, individual cooperatives, or groups of cooperatives serving socially disadvantaged communities when the appropriated funds for a fiscal year exceed $7,500,000. If the Secretary determines the number of applications received for this purpose is insufficient, the Secretary is authorized to use the funds for the purposes outlined in this section.

The current law authorization is retained and extended through 2012. (Section 6009)

The Senate amendment is the same as the House bill except that it requires the Secretary to award multi-year grants to programs that the Secretary determines meet the parameters of the program and provides a definition for the term socially disadvantaged. (Section 6015)

The Conference substitute adopts the Senate provision with minor changes. (Section 6013)

(14) Criteria to be applied in providing loans and loan guarantees under the business and industry loan program

The House bill amends section 310B(g) of the Con Act by authorizing the Secretary, in providing loans and loan guarantees under the Business and Industry Loan Program, to consider applications more favorably—when compared to other applications—when the project described in the application supports community development and farm and ranch income by marketing, distributing, storing, aggregating, or processing locally or regionally produced agricultural product.

A "locally or regionally produced product" is defined to mean an agricultural product: (1) which is produced and distributed in the locality or region where the finished product is marketed; (2) which has been shipped a total of distance of 400 or fewer miles, as determined by the Secretary; and (3) about which the distributor has conveyed to the end-use consumers information regarding the origin of the product or production practices, or other valuable information. (Section 6010)

The Senate amendment authorizes the Secretary to make loans and loan guarantees to individuals, cooperatives, businesses, and other entities to establish and facilitate enterprises that process, distribute, aggregate, store, and market locally-produced agricultural food products.

The term "locally-produced agricultural food product" is to mean an agricultural product that is raised, produced, and distributed within the locality or region and that is transported less than 300 miles from the origin of the agricultural product or the State in which the agricultural product is produced.

The term "underserved community" is to mean an urban, rural, or Indian tribal community that has, as determined by the Secretary: (i) limited access to affordable, healthy foods, including fresh fruits and vegetables, in grocery retail stores or farmer-to-consumer direct markets or a high incidence of diet-related disease as compared to the national average, including obesity; and (ii) a high rate of food insecurity or a high poverty rate.

The priorities for awarding loans and loan guarantees under this program are for projects that support community development and farm and ranch income by marketing, distributing, storing, aggregating, or processing a locally produced agricultural product; or for projects that have components benefiting underserved communities, as defined in this section.

The recipients of loans and loan guarantees may use up to $250,000 in loan or loan guarantee funds per retail or institutional facility to modify and update facilities to accommodate locally-produced agricultural food products and to provide outreach to consumers about the sale of locally-produced agricultural food products.

The Secretary is required to submit an annual report to the House and Senate Agriculture Committees that describes the projects carried out using loans and loan guarantees provided under this program. The report is to include the characteristics of the communities served and benefits of the projects. (Section 6017)

The Conference substitute adopts the Senate provision with modifications. The distance for which a product can travel and still be considered for the program is extended to 400 miles. "Underserved community" is defined as an urban, rural, or Indian tribal community that has, as determined by the Secretary: (i) limited access to affordable, healthy foods, including fresh fruits and vegetables, in grocery retail stores or farmer-to-consumer direct markets; and (ii) a high rate of food insecurity or a high poverty rate. Priority for the program is given to entities proposing to provide product to underserved communities.

The Conference substitute does not include the Senate provision allowing recipients to redistribute loan or loan guarantee proceeds to retail or institutional facilities. However, the Managers expect recipients of business and industry loans and loan guarantees under this section to include applicants who propose to work with retail establishments in underserved communities to supply items to promote and ensure the salability of the locally-produced agricultural food product. (Section 6015)

The Managers expect the Administrator of the Rural Business Cooperative Service to work in coordination with the Administrator of the Agricultural Marketing Service on implementation of this program.

The Managers are aware of the increased demand for locally and regionally produced foods. Although demand exists for locally and regionally produced foods, producers in many parts of the country have difficulties finding markets and processing facilities as well as and establishing distribution channels. In many instances, retail outlets are not interested in buying from smaller volume producers because they cannot provide sufficient and consistent supply of food products. The Managers expect this section

to help bridge the gap between the production of locally and regionally produced agricultural food products and the processing and distribution of those products. A distributor could work with several farmers in an area and build the necessary relationships with small, medium or large retail outlets, schools, hospitals or other institutions to provide a marketing channel for locally and regionally produced foods.

(15) Cooperative equity security guarantee

The Senate amendment amends section 310B of the Con Act to allow Business and Industry guarantees for loans made for the purchase of preferred stock or similar equity issued by a cooperative organization or a fund that invests primarily in cooperative organizations. (Section 6014)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with technical changes. (Section 6012)

(16) Appropriate technology transfer for rural areas

The House bill provides for the establishment of a national technology transfer program for rural areas to assist agricultural producers that are seeking information to help them: (1) reduce their input costs; (2) conserve their energy costs; (3) diversify their operations through new energy crops and energy generation facilities; and (4) expand markets for their agricultural commodities through the use of sustainable farming practices. The Secretary is authorized to carry out the program by making a grant or entering into a cooperative agreement with a national non-profit agricultural assistance organization. A grant or cooperative agreement entered into is to provide 100 percent of the cost of providing information. The program is authorized at $5,000,000. (Section 6011)

The Senate amendment is substantially similar to the House bill. (Section 6018)

The Conference substitute adopts the Senate provision with minor changes to elaborate on the purpose of the program. (Section 6016)

(17) Grants to improve technical infrastructure and improve quality of rural health care facilities

The House bill authorizes a grant program for rural health facilities to assist such facilities in: purchasing health information technology to improve quality health care and patient safety or, improving health care quality and patient safety, including the development of: a) quality improvement support structures to assist rural health systems and professionals; and (b) innovative approaches to financing and delivery of health services to achieve rural health quality goals. (Section 6012)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(18) Rural hospital loans and loan guarantees

The Senate amendment provides $50,000,000 in mandatory funding in fiscal year 2008, to remain available until expended, for loans and loan guarantees for rehabilitating and improving hos-

pitals with not more than 100 acute beds in rural areas. Not less than $25,000,000 is to be allocated to hospitals with fewer than 50 beds. (Section 6006)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(19) Rural Entrepreneur and Microloan Assistance Program

The House bill provides for the establishment of a rural entrepreneurship and microenterprise grant and loan program, authorized for $20,000,000 per year for each of the fiscal years 2008 through 2012. Grants may be made to qualified organizations to: (i) provide training, operations support, or rural capacity-building services to qualified organizations to assist them in developing microenterprise training, technical assistance, market development assistance, and other related services; (ii) assist in researching and developing best practices in delivering training, technical assistance, and microcredit to rural entrepreneurs; and (iii) carry out other projects that the Secretary deems to be consistent with the purposes of the program. As a condition of receiving a grant, the qualified organization is required to match not less than 25 percent of the total amount of the grant. In addition to cash from non-Federal sources, the matching share may include indirect costs or in-kind contributions funded under non-Federal programs.

A rural microloan program is established to: (i) make loans to qualified organizations for the purpose of making short-term, fixed interest rate microloans to startup, newly established, and growing rural microbusiness concerns; and (ii) in conjunction with the loans, provide grants for the purpose of providing intensive marketing, management, and technical assistance to small businesses. The term of the loan is to be 20 years and the loan is to bear an annual interest rate of at least 1 percent. The Secretary has the discretion to defer payments, both principal and interest, for 2 years beginning on the date the loan is made. The amount of a grant given in connection with the loan program is not to be more than 25 percent of the total outstanding balance of the loan the organization received and, as a condition of receiving a grant, the qualified organization is required to match not less than 15 percent of the total amount of the grant.

No more than 10 percent of the assistance received by a qualified organization is to be used to pay administrative expenses. An organization that receives either a rural entrepreneurship and microenterprise grant or a rural microloan has to provide the Secretary any information that the Secretary requires to ensure that the grant or loan is being used for its intended purposes. (Section 6013)

The Senate amendment amends Subtitle D of the Con Act by authorizing the Secretary to establish a Rural Microenterprise Program to provide low- or moderate- income individuals with the skills necessary to establish a new rural microenterprise and to continue technical and financial assistance to rural microenterprises. The Senate and House sections are substantially similar; however, the Senate section requires the Secretary to ensure that grant recipients include microenterprise development organizations

of varying sizes and that serve racially and ethnically diverse populations.

Mandatory funding of $40,000,000, to remain available until expended, is provided starting in fiscal year 2008. Not less than $25,000,000 of the funds provided are to be used to carry out grants for the Rural Microenterprise Program. Not less than $15,000,000 of the funds provided are to be used to carry out the Rural Microloan Program; of that amount, not more than $7,000,000 is to be used to support direct loans. In addition to mandatory funding, an authorization of appropriations is provided for each of fiscal years 2009 through 2012 to carry out this program. (Section 6022)

The Conference substitute adopts the House provision with modifications. The Conference substitute strikes as an eligible use of program funding research and development of best practices in delivering training, technical assistance and microcredit to rural microenterprises. Additionally, the Conference substitute provides $15,000,000 in mandatory funding, to remain available until expended, in the following years: fiscal year 2009 ($4,000,000); fiscal year 2010 ($4,000,000); fiscal year 2011 ($4,000,000); and fiscal year 2012 ($3,000,000). (Section 6022)

The Managers intend that the Microentrepreneur Assistance Program will be used to assist microenterprises located in rural areas. However, a microenterprise development organization receiving assistance under the program need not be located in a rural area to be eligible to participate. A microenterprise development organization is eligible so long as the organization provides assistance to microentrepreneurs located in rural areas, facilitates access to capital for a microenterprise in a rural area, or has a demonstrated record of delivering services to microentrepreneurs located in a rural area.

In addition, in making grants available to microenterprise development organizations to support microenterprise development, the Managers intend that the Secretary shall not require an organization to have received a loan in order to receive a grant under subsection (b)(4)(a).

(20) Criteria to be applied in considering applications for rural development projects.

The House bill amends subtitle D of the Con Act by authorizing the Secretary to review the income demographics, population density, and seasonal population increases, and other factors as determined by the Secretary, for eligible communities that submit applications for rural development programs authorized or modified by title VI of the 2007 Farm Bill, or section 306, 306A, 306C, 306D, 306E, 310(c), 310(e), 310B(b), 310B(c), 310B(e), or 370B, or subtitles F, G, H, or I, of the Con Act.

The Secretary is authorized to issue regulations to establish the limitation that a rural area cannot exceed in order to remain eligible for rural development funds. (Section 6014)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(21) National sheep industry improvement center

The House bill provides for the continuation of the National Sheep Industry revolving fund to promote strategic development activities and collaborative efforts to strengthen and enhance the production and marketing of sheep or goat products in the United States; by optimizing the use of available human capital and resources within the sheep and goat industries, and adopting flexible and innovative approaches to solving the long-term needs of the U.S. sheep or goat industry.

The House bill eliminates the requirement that the National Sheep Industry Improvement Center be required to privatize its revolving fund and authorizes appropriations of $10,000,000 for each of the fiscal years 2008 through 2012. (Section 6015)

The Senate amendment renames the program as the National Sheep and Goat Industry Improvement Center. The Senate amendment also eliminates the requirement that the National Sheep Industry Improvement Center be required to privatize its revolving fund. The Senate amendment provides for new mandatory funding of $1,000,000 for fiscal year 2008, to be available until expended, and authorizes $10,000,000 for each of the fiscal years 2008 through 2012 for infrastructure development, business planning, production, resource development and market and environmental research. (Section 11009)

The Conference substitute adopts the Senate provision with modifications. It retains the existing name of the Center and provides $1,000,000 in mandatory funds for the Center. (Section 11009 of the Livestock Title)

(22) National rural development partnership

The House bill extends authorization through 2012. (Section 6016)

The Senate amendment extends the authorization to 2012 and amends subsection (h) of section 378 of the Con Act by establishing the termination date for this authority as September 30, 2012. (Section 6024)

The Conference substitute adopts the House provision. (Section 6019)

(23) Historic barn preservation

The House bill amends section 379A(c) of the Con Act by extending the authorization for this program through 2012 and providing that the Secretary, in making grants, is to give the highest priority to funding projects that identify, document, and conduct research on historic barns and that develop and evaluate appropriate techniques or best practices for protecting historic barns. (Section 6017)

The Senate amendment establishes that a grant may be made to an eligible applicant for "eligible projects" that rehabilitate or repair historic barns; preserve historic barns; and identify, document, survey, and conduct research on historic barns or farm structures and that evaluate techniques or best practices for protecting these structures. (Section 6025)

The Conference substitute adopts the House provision with technical changes. (Section 6020)

(24) NOAA weather transmitters

The House bill is the same as section 379B of the Con Act. The authorization remains the same and is extended through 2012. (Section 6018)

The Senate amendment is identical to the House bill. (Section 6026)

The Conference substitute adopts the House provision. (Section 6021)

(25) Delta Regional Authority

The House bill provides for the extension of the Delta Regional Authority (DRA) to 2012. (Section 6019)

The Senate amendment provides for the extension of the (DRA) and also authorizes the Secretary to award grants to the Delta Health Alliance (DHA) for the development of health care services, health educational programs, health care job training, and for public health facilities in the Delta region. The DHA must solicit input from local governments, public health care providers and other entities in the Mississippi Delta region. (Section 6029)

The Conference substitute adopts the House provision with modifications to add counties to the eligible region for the DRA. (Section 6025) In addition, the Conference substitute establishes a separate section called Health Care Services, which authorizes $3,000,000 annually for each of fiscal years 2008 through 2012 for healthcare services in the Delta Region to be provided by a consortium of regional institutions. (Section 6024)

The Managers note that, for the purposes of the Delta Health Care Services provision, the term "Delta region" refers to the Mississippi River Delta region. The Managers recognize the serious unmet health needs in this region and authorize this program with the goal of promoting collaboration among entities that are working in the region to provide access to quality health care.

(26) Northern Great Plains Regional Authority

The House bill provides for an extension of the Northern Great Plains Regional Authority (NGPRA), which provides funding for programs and projects designed to serve the needs of distressed counties and isolated areas of distress in the States of Iowa, Minnesota, Nebraska, North Dakota and South Dakota. The House bill broadens the Authority's support for resource conservation districts.

The House bill makes several modifications to the authority by: (1) changing the formula for the federal share of the NGPRA's administrative expenses—the formula is: for fiscal year 2007, 100 percent; for fiscal year 2008, 75 percent; and for fiscal year 2009, 50 percent; (2) eliminating the order of priority, with respect to funding for economic and community development projects, and the prohibition on providing funds for projects located in nondistressed counties; and (3) reducing to 25 percent, the minimum amount of funds that the authority is to allocate to transportation, telecommunication, and public infrastructure projects.

The House bill also adds "renewable energy projects" among the projects that are eligible to receive funds. (Section 6020)

The Senate amendment provides for an extension of the NGPRA and makes changes similar to the House, with respect to renewable energy investments and the proportion of funds made available to distressed counties. The Senate amendment allows the NGPRA to organize and operate without a Federal member if such a member has not been confirmed by the Senate 180 days after enactment. With respect to the tribal chairperson, the Senate amendment allows the leaders of the Indian tribes in the region to select a member if a tribal chairperson has not been confirmed by the Senate within 180 days of enactment.

The Senate amendment provides that, among other duties, the NGPRA is to develop comprehensive and coordinated plans and programs for multistate cooperation to advance the economic and social well-being of the region and approve grants for the economic development of the Northern Great Plains region. Additionally, the assessment of needs and assets of the region should include available research, demonstrations, investigations, assessments, and evaluations from the regional boards established under the Rural Collaborative Investment Program (RCIP).

The Senate amendment provides that the NGPRA should enhance the capacity of, and provide support for, multistate development and research organizations, local development organizations and districts, and resource conservation districts in the region.

The Senate amendment amends section 383B(g)(1) of the Con Act by providing a 100 percent Federal cost-share for fiscal years 2008 and 2009, a 75 percent Federal cost-share for fiscal year 2010, and a 50 percent Federal cost-share for fiscal year 2011 and beyond.

The Senate amendment adds a new provision to provide assistance to States in developing plans to address multistate economic issues, including plans to: develop a regional transmission system for the movement of renewable energy; assist in the harmonization of transportation policies and regulations that impact the interstate movement of goods and individuals; encourage and support interstate collaboration on federally funded research of national interest; and establish regional working groups on agriculture development and transportation concerns.

Multistate economic issues are to include: renewable energy development and transmission, transportation planning and economic development, information technology, movement of freight and persons in the region; conservation land management, and federally funded research.

The Senate amendment would allow grants to be awarded to multistate, local or regional development district organizations for administrative expenses. Grants may not exceed 80 percent of the administrative expenses of the local development district and no grant may exceed 3 years in duration. The contribution of the grantee may be in cash or in-kind, fairly evaluated, and can include equipment, space and services.

The Senate amendment removes the requirement for local development districts to serve as lead organizations and liaison between State, tribal, and local governments, nonprofit groups, the business community, and citizens. (Section 6030)

The Conference substitute adopts the Senate amendment, but modifies it to require that the NGPRA consult and coordinate, as appropriate, with tribal leaders in the region should a Federal or tribal chairperson not be appointed and confirmed. Generally, a local development district will operate as the lead organization serving a multicounty area in the region. However, the Federal co-chairperson, or the Secretary, if no person has been confirmed, may designate an Indian tribe or an alternative organization to serve in that capacity. Organizations that are suitable to serve in such a capacity include rural conservation and development districts, Rural Economic Area Partnership (REAP) zone organizations, or regional organizations established under RCIP. (Section 6026)

(27) Rural Collaborative Investment Program/Rural Strategic Investment Program

The House bill provides for the extension of the rural strategic investment program (RSIP) in section 385E of the Con Act with an authorization of appropriations of $25,000,000 for fiscal years 2008 through 2012. The preservation and promotion of "rural heritage," as defined in this section, are added to the criteria for regional plans, for the purpose of making regional strategic planning grants—which are competitive grants awarded to Regional Boards for the purpose of developing, maintaining, and evaluating regional plans.

In awarding innovation grants, the National Board is to give priority to Regional Boards that, among other criteria, demonstrate a plan to protect and promote rural heritage. (Section 6021)

The Senate amendment amends section 385A of the Con Act by establishing a Regional Rural Collaborative Investment Program (RCIP) to provide rural regions with a flexible investment vehicle to develop and implement locally prioritized, comprehensive strategies for achieving regional competitiveness, innovation and prosperity.

The Senate amendment requires the Secretary to appoint a National Rural Investment Board and establish a National Institute on Regional Rural Competitiveness and Entrepreneurship. The National Institute on Regional Rural Competitiveness and Entrepreneurship will work with the Secretary to create a National Rural Investment Plan and a Rural Philanthropic Initiative, certify Regional Rural Investment Boards, and make Regional Innovation Grants to Regional Boards to implement approved regional strategies. These Regional Boards are to be multijurisdictional, multisectoral, regional entities which are broadly representative of the long-term economic, community and cultural interests of a region, and are comprised of public, private and non-profit organizations and residents of the region. A region must include a population of at least 25,000 individuals or in regions with a population density of less than 2 persons per square mile, a population of at least 10,000 individuals. The Regional Board designs a Regional Investment Strategy and competes for Regional Innovation Grants.

Grants of not more than $150,000 are to be provided on a competitive basis to certified Regional Boards to develop, implement and maintain Regional Investment Strategies, developed through a collaborative and inclusive public process. Regional Investment

Strategies are to provide an assessment of the region's competitive advantage, an analysis of the region's economic and community development challenges, opportunities, and resources, a plan of action to implement the goals of the strategies identified, and performance measures by which to evaluate implementation.

Regional Innovation Grants shall be provided on a competitive basis to certified Regional Boards, to implement projects and programs identified in funded Regional Investment Strategy Grants. The Secretary is to give priority to strategies that demonstrate significant leverage of capital, quality job creation, and asset-based development. A Regional Board may not receive more than $6,000,000 in Regional Innovation Grants during any 5-year period.

Long-term loans may be provided to eligible community foundations to assist in the implementation of funded Regional Investment Strategies. The eligible community foundation must be located in the covered region, provide a 25 percent match, and use the funds to implement priorities within the Regional Investment Strategy.

The Senate amendment provides $135,000,000 in mandatory funding to remain available until expended. Of the amounts made available, the Secretary is to use $15,000,000 for Regional Investment Strategy Grants, $110,000,000 for Regional Innovation Grants, $5,000,000 to administer the National Board, and $5,000,000 to administer the National Institute. (Section 6032)

The Conference substitute adopts the Senate provision, with modifications to incorporate rural heritage as a goal of the program. An appropriation of $135,000,000 is authorized for fiscal years 2009 through 2012 to carry out this program. (Section 6028)

(28) Northern Border Economic Development Commission

The Senate amendment adds a new subtitle to the Con Act that establishes the Northern Border Economic Development Commission (NBEDC) made up of a Federal member appointed by the President with the advice and consent of the Senate. The membership of the Commission includes the Governors of each State in the region that elects to participate in the Commission. The State cochairperson is a Governor of a participating State in the region. The State cochairperson will serve for a term of not less than a year. Each State member may have a single alternate, who is appointed by the Governor of the State from among the Governor's cabinet. Each Commission may appoint and fix the compensation of an executive director to carry out the duties of the Commission.

Although the Commission has the authority to determine what constitutes a quorum of the Commission, the Federal cochairperson must be present to reach a quorum. Alternate members cannot be counted toward the quorum. Decisions, such as approval of State, regional, or subregional development plans or strategy statements, allocations to States, and modifications to the Commission's code, may not be made without a quorum.

The Senate amendment establishes the duties and administrative actions of the Commission. The amendment specifies that the Commission is required to submit an annual report to Congress. In

addition, Federal agencies are required to work with the Commission.

Any State member, alternate, official, or employee of the Commission, their immediate family, organization, or organization for which the employee has an arrangement concerning prospective employment, are prohibited from participating personally or substantially in a matter in which the employee has a financial interest. A conflict of interest can be overcome by full disclosure to the Commission and a subsequent determination by the Commission that the matter will not substantially affect the integrity of the work of the Commission.

The Senate amendment confers upon the Commission the authority to approve grants to improve economic development of the region. Grants may be provided from Federal appropriations, other Federal and State grant funds, or any other sources. The Federal cochairperson is permitted to use funds made available to the program to fund any portion of the basic Federal contribution to a project or activity under a Federal grant program in the region in an amount not to exceed 80 percent of the project cost. The Commission is also permitted to make grants to local development districts for administrative expenses as long as the grant does not exceed 80 percent of the administrative expense of the local development district receiving the grant.

States participating in the Commission are required to submit a development plan for the area of the region represented by the State member. In developing the plan, the State must consult with the appropriate organizations. The Commission is to encourage public participation in developing such plans. Any State or regional development plan or any multistate subregional plan that is proposed must be reviewed by the Commission.

An appropriation of $30,000,000 is authorized for each of fiscal years 2008 through 2012; not more than 5 percent of the appropriated amount is to be used for administrative expenses. The authority of the Commission is terminated on October 1, 2012. (Section 6034)

The House contains no comparable provision.

The Conference substitute adopts the Senate provision with modifications to establish the Northern Border Regional Commission, the Southeast Crescent Regional Commission, and the Southwest Border Regional Commission in a new subtitle, "Regional Economic and Infrastructure Development," in Title 40 of the U.S. Code. (Section 14217 of the Miscellaneous Title)

The Conference substitute establishes commission membership, voting structure, and staffing; outlines conditions for financial assistance; authorizes grants to local development districts; establishes an Inspector General for the commissions; and includes other provisions designed to produce a standard administrative framework.

Each Commission includes a Federal cochairperson, appointed by the President and confirmed by the Senate. The Federal Cochairperson will appoint an alternate Federal cochairperson. The membership of the Commission also includes the Governors of each State in the region that elects to participate in the Commission. The State cochairperson is a Governor of a participating State in

the region. The State cochairperson will serve for a term of not less than a year. Each State member may have a single alternate, who is appointed by the Governor of the State from among the Governor's cabinet. Each Commission may appoint and fix the compensation of an executive director to carry out the duties of the Commission.

Each State member is required to submit a development plan for the area of the region represented by the State member. In carrying out the development planning process, a State will consult with local development districts, local units of government, and universities and take into account the goals, objectives, and recommendations of these entities. Each Commission is to establish priorities in an economic and infrastructure development plan for its region, including 5-year regional outcome targets. The Commission will, to the extent practicable, encourage and assist public participation in the plans and programs of the Commission.

The Commission is authorized to hold hearings, take testimony under oath, and request information from State and Federal agencies; adopt, amend, and repeal bylaws and rules governing the conduct of the Commission; request the head of any Federal department or of any State agency or local government to detail to the Commission personnel needed to carry out the duties of the Commission; provide Commission employees with retirement and other benefits; accept, use, and dispose of gifts; enter into contracts to carry out Commission duties; establish a central office and field offices for the Commission; and provide an appropriate level of representation in Washington, D.C.

The Federal Government will pay 50 percent of the administrative expenses of the Commission and the States participating in the Commission will pay 50 percent of such expenses. Each Commission is required to hold an initial meeting no later than 180 days after the date of enactment of this Act.

Any State member, alternate, official, or employee of the Commission, their immediate family, organization, or organization for which the employee has an arrangement concerning prospective employment, are prohibited from participating personally or substantially in a matter in which the employee has a financial interest. A conflict of interest can be overcome by full disclosure to the commission and a subsequent determination by the Commission that the matter will not substantially affect the integrity of the work of the Commission.

Governments of Indian tribes in the region of the Southwest Border Regional Commission are allowed to participate in matters in the same manner and to the same extent as State agencies and instrumentalities in the region.

Not less than 90 days after the last day of the each fiscal year, each Commission will submit to the President and Congress a report on the activities carried out by the Commission in the past fiscal year. The report will include a description of the criteria used by the Commission to designate counties, a list of the counties designated in each category, an evaluation of the progress of the Commission in meeting the goals identified in the Commission's economic and infrastructure development plan, and any policy recommendations approved by the Commission.

Each Commission may make grants to State and local governments, Indian tribes, and public or nonprofit organizations for projects to develop infrastructure in the region, including transportation, public, and telecommunications infrastructure; assist the region in obtaining job skills training; provide assistance to severely economically distressed and underdeveloped areas that lack financial resources for improving basic health care and other public services; promote resource conservation; promote the development of renewable and alternative energy sources; and other measures to achieve the purposes of this subtitle.

The Commission will allocate at least 40 percent of any grant amounts provided for transportation, public, or telecommunications infrastructure for the region. The Commission may use amounts appropriated to carry out this subtitle to fund a project or activity under a Federal grant program in the region in an amount that is above the fixed maximum portion of the cost of the project otherwise authorized by applicable law, but may not exceed 50 percent of the costs of the project, except for distressed counties or regional projects. The maximum contribution for a project or activity to be carried out in a distressed county may be increased to 80 percent. A Commission may increase the maximum grant for a project from 50 percent to 60 percent under the normal criteria of section 15501 and from 80 percent to 90 percent for a distressed county if the project or activity involves three or more counties or more than one State and the Commission determines that the project or activity will bring significant inter-state or multi-county benefits to a region.

An application to a Commission for a grant or any other assistance for a project is to be made through, and evaluated for approval by, the State member of the Commission representing the applicant. Upon certification by a State member of a Commission of an application for a grant or other assistance for a specific project under this section, an affirmative vote of the Commission shall be required for approval of the application.

Each Commission is required, in considering programs and projects to be provided assistance and in establishing a priority ranking of the requests for assistance, to consider: the relationship of the project or class of projects to overall regional development; the per capita income and poverty and unemployment and out migration rates in an area; the financial resources available to the applicants for assistance seeking to carry out the project; the importance of the project in relation to the other projects that may be in competition for the same funds; the prospects that the project will improve opportunities for employment, the average level of income, or the economic development of the area on a continuing basis; and the extent to which the project design provides for detailed outcome measurements by which grant expenditures and the results of the expenditures may be evaluated.

The Commission may make grants to a local development district to assist in the payment of development planning and administrative expenses. In the case of a State agency certified as a local development district, a grant may not be awarded to the agency under this section for more than 3 fiscal years. The contributions of a local development district for administrative expenses may be

in cash or in-kind services including space, equipment, and services.

A local development district is to operate as a lead organization serving multi-county areas in the region at the local level and serve as a liaison between the State and local governments, nonprofit organizations, the business community, and citizens that are involved in multi-jurisdictional planning; provide technical assistance; and provide leadership and civic development assistance.

Supplements to Federal grant programs may be made because certain States and local communities, including local development districts, may be unable to take maximum advantage of Federal grant programs for which they are eligible because they lack the economic resources to provide the required State or local matching share. Supplemental funds may also provide necessary funding for a project to be carried out in the region when there are insufficient funds available under applicable Federal law.

A Commission, with the approval of the Federal cochairperson, may use amounts made available to carry out this subtitle for any part of the basic Federal contribution to projects or activities under the Federal grant programs authorized by Federal laws and to increase the Federal contribution to projects and activities under the programs above the fixed maximum part of the cost of the projects or activities otherwise authorized by the applicable law.

For a project for which any part of the basic Federal contribution to the project or activity under a Federal grant program is proposed to be made under this subtitle, the Federal contribution is not to be made until the responsible Federal official administering the Federal law authorizing the Federal contribution certifies that the program, project, or activity meets the applicable requirements of the Federal law and could be approved for Federal contribution under that law if amounts were available under the law for the program, project, or activity. Amounts provided pursuant to this subtitle are available without regard to any limitations on areas eligible for assistance or authorizations for appropriation in any other law.

The Federal share of the cost of a project or activity receiving assistance under this subtitle shall not exceed 80 percent.

A State is not required to engage in or accept a program under this subtitle without its consent.

The Conference substitute establishes the designation of distressed, transitional, and attainment counties and isolated areas of distress in the region. Not later than 90 days after the date of enactment of this Act, and annually thereafter, each Commission is required to designate counties under 4 categories. The categories will include: (1) distressed counties, defined as counties that are the most severely and persistently economically distressed and underdeveloped and have high rates of poverty, unemployment, or out migration; (2) transitional counties, defined as counties that are economically distressed and underdeveloped or have recently suffered high rates of poverty, unemployment, or out migration; (3) attainment counties, which are counties that are not designated as distressed or transitional counties; and (4) isolated areas of distress, defined as areas, located in counties designated as attain-

ment counties, that have high rates of poverty, unemployment, or out migration.

A Commission is to allocate at least 50 percent of the appropriations made available to the Commission to carry out this subtitle for programs and projects designed to serve the needs of distressed counties and isolated areas of distress in the region.

No funds may be provided to a county designated as an attainment county except for funding the administrative expenses of local development districts, a multi-county project that includes participation of the attainment county, and other projects if a Commission determines that the project could bring significant benefits to areas of the region outside the attainment county.

For the isolated area of distress designation to be effective, the designation must be supported by the most recent Federal data available or if no recent Federal data are available, by the most recent data available.

Counties are not eligible for assistance in more than 1 region. A political subdivision included in the region of more than 1 Commission will select the Commission with which it will participate by notifying, in writing, the Federal cochairperson and the appropriate State member of the Commission. The selection of a Commission by a political subdivision will apply in the fiscal year in which the selection is made and will apply in each subsequent fiscal year unless the political subdivision, at least 90 days before the first day of the fiscal year, notifies another Commission in writing that the political subdivision will participate in that Commission and also transmits a copy of such notification to the Commission in which the political subdivision is currently participating. In this section, the term "Commission" includes the Appalachian Regional Commission.

An Inspector General for Commissions, appointed in accordance with the Inspector General Act of 1978, is established for each Commission. All of the Commissions are to be subject to a single Inspector General. Each Commission is to maintain accurate and complete records of all transactions and activities of the Commission and make them available to the Inspector General for audit and examination. The Inspector General will audit the activities, transactions, and records of each Commission annually.

Representatives of each Commission, the Appalachian Regional Commission, and the Denali Commission will meet biannually to discuss issues confronting regions suffering from chronic and continuous distress as well as successful strategies for promoting regional development. The chair of each meeting will rotate among the Commissions, with the Appalachian Regional Commission to host the first meeting.

The region of the Southeast Crescent Regional Commission is defined as consisting of all counties of the States of Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, and Florida not already served by the Appalachian Regional Commission or the Delta Regional Authority.

The region of the Southwest Border Regional Commission is defined as consisting of the following political subdivisions:

(1) ARIZONA—The counties of Cochise, Gila, Graham, Greenlee, La Paz, Maricopa, Pima, Pinal, Santa Cruz, and Yuma in the State of Arizona.

(2) CALIFORNIA—The counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura in the State of California.

(3) NEW MEXICO—The counties of Catron, Chaves, Dona Ana, Eddy, Grant, Hidalgo, Lincoln, Luna, Otero, Sierra, and Socorro in the State of New Mexico.

(4) TEXAS—The counties of Atascosa, Bandera, Bee, Bexar, Brewster, Brooks, Cameron, Coke, Concho, Crane, Crockett, Culberson, Dimmit, Duval, Ector, Edwards, El Paso, Frio, Gillespie, Glasscock, Hidalgo, Hudspeth, Irion, Jeff Davis, Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy, Kerr, Kimble, Kinney, Kleberg, La Salle, Live Oak, Loving, Mason, Maverick, McMullen, Medina, Menard, Midland, Nueces, Pecos, Presidio, Reagan, Real, Reeves, San Patricio, Shleicher, Sutton, Starr, Sterling, Terrell, Tom Green Upton, Uvalde, Val Verde, Ward, Webb, Willacy, Wilson, Winkler, Zapata, and Zavala in the State of Texas.

The region of the Northern Border Regional Commission is defined to include the following counties:

(1) MAINE—The counties of Androscoggin, Aroostook, Franklin, Hancock, Kennebec, Knox, Oxford, Penobscot, Piscataquis, Somerset, Waldo, and Washington in the State of Maine.

(2) NEW HAMPSHIRE—The counties of Carroll, Coos, Grafton, and Sullivan in the State of New Hampshire.

(3) NEW YORK—The counties of Cayuga, Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Jefferson, Lewis, Madison, Oneida, Oswego, Seneca, and St. Lawrence in the State of New York.

(4) VERMONT—The counties of Caledonia, Essex, Franklin, Grand Isle, Lamoille, and Orleans in the State of Vermont.

An authorization of $30,000,000 is provided for each of fiscal years 2008 through 2012 for each Commission to carry out this subtitle; not more than 10 percent of the funds made available to a Commission in a fiscal year may be used for administrative expenses.

The Managers note that within the Southeastern region of the United States—defined for the purposes here to include the coastal and central portions of the seven Southeastern States from Virginia to Mississippi—approximately 40 percent of the counties have had 20 percent or more of their citizens living in poverty, on average, during the last 30 years. Additionally, this region has experienced natural disasters at a rate of 2 to 3 times greater than any other region of the U.S. The Southeastern United States is one of the last areas of the country without a Federal authority dedicated to ending poverty and strengthening communities. The Southeast Crescent Authority will be a valuable tool to assist State and local officials, county development organizations, and many others in providing resources and leveraging additional funds to assist communities with the greatest need.

With regards to the Southwest border, an Interagency Task Force on the Economic Development of the Southwest Border found that 20 percent of the residents in this region live below the poverty level. Unemployment rates often reach as high as 5 times the national unemployment rate and a lack of adequate access to capital has created economic disparities that have made it difficult for businesses to start up in the region. Border communities have long endured a depressed economy and low-paying jobs. The Southwest Border Regional Commission will help foster planning to encourage infrastructure development, technology development and deployment, education and workforce development, and community development through entrepreneurship.

Finally, the Northern Border region, while abundant in natural resources and rich in potential, lags behind much of the nation in its economic growth. In this region, 12.5 percent of the population lives in poverty. Furthermore, the median household income in this region is more than $6,500 below the national average. Due to this region's historic reliance on a few basic industries and agriculture, unemployment through layoffs in traditional manufacturing industries is persistent. In addition, the population growth in this region increased by only 0.6 percent between 1990 and 2000, while the U.S. population rose by 13.2 percent during that same period. The Northern Border Regional Commission will assist in supporting traditional industries while fostering new industry in the region.

(29) Multijurisdictional regional planning organizations

The Senate amendment reauthorizes section 306(a) of the Con Act through fiscal year 2012. (Section 6005)

The House bill contains no comparable provision.

The conference substitute deletes the Senate provision.

(30) Rural Economic area partnership zones

The Senate amendment amends section 310B of the Con Act by requiring the Secretary to continue to carry out the existing rural economic area partnerships in New York, North Dakota, and Vermont in accordance with terms and conditions contained in the memorandums of agreement entered into by the Secretary through 2012. (Section 6019)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modifications to ensure that only those rural economic area partnership zones in effect on date of enactment are to be extended to 2012. (Section 6017)

(31) SEARCH grants

The Senate amendment amends section 306(a) of the Con Act by authorizing the Secretary to make grants to eligible communities for feasibility study, design, and technical assistance under the water and waste disposal and wastewater facilities grant program. The grants are to fund up to 100 percent of the eligible project cost and are to be subjected to the least documentation requirements practicable.

An "eligible community," for the purposes of this section, is defined as a community that has a population of 2,500 or fewer inhabitants and is financially distressed. Not more than 4 percent of funds available for water, waste disposal and essential community facilities are to be used to carry out this program. (Section 6010)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modifications to ensure that the program is modeled after the existing pre-development planning grants. (Section 6002)

The Managers expect that a community will meet the definition of "financially distressed" if the median household income of the probable area to be served by the proposed project is either below the poverty line or below 80 percent of the statewide nonmetropolitan median household income based on available historic statistical information going back to the last decennial census if no more recent data is available. It is the Managers' intent that the latest data on income be used without the taking of an income survey that would escalate the cost.

(32) Grants to broadcasting systems

The Senate amendment reauthorizes current law through fiscal year 2012. (Section 6016)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6014)

(33) Geographically disadvantaged farmers and ranchers.

The Senate amendment establishes a new program to provide geographically disadvantaged farmers and ranchers direct reimbursement payments to transport agricultural commodities, or inputs used to produce the commodities.

To be eligible for direct reimbursement payments the farmer or rancher must provide the Secretary proof that transportation or agricultural commodity or inputs occurred over the distance of more than 30 miles. The total amount of direct reimbursement payments provided by the Secretary is not to exceed $15,000,000 for each fiscal year. Necessary sums are authorized to be appropriated to carry out this program. (Section 6021)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with technical changes. (Section 1620 of the Commodity Title)

The Managers recognize the barriers to competition associated with the high transportation costs incurred by geographically disadvantaged farmers and ranchers. The Managers expect the Secretary to develop, in consultation with the eligible areas, an equitable allocation of the funds for such areas. The Managers also expect the Secretary to consult with eligible areas on administration of the program.

(34) Artisanal cheese centers

The Senate amendment amends Subtitle D of the Con Act by requiring the Secretary to establish artisanal cheese centers for education and technical assistance for the manufacturing and marketing of artisanal cheese by small and medium-sized producers

and businesses. Necessary sums are authorized to be appropriated for each of the fiscal years 2008 through 2012 . (Section 6023)

The House bill contains no provision.

The Conference substitute deletes the Senate provision.

(35) Grants to train farmworkers in new technologies and to train farm workers in specialized skills necessary for higher value crops.

The Senate amendment extends section 379(c) of the Con Act through fiscal year 2012. (Section 6027)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(36) Grants for expansion of employment opportunities for individuals with disabilities in rural areas

The Senate amendment amends the Con Act by adding a new section, 379E, which authorizes a new grant program to nonprofit organizations to expand employment opportunities for individuals with disabilities in rural areas.

To be eligible to receive a grant under this section the eligible entity must have: a significant focus on serving the needs of individuals with disabilities; demonstrated knowledge and expertise in employment of and advising on accessibility issues for individuals with disabilities; expertise in removing barriers to employment for individuals with disabilities; existing relationships with national organizations focused on the needs of rural areas; affiliates in a majority of the States; and a working relationship with USDA.

Grants are to be used to expand or enhance employment opportunities, or self-employment and entrepreneurship opportunities, of people with disabilities. An appropriation of $2,000,000 for each of the fiscal years 2008 through 2012 is authorized. (Section 6028)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with minor modifications that strike the requirements that the entity have affiliates in a majority of States and a working relationship with USDA. (Section 6023)

(37) Rural Business Investment Program

The Senate amendment extends the Rural Business Investment Program authorization through 2012 with the following modifications: debentures may be prepaid at any time, distributions may be made to cover tax liability, USDA fees are limited to a $500 application fee and USDA will not be required to operate the program with other Federal agencies. (Section 6031)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, but removes the provision allowing distributions to be made to cover tax liability. The limitation on funding from certain financial institutions is maintained and raised 25 percent. (Section 6027)

(38) Funding of pending rural development loan and grant applications

The Senate amendment provides $135,000,000 in mandatory funding to fund applications that are pending for water systems,

waste disposal systems and emergency community water assistance grants. (Section 6033)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a modification to provide $120,000,000 in mandatory funds for this purpose. (Section 6029)

(39) Expansion of 911 areas

The House bill extends through 2012 section 315(a) of the Rural Electrification Act (REA), which authorizes the Secretary to make telephone loans to State or local governments, Indian tribes, or other public entities for the expansion of rural 911 access and integrated emergency communication in rural areas. (Section 6022)

The Senate amendment also amends section 315 of the REA by expanding eligibility to emergency communications providers, State or local governments, Indian tribes, or other public entities for facilities and equipment to expand or improve 911 access, interoperable emergency communications, homeland security communications, transportation safety communication and location technologies used outside urbanized areas. Funds made available for telephone or broadband loans are authorized to be used for the program for each of the fiscal years 2008 through 2012. Government-imposed fees to emergency communications providers are allowed as security for a loan. (Section 6107)

The Conference substitute adopts the Senate provision with modifications to allow emergency communications equipment providers to apply for loans on behalf of municipalities where they serve when those municipalities are unable to incur such debt. The Conference substitute also adds clarifying language to ensure that the program operates only in rural areas. (Section 6107)

(40) Access to broadband telecommunications services in rural areas

The House bill provides for several modifications of section 601 of the REA, which authorizes the Secretary to provide loans and loan guarantees for the costs of construction, improvement, and acquisition of facilities and equipment for broadband service in eligible rural communities.

The House bill changes the definition of an "eligible rural community" to include any area in the United States that is not: included within the boundaries of any city, town, borough, or village, whether incorporated or unincorporated, with a population of more than 20,000 inhabitants; and the urbanized area contiguous and adjacent to such a city or town. The term "incumbent service provider" is defined to mean an entity that is providing broadband service to at least 5 percent of the service area proposed in the application.

The House bill requires priority to be given to applications proposing to serve communities in the following order: (1) no incumbent service provider; (2) 1 incumbent service provider; or (3) 2 incumbent service providers who, together, serve not more than 25 percent of the households in the service area proposed in the application.

This section prohibits the Secretary from making a loan under 2 conditions: (1) the loan is to any community where there are more than 3 incumbent service providers, unless;

(a) the loan is to an incumbent service provider of the community;

(b) the other providers in that community are notified of the application before approval by the Secretary, and have sufficient time to comment on the application; and

(c) the application includes substantially increasing the quality of broadband service in the community and the provision of broadband service to unserved households inside and outside the community; or

(2) the loan is for new construction (i.e. the construction or acquisition of broadband facilities and equipment by a new entrant into the community) in any community in which more than 75 percent of the households may obtain affordable broadband service, on request, from at least 1 incumbent service provider.

The House bill authorizes the Secretary to take steps to reduce the costs and paperwork associated with applying for a loan or loan guarantee under this section by first- time applicants, particularly those who are smaller and start-up Internet providers. It also mandates that not more than 25 percent of loans are to be made available, in a single fiscal year, to entities that serve more than 2 percent of the telephone subscriber lines in the United States.

The House bill provides that the period of a loan or loan guarantee cannot exceed 35 years, as the borrower may request, so long as the Secretary determines that the loan is adequately secured; the Secretary is to consider whether the recipient is, or would be, serving an area that is not receiving broadband services.

This section also requires the Secretary to ensure that the type, amount, and method of security used to secure a loan or loan guarantee is commensurate to the risk involved with the loan or loan guarantee, particularly when the loan or loan guarantee is issued to a financially healthy, strong, and stable entity. The Secretary is also required, in determining the amount and method of security, to consider reducing the security in areas that do not have broadband service.

The Secretary must annually report to Congress by December 1 of each fiscal year on the rural broadband loan and loan guarantee program. The annual report is to include information pertaining to the loans made, communities served, speed of broadband service offered, and types of services offered by applicants and recipients, length of time taken to approve applications submitted, and outreach efforts undertaken by USDA.

The House bill establishes a "National Center for Rural Telecommunications Assessment" to assess the effectiveness of the rural broadband loan and loan guarantee program, increase broadband penetration and purchase in rural areas; and develop assessments of broadband availability in rural areas. An appropriation of $1,000,000 is authorized for each of the fiscal years 2008 through 2012 for the Center.

The House bill mandates that the Secretary is required to set aside 10 percent of appropriated funds for eligible tribal communities. Unobligated amounts contained in the reserve for tribal

communities will be released by June 30 of each fiscal year. (Section 6023)

The Senate amendment maintains current law, with respect to the purposes for which loans and loan guarantees may be made, but provides that they should be provided to "rural areas," as defined in section 6105 of this Act. All references to eligible rural communities have been changed to rural areas.

The Senate amendment defines the term "mobile broadband" to mean any "broadband service" that is provided over a licensed spectrum through the use of a mobile station or receiver communicating with a land station or other mobile stations communicating among themselves.

Under the Senate amendment, highest priority is to be given to applicants that offer to provide broadband service to the greatest proportion of households currently without broadband service. A provider is considered to offer broadband service to a rural area if the provider makes the service available to households in the rural area at not more than average prices as compared to the prices at which similar services are made available in the nearest urban area, as determined by the Secretary. Eligible entities are required to: submit a proposal to the Secretary that meets the requirements for a project to offer to provide service to a rural area; offer to provide broadband service to at least 25 percent of households in a specified rural area that do not currently have such service offered to them; and agree to complete buildout of the broadband service within 3 years.

The Senate amendment prohibits the Secretary from making or guaranteeing loans for projects in areas where 3 or more existing providers already offer to provide comparable service.

The Secretary is given the discretion to require an entity to provide a cost-share in an amount not to exceed 10 percent of the amount of the loan or loan guarantee. The Secretary is also given the discretion to require an entity that proposes to have a subscriber projection of more than 20 percent of the broadband market in a rural area to submit a market survey. However, the Secretary is prohibited from requiring a market survey from an entity that projects to have less than 20 percent of the broadband market.

State, local governments, and Indian tribes are eligible to receive loans or loan guarantees available under this section.

No entity may acquire more than 20 percent of the resources of the program outlined under this section in a fiscal year.

The Senate amendment requires the Secretary to include a notice of applications on the Secretary's website for 90 days, post information relating to the broadband proposal on the website, establish a timeline on the website to track applications, and establish procedures for processing loan and loan guarantee applications (including requests for additional information). Not later than 45 days after the date on which the Secretary approves an application the documents necessary for closing the loan or loan guarantee are to be provided to the applicant. Not later than 10 business days after the date of receipt of a valid documentation requesting disbursement of the approved, closed loan, the disbursement of the loan funds is to occur.

The Senate amendment requires the Secretary to establish an optional pre-application process under which an applicant may apply to RUS for a binding determination of whether the area proposed to be served is eligible prior to preparing a full loan application.

An application for a loan or a loan guarantee under this section, or a petition for reconsideration of a decision on such an application, is to be considered under eligibility and feasibility criteria that are no less favorable to the applicant than the criteria in effect on the original date of submission of the application.

The Senate amendment establishes the annual rate of interest as the lower of: (i) the cost of borrowing to the Treasury Department for comparable obligations; or (ii) 4 percent. The loan or loan guarantee may not exceed 30 years. The type, amount, and method of security used to secure a loan or loan guarantee is commensurate to the risk involved with the loan or loan guarantee, particularly when the loan or loan guarantee is issued to a financially healthy, strong, and stable entity.

Similar to the House bill, the Senate amendment provides for a National Center for Rural Telecommunications Assessment. The authorization of appropriations for the Center is the same as the House bill. The Center is required to submit an annual report that describes its activities, the results of the research it has carried, and any additional information that the Secretary may request.

The Senate amendment allows the Secretary to provide the proceeds of any loan made or guaranteed under the REA for the purpose of refinancing another telecommunications-related loan made under REA.

An appropriation of $25,000,000 is authorized for each of the fiscal years 2008 through 2012. (Section 6110)

The Conference substitute adopts the Senate amendment with modifications. The definition of incumbent service provider is retained from the House bill.

The Conference substitute maintains the definition of rural area from the Senate amendment. The Conference substitute prohibits the Secretary from making a loan in any area where there are more than 3 incumbent service providers unless the loan meets all of the following requirements: (1) the loan is to an incumbent service provider that is upgrading service in that provider's existing territory; (2) the loan proposes to serve an area where not less than 25 percent of the households are offered service by not more than 1 provider; and (3) the applicant is not eligible for funding under another provision of the REA.

The Conference substitute also prohibits the Secretary from making a loan in any area where not less than 25 percent of the households are offered broadband service by not more than 1 provider unless a prior loan has been made in the same area under this section.

The Conference substitute provides that the highest priority is to be given to applicants that offer to provide broadband service to the greatest proportion of households currently without broadband service. Eligible entities are required to submit a proposal to the Secretary that meets the requirements for a project to offer to pro-

vide service to a rural area and agree to complete buildout of the broadband service within 3 years.

The Conference substitute prohibits any eligible entity that provides telecommunications or broadband service to at least 20 percent of the households in the United States from receiving an amount of funds under this section for a fiscal year in excess of 15 percent of the funds authorized and appropriated for the broadband loan program.

The Conference substitute allows the Secretary to require an entity to provide a cost-share in an amount not to exceed 10 percent of the amount of the loan or loan guarantee. The Secretary is also allowed to require an entity that proposes to have a subscriber projection of more than 20 percent of the broadband service market in a rural area to submit a market survey. However, the Secretary is prohibited from requiring a market survey from an entity that projects to have less than 20 percent of the broadband market.

The Conference substitute requires public notice of each application submitted, including the identity of the applicant, the proposed area to be served, and the estimated number of households in the application without terrestrial-based broadband. The Conference substitute authorizes the Secretary to take steps to reduce the costs and paperwork associated with applying for a loan or loan guarantee under this section by first-time applicants, particularly those who are smaller and start-up Internet providers.

The Conference substitute allows the Secretary to establish a pre-application process under which a prospective applicant may seek a determination of area eligibility.

The Conference substitute provides that an application, or a petition for reconsideration of a decision on such an application, that was pending on the date 45 days before enactment of this Act and that remains pending on the date of enactment of this Act is to be considered under eligibility and feasibility criteria in effect on the original date of submission of the application.

The current law rate of interest for direct loans—which is the rate equivalent to the cost of borrowing to the Department of Treasury for obligations of comparable maturity or 4 percent—is retained. The Secretary is to consider existing recurring revenues at the time of application in determining an adequate level of credit support.

The Conference substitute requires the Secretary to ensure that the type, amount, and method of security used to secure a loan or loan guarantee is commensurate to the risk involved with the loan or loan guarantee, particularly when the loan or loan guarantee is issued to a financially healthy, strong, and stable entity. The Secretary is also required, in determining the amount and method of security, to consider reducing the security in areas that do not have broadband service.

The Conference substitute requires that the Secretary report to Congress by December 1 of each fiscal year on the rural broadband loan and loan guarantee program. The annual report is to include information pertaining to the loans made, communities served and proposed to be served, speed of broadband service offered, types of services offered by the applicants and recipients, length of time to

approve applications submitted, and outreach efforts undertaken by USDA.

The Conference substitute authorizes the program at $25,000,000 to be appropriated for each of fiscal years 2008 through 2012. (Section 6110)

The Conference substitute provides for a National Center for Rural Telecommunications Assessment and criteria for the Center. The Center is to assess the effectiveness of programs carried out under this section, work with existing rural development centers to identify appropriate policy initiatives, and provide an annual report that describes the activities of the Center, the results of research carried out by the Center, and any additional information that the Secretary may request. An appropriation of $1,000,000 is authorized for each of the fiscal years 2008 through 2012. (Section 6111)

The Managers expect the Secretary to consider the unique way of life in rural America and to be mindful that mobile broadband technologies are applicable to farmers, ranchers, and small rural business owners. Fixed broadband service will continue to be important in rural homes and offices, but mobile technologies also may have a role to play in expanding broadband access to rural residents. The Managers expect the Secretary to weigh all appropriate technologies, including the unique characteristics of mobile broadband service and technologies, during consideration of applications.

With respect to applications not described in Section 601(c)(2) of the REA, as amended by this section, the Managers expect the Secretary to incorporate the new criteria as soon as practicable, taking into consideration the need to act upon pending applications within a reasonable time.

The Managers expect the Secretary to provide the necessary resources to expedite the processing of applications under this section. The Managers also expect that the notice of applications will be posted on the Agency's website in a manner that will be easy for interested members of the public to find the information described and would be posted in a manner consistent to the way similar notices are currently posted on the Agency's website. It is intended that such notices shall not contain any proprietary information as defined by section 552(b)(4) of title 5 of the United States Code. Finally, the Managers also intend that in addition to the notice, the Agency will also post on its website with respect to each loan and loan guarantee application the status of the Agency's consideration of the application and an estimate of when the Agency's consideration will be concluded, which shall be regularly updated.

(41) Study of Federal assistance for broadband infrastructure

The Senate amendment instructs the Comptroller General of the U.S. to conduct a study and review of the Rural Utilities Service (RUS) administration of Federal broadband programs with recommendations for changes. (Section 6113)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(42) Comprehensive rural broadband strategy

The House bill requires the Secretary to submit to the President and the Congress a report describing a comprehensive rural broadband strategy that includes: (1) recommendations to:

(A) promote interagency coordination of Federal agencies and improve and streamline policies, programs, and services;

(B) coordinate among Federal agencies regarding existing broadband or rural initiatives that could be of value to rural broadband development;

(C) address both short- and long-term solutions and needs for a rapid buildout of rural broadband solutions and applications for Federal, State, regional, and local government policy makers;

(D) identify how specific Federal agency programs and resources can best respond and overcome obstacles that currently impede rural broadband deployment; and

(E) promote successful model deployments and appropriate technologies being used in rural areas so that State, regional, and local governments can benefit from the success of other State, regional, and local governments; and

(2) a description of goals and timeframes to achieve the strategic plans and visions identified in the report. (Section 6031)

The Senate amendment requires the Secretary of Agriculture and the Chairman of the Federal Communications Commission (FCC) to submit a report to the Committees on Energy and Commerce and Agriculture of the House and the Committees on Commerce, Science, and Transportation and Agriculture, Nutrition and Forestry of the Senate describing a comprehensive rural broadband strategy with recommendations for improvement.

The Senate amendment includes recommendations to: (A) promote interagency coordination of Federal agencies and improve and streamline policies, programs, and services; (B) coordinate among Federal agencies regarding existing broadband or rural initiatives that could be of value to rural broadband development; (C) address both short- and long-term solutions and needs for a rapid buildout of rural broadband solutions and applications for Federal, State, regional, and local government policy makers; (D) identify how specific Federal agency programs and resources can best respond and overcome obstacles that currently impede rural broadband deployment.

This Senate amendment stipulates that the Chairman of the FCC, in coordination with the Secretary of Agriculture, is to update and evaluate the report required under this section on an annual basis.

The Senate amendment modifies section 306(a)(20)(E) of the Con Act by striking the reference to dial-up Internet access. (Section 6111)

The Conference substitute adopts the Senate provision to require a report on Federal broadband strategy with technical changes and a modification to require the update of the report required under this section in the third year following enactment. (Section 6112)

The Conference substitute adopts the Senate provision striking an obsolete reference to dial-up Internet and places the provision in a separate section. (Section 6005).

(43) Community connect grant program

The House bill amends the REA by authorizing the Secretary to provide financial assistance to eligible applicants for the provision of broadband transmission service that fosters economic growth and delivers enhanced services. The Secretary is authorized to prioritize grants that will enhance community access to telemedicine and distance learning. Grant applicants are required to provide a matching contribution of at least 15 percent of the grant amount requested.

An appropriation of $25,000,000 is authorized for fiscal years 2008 through 2012. (Section 6024)

The Senate amendment contains no comparable provision.

The Conference substitute strikes the House provision.

(44) Connect the Nation

The Senate amendment provides that the subtitle of this section is to be cited as the "Connect the Nation Act." (Section 6201)

The Senate amendment also creates a competitive, matching grant program (80 federal/20 state) called the "Connect the Nation Act of 2007" to be housed at the Department of Commerce for eligible statewide public-private partnerships to benchmark current access and use, build detailed GIS maps of service, and create demand through grassroots teams. Eligible entities would be limited to 4 years of participation. Grant applications would be reviewed through a peer review process. Collaboration is required between State agencies, service providers, and relevant labor organizations, and community organizations to be considered eligible. An appropriation of $40,000,000 for each of the fiscal years 2008 through 2012 is authorized. (Section 6202)

The House contains no comparable provision.

The Conference substitute deletes the Senate provision.

(45) Distance learning and telemedicine

The House bill amends the Food, Agriculture, Conservation, and Trade Act (FACT Act) by authorizing the Secretary to provide grants to noncommercial education television broadcast stations that serve rural areas for the purposes of developing digital facilities, equipment, and infrastructure to enhance digital services to rural areas. (Section 6028)

The House bill amends section 2335A of the FACT Act by extending the authorization of appropriations to fiscal year 2012. (Section 6029)

The Senate amendment permits as allowable purposes for receiving financial assistance library connectivity and public television station digital conversion. The Secretary is required to establish, by notice, the amount of financial assistance available to applicants in the form of grants, costs of money loans, combinations of grants and loans, or other financial assistance. Libraries or library support organizations, public television stations and parent organizations of public television stations, and schools, libraries,

and other facilities operated by the Bureau of Indian Affairs or Indian Health Service are added as eligible for assistance. In prioritizing financial assistance the Secretary may also consider the cost and availability of high-speed network access.

The Senate amendment allows the following as eligible purposes under this section: the development, acquisition, and digital distribution of instructional programming to rural users; the development and acquisition of computer hardware and software, audio and visual equipment, computer network components, telecommunications transmission facilities, date terminal equipment, or interactive video equipment, teleconferencing equipment, or other facilities that would further telemedicine services, library connectivity, or distance learning services; the provision of technical assistance and instruction for the development or use of the programming, equipment, or facilities; the acquisition of high-speed network transmission equipment or services that would not otherwise be available or affordable to the applicant; costs relating to the coordination and collaboration among and between libraries on connectivity and universal service initiatives, or the development of multi-library connectivity plans that benefit rural users; and competitive grants, for public television stations or a consortium of public television stations, to provide education, outreach, and assistance, in cooperation with community groups, to rural communities and vulnerable populations with respect to the digital television transition, and particularly the acquisition, delivery, and installation of the analog-to-digital converter boxes.

The Senate amendment reauthorizes appropriations through 2012. (Section 6302)

The Conference substitute adopts the Senate provision with modifications to provide that only libraries are added as eligible entities, clarifying current law. No additional uses are added. However, the Managers direct that public television entities are eligible to receive assistance under this section for high-speed telecommunication services in rural areas to provide educational programming for schools and communities in rural areas. (Section 6201)

(46) Agricultural innovation center demonstration grants

The House bill provides for an extension of section 6402 of the Farm Security and Rural Investment Act of 2002 (FSRIA) by authorizing an appropriation of $6,000,000 for each of the fiscal years 2008 through 2012. (Section 6025)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 6203)

(47) Rural firefighters and emergency services assistance program

The House bill amends section 6405 of the FSRIA by authorizing the Secretary to award grants to eligible entities to enable such entities to provide for improved emergency medical services (EMS) in rural areas. Grants may be used to pay the cost of training firefighters and emergency medical personnel in firefighting, and emergency medical practices in rural areas.

Eligible entities must be: a State EMS office or association; a State office of rural health; a local government entity; an Indian tribe; or any other entity determined appropriate by the Secretary. To receive a grant under this section, the eligible entity must prepare and submit an application to the Secretary that includes: a description of the activities to be carried out under the grant and an assurance that the applicant will comply with the grant program's matching fund requirement.

Under the House bill, eligible entities are to use grant funds only in rural areas to: (1) hire, recruit or train EMS personnel; (2) recruit or retrain emergency EMS personnel; (3) fund training to meet State or Federal certification requirements; (4) provide training for firefighters and emergency medical personnel for improvements to the training facility, equipment, and personnel; (5) develop new ways to educate emergency health care providers through the use of technology-enhanced educational methods; (6) acquire EMS vehicles and equipment; (7) acquire personal protective equipment for EMS personnel as required by the Occupational Safety and Health Administration (OSHA); (8) educate the public concerning CPR, first aid, injury prevention, safety awareness, illness prevention, and other emergency preparedness topics. Preference is to be given to applications that reflect a collaborative effort by 2 or more eligible entities and are submitted by eligible entities who intend to use grant funds to: hire, recruit, or train EMS personnel; recruit or retrain volunteer EMS personnel; fund training to meet State or Federal certification requirements; or develop new ways to educate emergency health care providers through the use of technology-enhanced educational methods. Appropriations of not more than $30,000,000 are authorized for each of the fiscal years 2008 through 2012; no more than 10 percent of appropriated funds in a fiscal year may be used for administrative expenses. (Section 6026)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with minor changes. The funds made available under this section are not to go to entities operating on a for-profit basis. Additionally, the amount allowed for administrative expenses is decreased to 5 percent. (Section 6204)

(48) Value-added agricultural product market development grants

The House bill extends the program through fiscal year 2012 and provides $30,000,000 in mandatory funding for each fiscal year. Of the mandatory funds, 10 percent is to be set aside for projects benefiting beginning farmers and ranchers or socially disadvantaged farmers or ranchers and 10 percent is to be set aside for applications that propose to develop mid-tier value chains, which are defined in this section as local and regional supply networks that link independent producers with businesses and cooperatives that market value-added agricultural products. Should viable applications for these 2 purposes not meet the full 10 percent set-aside, amounts unobligated by June 30 may be reallocated. The House bill requires the Secretary, in awarding grants under this section, to consider applications more favorably, when compared to other applications, to the extent that the project proposed

in the application contributes to increasing opportunities for operators of small and medium-sized farms and ranchers structured as "family farms"—as defined in the regulations prescribed under section 302 of the Con Act. (Section 6027)

The Senate amendment provides for an extension of the program through 2012 and updates the definitions of "assisting organization," "technical assistance," and "value-added agricultural product." Under the Senate amendment, a grant recipient can receive no more than $300,000 in the case of grants including working capital or $100,000 in the case of all other grants. The amount of grant funds provided to an assisting organization for research, training, technical assistance, and outreach for a fiscal year may not exceed 10 percent of the total funds that are used to make grants.

The Senate amendment requires that grants made under this section be limited to a 3-year term. The Secretary is authorized to offer a simplified application form and process for project proposals that request less than $50,000. The Secretary is also authorized, to the maximum extent practicable, to provide grants to projects that provide training and outreach activities in areas that have received relatively fewer grants. The Senate amendment adds a priority for projects that contribute to increasing opportunities for beginning farmers or ranchers, socially disadvantaged farmers or ranchers, and operators of small and medium-sized farms and ranchers that are not larger than family farms and support new ventures that do not have well-established markets or product development staffs and budgets, including the development of local food systems and the development of infrastructure to support local food systems. (Section 6401)

The Conference substitute adopts the Senate provision with modifications. The Secretary is required to reserve 10 percent of funds for projects that benefit beginning farmers or ranchers or socially disadvantaged farmers or ranchers and 10 percent of funds for projects proposing to develop mid-tier value-chains. Priority in awarding grants should go for projects that contribute to increasing opportunities for beginning farmers and ranchers, socially disadvantaged farmers or ranchers, and operators of small and medium-sized farms and ranches that are structured as family farms. Mandatory funding of $15,000,000, to remain available until expended, is to be provided in fiscal year 2009. The authorization of appropriations for the program is extended through 2012. (Section 6202)

The Managers are aware of the increasing producer interest in mid-tier value chains that are strategic alliances between small and mid-sized farms and ranches and other supply chain partners that deal in significant volumes of high-quality, differentiated food products and distribute rewards equitably across the supply chain. The Managers expect that awards under this new mid-tier value chain component of the program will support strategic alliances in which the producer, producer group, farmer cooperative, or majority-controlled producer based venture participate in developing the overall framework and specific rules for the alliance.

(49) Guarantees for bonds and notes

The House bill extends guarantees for bonds and notes issued for electrification or telephone purposes through 2012. (Section 6030)

The Senate amendment extends eligibility for guarantees for telephone installation purposes; expands the funds available for guarantees to $1,000,000,000; requires the annual fee paid for the guarantee of a bond or note to be equal to 30 basis points of the amount of the unpaid principal; and requires a lender to pay fees required on a semi-annual basis on a schedule structured by the Secretary.

The Senate amendment also extends the Secretary's authority to guarantee payments to September 30, 2012. (Section 6106)

The Conference substitute adopts the Senate provision, with a modification to allow the provision expanding the funds available for guarantees to apply immediately upon enactment. (Section 6106)

(50) Study of rural transportation issues

The House bill authorizes the Secretary of Agriculture, in coordination with the Secretary of Transportation, to conduct a study, and submit a report to Congress on the results of the study within 9 months of the date of enactment of this Act, on railroad issues, with respect to the movement of agricultural products, domestically produced renewable fuels and domestically produced resources for the production of electricity in rural America.

The study includes an examination of the importance of freight railroads to: the delivery of equipment, seed, fertilizer, and other products important to the development of agricultural commodities and products; the movement of agricultural commodities and products to market; the delivery of ethanol and other renewable fuels; the delivery of domestically produced resources for use in the generation of electricity in rural America; the location of grain elevators, ethanol plants, and other facilities; the development of manufacturing facilities; the vitality and economic development of rural communities; the sufficiency in rural America of railroad capacity, the sufficiency of rail competition, the reliability of rail service, and the reasonableness of rail prices; and the accessibility to rail customers in rural America of Federal processes for the resolution of rail customer grievances with the railroad. (Section 6032)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment expanding the study to include other modes of transportation, including truck and barge. (Section 6206)

(51) Energy efficiency programs

The Senate amendment amends sections 2(a) and 4 in the REA by authorizing the Secretary to extend loans to energy efficiency programs. (Section 6101)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6101)

The Managers note that assistance is authorized under this section for renewable energy, including geo-thermal ground loops,

under sections 2 and 4 of the REA as amended. The Managers expect that applications for such assistance will be properly considered and when meritorious, that they should be funded.

(52) Loans and grants for electric generation and transmission

The Senate amendment amends section 4 of the REA by requiring the Secretary to make loans and grants for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines or systems for the furnishing and improving of electric services to persons in rural areas if appropriated funds are made available. (Section 6102)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

If funds are appropriated for Section 4 of the REA, the Managers expect the Secretary to make funds available for baseload generation.

(53) Fees for electrification baseload generation loan guarantees

The Senate amendment amends the REA by adding a new section, 5, which allows the Secretary to charge an upfront fee to cover the cost of loan guarantees. The fee is to be at least equal to the costs of the loan guarantee. The Secretary is given the authority to establish a separate fee for each loan. (Section 6103)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision, but adopts an amendment to require a study on the electric power generation needs in rural areas. (Section 6113)

(54) Deferment of payments to allow loans for improved energy efficiency and demand reduction

The Senate amendment amends section 12 of the REA by requiring the Secretary to allow borrowers to defer payment of principal and interest on any direct loan to enable the borrower to make loans to residential, commercial, and industrial consumers to install energy efficient measures or devices that reduce the demand on electric systems for 60 months. (Section 6104)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modifications to allow energy efficiency and use audits as an eligible purpose under the program. (Section 6103)

The Conference substitute also makes technical changes to allow for direct lending from the U.S. Department of Treasury for RUS financing. Under the authority conferred to it under section 4 of the REA, RUS has the ability to guarantee loans made by the Federal Financing Bank (FFB), an agency of the U. S. Department of the Treasury (Treasury), to rural electric providers. Through approval of both the Office of Management and Budget and the appropriations process, direct loans from the Treasury have been used in addition to the FFB loan guarantees for several years. Language is included in a new section authorizing the loan rate program through Treasury with a requirement that cost of money loans be made with 1/8 of 1 percent added to the interest rate. This will effectively take the place of the FFB program. The loans should continue to be scored at a negative subsidy. (Section 6102)

The Managers expect that this language will enable the loans to be processed more efficiently and still protect the taxpayer investment in a strong, modern infrastructure in rural America.

(55) Rural electrification assistance

The Senate bill amends the definition of "rural area" to mean an area that excludes: (1) cities of 50,000 or more; (2) any urbanized area contiguous and adjacent to a city of 50,000 or more, except for narrow strips of urbanized areas; and (3) any collection of contiguous census blocks with a housing density of 200 housing units per square mile that is adjacent to a city of 50,000 or adjacent to an urbanized area, except for narrow strips of such territory. The definition is also amended to include any area within the service area of a borrower for which a borrower has an outstanding loan made under titles I through V of the REA. (Section 6105)

With respect to loans and loan guarantees made under the rural broadband program, the term rural area also excludes a city, town, or unincorporated area that has a population of greater than 20,000 inhabitants.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment with modifications. Rural area is defined to mean an area that excludes a city or town of 20,000 or more, or is an area within the service area of a borrower for which a borrower has an outstanding loan made under titles I through V of the REA. (Section 6104)

(56) Electric loans for renewable energy

The Senate amendment amends Title III of the REA by adding a new section, 317, which allows the Secretary to make loans to rural electric cooperatives for purposes of electric generation and transmission of renewable energy. Renewable energy source is defined as a qualified energy resource under section 45(c)(1) of the Internal Revenue Code of 1986. (Section 6108)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modifications. The provision to allow transmission under this section is deleted with the understanding that the agency currently possesses authorization to make loans for such transmission. Additionally, the definition of renewable energy source is redefined to mean "an energy conversion system fueled from a solar, wind, hydropower, biomass, or geothermal source of energy." (Section 6108)

The Managers expect the Secretary to make electric loans under this title for electric generation from renewable energy resources to rural and nonrural residents.

(57) Bonding requirements

The Senate amendment amends Title III of the REA by adding agency procedures for loans or grants under this Act. The amendment: (1) requires that loan applicants are contacted at least once each month by RUS regarding the status of any pending loan applications; (2) requires the Secretary to ensure that applicants for any RUS grants have the opportunity to present a case for financial need and that these special economic circumstances are considered in determining the grant status of the applicant; (3) allows the Sec-

retary to adjust population limitations related to digital mobile wireless service; and (4) requires the Secretary to review bonding requirements for all programs administered by RUS. (Section 6109)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision to require the Secretary to review bonding requirements for all programs administered by RUS, but strikes the other provisions in the Senate amendment. (Section 6109)

The Managers are aware of significant annual increases in the cost of labor and materials in major electric generation and transmission projects resulting in parallel increases in cost for Surety and Performance Bonds. The cost of Surety and Performance Bonds precludes some contractors from bidding on projects successfully. The Managers therefore request the Secretary give consideration to other measures that will ensure more contractors can bid on projects and simultaneously protect the government's investment in these projects. Suggestions have been made that lines of credit or parent company guarantees are examples of methods that could provide such protection for both the borrowers and the government.

(58) Substantially underserved trust areas

The Senate amendment provides that Native American trust lands, where more than 20 percent of the population does not have electric, telecommunications, broadband or water service, are to be considered substantially underserved trust areas. The Secretary may make programs administered by RUS available to such areas at lower loan rates and may waive non-duplication requirements. (Section 6112)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with modifications to ensure only that only the restrictions and requirements specified under this section are waived with this authority. The authority of the Secretary to waive non-duplication restrictions, matching fund requirements, or credit support requirements from any loan or grant program administered by RUS to facilitate the construction, acquisition, or improvement of infrastructure is not to affect any loan or grant program administered by the U.S. Environmental Protection Agency. In addition, the language in this section is not intended to amend, alter, or affect any statutory provisions contained in the Safe Drinking Water Act or any regulations promulgated under that Act, including any orders or guidance issued pursuant to that authority. (Section 6105)

(59) Rural electronic commerce extension

The Senate amendment reauthorizes section 1670(e) of the FACT Act through 2012. (Section 6301)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(60) Insurance of loans for housing and related facilities for domestic farm labor

The Senate amendment amends section 514 (f)(3) of the Housing Act of 1949, by extending the definition of "domestic farm labor" to include any person who receives a substantial portion of

their income from the processing of agricultural or aquaculture commodities. (Section 6402)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 6205)

(61) Housing Assistance Council

The Senate amendment provides for the "Housing Assistance Council Authorization Act of 2007." (Section 6501)

This section authorizes the Secretary of Housing and Urban Development (HUD) to provide financial assistance to the Housing Assistance Council (HAC) for the purpose of supporting community-based housing development organizations' community development and affordable housing projects and programs in rural areas. (Section 6502)

The Senate amendment requires the Comptroller General to audit any institution receiving funds from HAC and a GAO report on the use of any funds appropriated to HAC over the past 10 years. (Section 6503)

The Senate amendment prohibits funds from subtitle D of this Act from being used to provide housing assistance to persons not lawfully present in the United States. (Section 6504)

The Senate amendment prohibits funds from being used to lobby or retain a lobbyist. (Section 6505)

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate amendment, with modifications to allow the GAO to use private, independent audits for the review of HAC. (Sections 6301, 6302, 6303, 6304, and 6305)

(62) Interest rates for water and waste disposal

The Senate amendment amends section 307(a)(3) of the Con Act to ensure that interest rates for intermediate and poverty rate loans are tied to the current market rate. The poverty rate is set at 60 percent of the market rate and the intermediate rate is set at 80 percent of the market rate. (Section 12602)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment, with modifications to exclude from the interest rate change, those loans that have been approved prior to the enactment of this Act. (Section 6011)

TITLE VII—RESEARCH

(1) Definitions

The House bill defines terms necessary to implement this Act: capacity program, competitive program, capacity program critical base funding, competitive program critical base funding, ASCARR Institution, Secretary, Directors, Under Secretary, and Hispanic-serving agricultural college and university. (Section 7101)

The Senate amendment amends the Department of Agriculture Reorganization Act of 1994 to define the terms: advisory board, competitive program, director, infrastructure program, and institute (Section 7401). The Senate amendment amends Section 1404 of the National Agricultural Research, Extension and Teaching Pol-

icy Act of 1977 (NARETPA) to define the terms Hispanic-serving agricultural colleges and universities, and Hispanic-serving institution, and to expand 'college' and 'university' to include research foundations maintained by a college or university. (Section 7001)

The Conference substitute adopts the House provision with an amendment to include the terms defined in the House bill and the Senate amendment.

The Conference substitute defines the following terms necessary to implement this Act: capacity and infrastructure program, capacity and infrastructure program critical base funding, competitive program, competitive program critical base funding, Hispanic-serving agricultural colleges and universities, NLGCA Institution (non-land-grant colleges of agriculture), 1862 Institution, 1890 Institution, and 1994 Institution. (Section 7501)

The Conference substitute amends section 1404 of the NARETPA to define Hispanic-serving agricultural colleges and universities, Hispanic-serving institution, and NLGCA Institutions (non-land-grant colleges of agriculture), and to expand the definition of 'college' and 'university' to include research foundations maintained by a college or university. (Section 7101)

The Conference substitute amends section 251 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6971) to define the terms 'capacity and infrastructure program' and 'competitive program'. (Section 7511)

(2) Budget submission and funding

The House bill requires the President to submit with the annual budget request a single line item reflecting the total funding requested for competitive programs for the fiscal year and the previous five fiscal years. The capacity program critical base funding request should be apportioned among programs based on priorities established by the Under Secretary of Research, Education, and Economics, and the Directors of the National Agricultural Research Program Office (NARPO). Additional funds requested should enhance 1890 institutions, 1994 institutions, small 1862 institutions, ASCARR institutions, and Hispanic-serving agricultural colleges and universities. The competitive program critical base funding request should be apportioned among programs based on priorities established by the Under Secretary and Directors of NARPO. Additional funds requested should support the study of emerging problems and their solutions. Necessary funds are authorized to be appropriated. Competitive programs under this section include only those requested by the President for funding. (Section 7102)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with an amendment to include the total amount requested by the President for the research, extension, and education activities of the Research, Education, and Economics (REE) mission area of the Department in a single budget line item. The Conference substitute recommends that out of funds above the capacity and infrastructure critical base funding level, budgetary emphasis should be placed on certain institutions; and out of funds above the competitive program critical base funding level, budgetary emphasis should be placed on emerging problems. (Section 7506)

The Managers recognize the numerous benefits of competitive research programs and have supported the expansion of funding for these programs. The Managers encourage the Department to make every effort to increase support for competitive programs while maintaining the needs of capacity and infrastructure programs when making budgetary decisions.

The Managers expect the Secretary to review, in conjunction with the consultative panel on the Extension Indian Reservation Program (also known as the Federally Recognized Tribes Extension Programs), the demand for and status of extension services on Indian reservations and reflect that need in their budget submission.

(3) Additional purposes of agricultural research and extension

The House bill amends section 1403 of the NARETPA to add the following to the purposes of agricultural research and extension: integrating and organizing agricultural research, extension, education, and related programs to respond to 21st century challenges; continuing to meet the needs of society from a local, tribal, State, national, and international perspective; minimizing duplication and maximize coordination of the program at all levels; positioning the research, extension, education, and related programs to expand the portfolio to increase its contribution to society. (Section 7103)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision.

(4) National Agricultural Research Program Office

The House bill establishes six research Program Offices, collectively known as the "National Agricultural Research Program Office" (NARPO) within the office of the Under Secretary of Agriculture for Research, Education, and Economics. The NARPO will coordinate the programs and activities of the research agencies within the mission area to the maximum extent practicable. The NARPO will include the following offices:

(1) Renewable energy, resources, and environment;
(2) Food safety, nutrition, and health;
(3) Plant health and production and plant products;
(4) Animal health and production and animal products;
(5) Agriculture systems and technology; and
(6) Agriculture economics and rural communities.

Each research program office will have a director appointed by the Under Secretary. The requirements to qualify for one of the director positions include performance of outstanding research, extension, or education in agriculture or forestry, a doctoral-level degree, and other standards as required for appointment to a senior level of the competitive service.

The Directors will formulate programs, assess workforce needs, cooperate with the National Agricultural Research, Extension, Education, and Economics Advisory Board (NAREEE Advisory Board) in planning for personnel needs, develop strategic planning and priorities for Department-wide research, extension, education, and related activities, and communicate with program beneficiaries.

The Under Secretary, along with the Directors, and in consultation with the NAREEE Advisory Board, will direct and coordi-

nate programs within relevant departmental agencies to focus on understanding program problems and opportunities, and addressing those problems along with national, regional, and local priorities.

The Under Secretary will coordinate with the Directors And receive the advice of the NAREEE Advisory Board to ensure that programs are integrated and coordinated.

The Under Secretary will fund each Program Office with Appropriated funds made available to the agencies within the mission area. The total number of staff for all Program Offices will not exceed 30 full time positions and will have to be filled by current positions.

The Under Secretary will integrate leadership functions from existing program offices to ensure that program offices are the primary program leaders.

The Under Secretary will develop and implement specialty crop research activities, facilitate information delivery, and ensure coordination among research initiatives related to specialty crops. (Section 7104)

The Senate amendment requires coordination between the Agricultural Research Service (ARS) and the National Institute of Food and Agriculture (NIFA)—formerly the Cooperative State Research, Education, and Extension Service (CSREES). The Under Secretary for Research, Education, and Economics will coordinate the programs under the authority of the Administrator of ARS and the Director of NIFA. The staff of the Administrator and the Director, including national program leaders, are required to meet on a regular basis to: increase coordination and integration of research programs at ARS and the research, extension, and education programs of NIFA; coordinate responses to emerging issues; minimize unnecessary duplication of work and resources at the staff level of each agency; use the extension and education program to deliver knowledge to stakeholders; address critical needs facing agriculture; and focus the research, extension, and education funding strategy of the Department. An annual report to Congress is required on efforts to increase coordination between ARS and NIFA.

The Undersecretary for Research, Education, and Economics is charged with undertaking a roadmap to identify major opportunities and gaps in agricultural research, extension, and education and to use this roadmap to set the research agenda and recommend funding levels for programs in this mission area of the Department.

Such sums necessary for activities undertaken to develop the roadmap are authorized. (Sections 7402)

The Conference substitute adopts the House provision with an amendment to change the name of the name of the office to the Research, Extension, and Education Office (REEO) and to integrate it into the office of the Under Secretary for Research, Education, and Economics. The Conference substitute also captures the roadmap from the Senate amendment.

The Conference substitute requires the Under Secretary for Research, Education, and Economics to have specialized training or significant experience in agricultural research, education, and economics. The Under Secretary is designated as the chief scientist of

the Department and is tasked with the coordination of the research, education, and extension activities of the Department.

The Conference substitute organizes the REEO into six Divisions:

(1) Renewable energy, natural resources, and environment;
(2) Food safety, nutrition, and health;
(3) Plant health and production and plant products;
(4) Animal health and production and animal products;
(5) Agriculture systems and technology; and
(6) Agriculture economics and rural communities.

Each Division will be led by a Division Chief. The Division Chiefs are to be selected by the Under Secretary to promote leadership and professional development, to enable personnel to interact with other agencies of the Department, and to allow for the rotation of Department personnel into the position of Division Chief. Each Division Chief is required to have conducted exemplary research, extension, or education in the field of agriculture or forestry and is required to have earned an advanced degree at an institution of higher education. Each Division Chief is limited to a four-year term of service. The duties of each Division Chief include addressing the agricultural research, extension, and education needs and priorities within the Department and communicating with stakeholders, as well as the development of the roadmap as described in section 7504 of this Act. (Section 7511 and Section 7504)

The Managers expect the REEO to be staffed and funded from appropriations made available to the agencies within the REE mission area. There is concern that the REEO will evolve into a new layer of bureaucracy. To address this, the Managers have included language to limit the number of staff positions for the REEO to 30 full-time current positions.

The Managers expect the REEO Divisions to coordinate the research, extension, and education activities across the Department. The Managers expect the Division Chiefs of each office to: coordinate the functions of intramural and extramural research, extension, and education programs to ensure the maximum integration of activities; and to formulate programs, assess workforce needs, and cooperate with the agencies of the REE mission area and the NAREEE Advisory Board in developing strategic planning and priorities for the Department.

The Managers expect that once REEO is operational, the Division Chiefs will be able to track, report, and identify research gaps, unnecessary duplication among programs, and assess the needs for immediate, emerging, and future needs for research, extension, and education programs.

(5) Establishment of competitive grant programs under the National Institute for Food and Agriculture

The House bill establishes the NIFA within CSREES to administer all competitive programs as defined in section 7101 of this Act. (Section 7105)

The Senate amendment transfers all authorities under CSREES to NIFA, and all programs currently under CSREES will continue under NIFA. NIFA will be headed by a Director, who is required to report to and consult with the Secretary on the re-

search, extension, and education activities of NIFA. The Director will work with the Under Secretary for Research, Education, and Economics to ensure proper coordination and integration of all research programs that are within the responsibility of the Department.

The Senate amendment establishes four offices at NIFA to increase competitive grant opportunities and re-establish the importance of the land-grand college and university system. First, the Office of the Agricultural Research, Extension, and Education Network administers all infrastructure programs (also known as capacity programs) such as those funded by formula funds at state agricultural experiment stations and the extension service. Second, the Office of Competitive Programs for Fundamental Research administers competitive programs that fund fundamental (basic) food and agricultural research, such as the National Research Initiative's basic research projects. Third, the Office of Competitive Programs for Applied Research administers competitive programs for applied food and agricultural research. Fourth, the Office of Competitive Programs for Education and Other Purposes administers competitive programs for education and other fellowships. The Director of NIFA has the discretion to divide programs that intersect more than one competitive program office.

The Senate amendment authorizes appropriations for NIFA, above the authorizations of individual programs, to be allocated according to recommendations in the roadmap to be developed by the Under Secretary of Research, Education and Economics under section 7402 of this Act.

The Senate amendment includes a series of conforming amendments to modify each place in current law to reflect the change from "Cooperative State Research, Education, and Extension Service" to "National Institute of Food and Agriculture". (Section 7401)

The Conference substitute adopts the Senate provision to modify the appointment, supervision, compensation, and authorities of the Director of NIFA and to modify the organization of offices under NIFA. It also modifies the programs under the definition of "capacity and infrastructure program" and "competitive program".

The Conference substitute provides that NIFA will be established by October 1, 2009. The Director of NIFA is required to be a distinguished scientist and will be appointed by the President. The Director is required to report to the Secretary or the designee of the Secretary and will serve a six-year term, subject to reappointment for an additional six-year term.

The Conference substitute also provides the Director with discretion to organize NIFA into offices and functions to administer fundamental and applied research and extension and education programs. The NIFA Director is required to ensure an appropriate balance between fundamental and applied research programs, and is required to promote the use and growth of competitively awarded grants.

The Conference substitute provides an authorization of appropriations for NIFA without fiscal year limitation, in addition to funds appropriated to each program administered by the Institute. The appropriated funding is required to be allocated according to

recommendations in the roadmap described in section 7504 of this Act.

The Managers are concerned about the visibility of competitive research grants, the increasing demands placed on the land-grant system, and the weakening financial support of both competitive grants and formula funds. By restructuring CSREES, the Managers intend for NIFA to raise the profile of agricultural research, extension, and education. The Managers believe that NIFA will be commensurate in stature with other grant-making agencies across the Federal government, such as the National Institutes of Health and the National Science Foundation. The Managers intend for NIFA to be an independent, scientific, policy-setting agency for the food and agricultural sciences, which will reinvigorate our nation's investment in agricultural research, extension, and education.

The Managers are concerned about the balance between fundamental and applied research at the Department. The Managers note that the Conference substitute gives the Director of NIFA discretion to establish offices, to set appropriate policy, and to address problems that agricultural research, extension, and education can help solve. In particular, the Managers intend that the Director place emphasis on fundamental research because this type of research is the engine and cornerstone for all other types of research. Although fundamental research across the sciences is funded by the National Science Foundation, the Managers expect NIFA to play a larger role in funding this type of research. However, the Managers recognize that without applied research, the fruits of fundamental research would never be used to solve the pressing needs of the public. Therefore, the Managers intend for the Director to carefully analyze the needs of the agricultural research, extension, and education system and address them accordingly by allocating appropriate staff and resources within NIFA. (Section 7511)

(6) Merging of IFAFS and NRI

The House bill combines the Initiative for Future Agriculture and Food Systems (IFAFS) with the National Research Initiative (NRI) by repealing section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998, except for section 401(b)(3) of that Act which will remain in effect, and incorporating the priorities under section 401 into subsection (b) of the Competitive, Special, and Facilities Research Grant Act.

This section states that competitive grants authorized under the new program are to be available to State agricultural experiment stations, all colleges, universities, university research foundations, research institutions and organizations, Federal agencies, national laboratories, private organizations, corporations, and individuals.

The term of any grant received under this program will not exceed 10 years. All grant awards are to be made on the basis of peer and merit review. Funds may not be used for construction.

Within the combined program, there will be two separate programs for basic and applied research, to be referred to as NRI and IFAFS respectively. Out of the funds made available to the com-

bined program, 60 percent will fund NRI and 40 percent will fund IFAFS.

Within the NRI allocation, funding will be allocated as follows: 30 percent for multidisciplinary teams; 20 percent for mission-linked systems research; not less than 10 percent for education and research opportunities. The offer or availability of matching funds shall not be taken into account when making a grant. The match requirement may be waived in certain cases.

Matching funds will be required for IFAFS grants if the grant is for applied, commodity-specific research and not national in scope.

In addition to NRI grants, the Secretary may conduct a program in agricultural, food, and environmental sciences in a variety of specified categories. Funding made available under current law for IFAFS will be transferred to this new combined program. The House bill authorizes $500,000,000 to be appropriated and to remain available until expended for obligations incurred in that fiscal year.

This section repeals the authority for construction of non-Federal agricultural research facilities with appropriated Federal funds. (Section 7106)

The Senate amendment amends Section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 to add sustainable and renewable agriculture-based energy production, ecosystem services, and beginning farmers and ranchers to the purposes of IFAFS.

This section strikes a provision allocating $200,000,000 per year in mandatory funds for IFAFS and provides $45,000,000 in mandatory funds for IFAFS to be obligated 30 days after the enactment of the farm bill. This section requires 32 percent of appropriated funds for the NRI to go towards IFAFS grants if funds are not appropriated or obligated for IFAFS. (Section 7201)

The Senate amendment amends the Competitive, Special, and Facilities Research Grant Act to add research on agricultural genomics and biotechnology, classical animal and plant breeding, beginning farmers and ranchers, and the judicious use of antibiotics to the research priorities of the NRI.

This section modifies the availability of grant funds for classical plant and animal breeding to ten years and establishes National Research Support Project–7 for research on drugs for use in minor animal species. (Section 7307)

The Conference substitute adopts the House provision with an amendment to replace subsection (b) of the Competitive, Special, and Facilities Research Grant Act to create a new program, titled the "Agriculture and Food Research Initiative" (AFRI), to award competitive grants for fundamental and applied research, extension, and education to address food and agricultural sciences. The program combines the priority areas of the NRI with the purposes and priority areas of IFAFS. There are six priority areas in AFRI:

(1) Plant health and production and plant products;
(2) Animal health and production and animal products;
(3) Food safety, nutrition, and health;
(4) Renewable energy, natural resources, and environment;
(5) Agriculture systems and technology; and

(6) Agriculture economics and rural communities.

The term of competitive grants awarded under AFRI may not exceed 10 years.

Under AFRI, the Secretary will seek proposals to conduct research, extension, or education activities in a specific priority area, determine the relevance and merit of proposals, and award grants on the basis of merit, quality, and relevance as determined by experts in the specific subject area.

AFRI funds are to be allocated in the following manner: 60 percent will be made available for fundamental research and 40 percent will be made available for applied research. Of the allocation for fundamental research, not less than 30 percent will be made available for multidisciplinary research and not more than two percent will be made available for equipment grants.

Grants awarded through AFRI may also be used to assist in the development of capabilities in the agricultural, food, and environmental sciences to certain institutions, investigators, and faculty members where such development is necessary.

Eligible entities that may receive grants through AFRI include State agricultural experiment stations, colleges and universities, university research foundations, other research institutions and organizations, Federal agencies, national laboratories, private organizations or corporations, individuals, or groups thereof.

AFRI funds are prohibited from being used for the construction, acquisition, remodeling, or alteration of a facility or building.

For equipment grants funded through AFRI, the cost of the equipment required may not exceed 50 percent of the Federal funds. The Secretary may waive this matching requirement under specified conditions. For grants awarded to conduct applied research that is commodity-specific and not of national scope, the grant is required to be matched with equal matching funds from a non-Federal source.

The authorization level for AFRI is set at $700,000,000 from fiscal year 2008 through fiscal year 2012, of which not less than 30 percent is required to be made available for integrated research. (Section 7406)

The Managers expect that in providing an annual authorization of appropriations of $700,000,000 that AFRI will receive substantial funding to carry out its purposes in the annual appropriations process. NRI and IFAFS have been consistently underfunded despite the growing list of identified needs in agricultural research, extension, and education.

The Managers created AFRI to enhance the work funded by NRI and IFAFS. As such, AFRI should receive the combined level of authorized and mandatory funding that NRI and IFAFS, respectively, were to receive in previous fiscal years. The Managers expect that AFRI be funded at increasing levels each fiscal year to meet identified priority agriculture research, extension and education demands.

The Managers are aware of the importance of supporting public sector conventional plant and animal breeding, as evidenced by the specific mention of this priority under the "plant health and production and plant products" and "animal health and production and animal products" priorities in AFRI. The Managers intend that

the term "conventional breeding," also known as "classical breeding," refers to breeding techniques which rely on creating an organism with desirable traits through controlled mating and selection. Because conventional breeding is critical to the development of seeds and breeds that are well adapted to local conditions and changing environmental constraints, these efforts are important to the food and agriculture sector. The Managers are aware that participatory breeding programs, where producers are involved in the process of developing new plant varieties and animal breeds, yield varieties and breeds that are better adapted to local environments. The Managers encourage an emphasis on funding of conventional plant and animal breeding as part of the new AFRI.

The Managers are aware of the need for integrated research, extension, and education activities to stimulate entrepreneurship across rural America to support business development, improve skills of current and emerging entrepreneurs, expand access to capital, and build entrepreneurial networks. Under the priority area of "agriculture economics and rural communities," AFRI includes "rural entrepreneurship" to increase competitive funding for integrated entrepreneurship activities. The Managers intend for this priority area to include both agricultural and rural development ventures, including strengthening non-farm self-employment for farm and rural populations.

The Managers intend that most program areas within AFRI would have grant terms of short duration. However, the Managers are aware that there are areas of research where longer-term grants are needed, such as conventional plant and animal breeding, environmental research, and nutrition research. The Managers expect the Secretary to use 10-year grant terms only when it is critical for long-term systems research.

The Managers encourage the Director of NIFA to continue to support National Research Support Project-7 and to work cooperatively with the Center for Veterinary Medicine of the Food and Drug Administration to facilitate the development and approval of drugs for minor species and minor uses for major species. (Section 7406)

In order to improve the Department's capacity to develop programs designed to address critical and emerging issues, leverage Federal resources, and promote public and private sector participation, Congress created an Integrated Research, Education, and Extension Competitive Grants Program in 1998. The Managers continue to support this important competitive grants program and have extended the authorization for these activities in section 7306 of this Act. To further expand on these activities, the Managers have included a provision in this section which directs that not less than 30 percent of the funds made available to AFRI be used for integrated research, extension, and education competitive grants. It is the intent of the Managers that with these additional funds, the Department will be able to expand the number and scope of programs supported under this authority.

(7) Capacity Building Grants for ASCARR Institutions

The House bill establishes a competitive grant program for ASCARR Institutions to maintain and expand education, outreach,

and research capacity relating to agriculture, renewable resources, and other similar fields. Necessary sums are authorized to be appropriated. (Section 7107)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with an amendment to add a new section, 1473F, to NARETPA, and to replace the term "ASCARR" with the term "NLGCA," an abbreviation for "non-land-grant colleges of agriculture." (Section 7138)

(8) Establishment of research laboratories for animal disease

The House bill authorizes the Secretary to establish animal disease research laboratories, and to the extent that an animal disease constitutes a threat to the livestock industry, authorizes the Secretary to conduct research, diagnostics, and other activities. This section prohibits a person, State, or Federal agency from importing, transporting, or storing at a research facility a live virus that the Secretary determines to be a threat to livestock, such as Foot and Mouth Disease. The Secretary may, however, import, transport, or store such a live virus and may also allow for a person, State, or Federal agency to do the same if it is in the public interest. Necessary sums are authorized to be appropriated. (Section 7108)

The Senate amendment requires the Secretary to issue a permit to the Department of Homeland Security for work on live Foot and Mouth Disease virus at the National Bio- and Agro-Defense Laboratory. This section allows the Secretary to invalidate the permit if research is not conducted in accordance with its regulations. This section clarifies that the suspension, revocation, or impairment of the permit is only to be made by the Secretary of Agriculture and is a nondelegable function. (Section 11016)

The Conference substitute adopts the Senate provision with an amendment to replace the term "National Bio- and Agro-Defense Laboratory" with "any facility that is a successor to the Plum Island Animal Disease Center and charged with researching high-consequence biological threats involving zoonotic and foreign animal diseases." (Section 7524)

(9) Grazinglands Research Laboratory

The House bill requires that Federal land and facilities currently administered by the Department as the Grazinglands Research Laboratory shall not be declared excess or surplus property. (Section 7109)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with an amendment to sunset the provision at the end of fiscal year 2012. (Section 7502)

(10) Research training

The House bill requires plant genetic researchers that receive certain federal funds to complete an approved training program. (Section 7110)

The Senate has no comparable provision.

The Conference substitute deletes the House provision.

(11) Fort Reno Science Park Research Facility

The House bill allows the Secretary to lease land at the Grazinglands Research Laboratory to the University of Oklahoma. (Section 7111)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision. (Section 7503)

(12) Assessing the nutritional composition of beef products

The House bill allows the Secretary to award a grant, contract, or other agreement to a land-grant university to update the Nutrient Composition Handbook for Beef. Necessary sums are authorized to be appropriated. (Section 7112)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision.

(13) Sense of Congress regarding funding for human nutrition research

The House bill states that it is the sense of Congress that human nutrition research has the potential for improving the health of Americans. (Section 7113)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision.

(14) Advisory Board

The House bill amends Section 1408(g)(1) of NARETPA by increasing the maximum annual appropriations for the NAREEE Advisory Board to $500,000. (Section 7201)

The Senate amendment amends Section 1408 of NARETPA by increasing the maximum annual appropriations for the NAREEE Advisory Board to $500,000 and to change the membership of the board from 31 to 24 members. The Senate amendment mandates that members representing the following organizations are no longer to be members of the board: a national animal commodity organization; a national crop commodity organization; a national aquaculture association; a non-land grant college or university with a historic commitment to research in the food and agricultural sciences; the portion of the scientific community not closely associated with agriculture; an agency within the Department that lacks research capabilities; a research agency of the Federal Government other than the Department; and national organizations directly involved in agricultural research, extension, and education. One member actively engaged in aquaculture is added to compensate for the loss of a representative from a national aquaculture association. (Section 7002 and Section 7401)

The Conference substitute adopts the Senate provision with an amendment to include a member representing NLGCA institutions; a member actively engaged in the production of a food animal commodity recommended by a coalition of national livestock organizations; a member actively engaged in the production of a plant commodity recommended by a coalition of national crop organizations; and a member actively engaged in aquaculture recommended by a coalition of national aquaculture organizations. (Section 7102)

(15) Advisory Board termination

The House bill (section 7202) and the Senate amendment (section 7002) extend section 1408(h) of NARETPA through 2012.

The Conference substitute adopts the Senate provision. (Section 7102)

(16) Renewable Energy Committee

The House bill adds a new section, 1408B, to NARETPA that requires the executive committee of the NAREEE Advisory Board to establish and appoint initial members to a permanent renewable energy subcommittee responsible for studying the research, extension, and economics programs affecting the renewable energy industry. The renewable energy committee will submit annual reports to the Board with the committee's findings and recommendations.

This section states that the Renewable Energy Subcommittee shall coordinate with the Biomass Research and Development Act Technical Advisory Committee.

This section states also that when preparing the annual budget recommendations for the Department, the Secretary shall take into account the recommendations made by the committee and adopted by the NAREEE Advisory Board. (Section 7203)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with an amendment to make technical changes in the Renewable Energy Committee. (Section 7104)

(17) Specialty Crop Committee Report

The House bill amends section 1408A(c) of NARETPA by expanding the list of recommendations the Specialty Crops Subcommittee must make annually to the NAREEE Advisory Board to include economic analyses of the specialty crops sector and data that provides applied information useful to specialty crop growers. (Section 7204)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with an amendment to make technical changes. (Section 7103)

(18) Inclusion of UDC grants and fellowships for food and agricultural sciences education

The House bill amends section 1417 of NARETPA by adding the University of the District of Columbia (UDC) as an eligible university to compete for food and agricultural sciences education grants and fellowships. (Section 7205)

The Senate amendment is the same as the House provision with technical differences. (Section 7004)

The Conference substitute adopts the Senate provision. (Section 7106)

(19) Grants and fellowships for food and agricultural Sciences Education

The House bill amends section 1417(j) of NARETPA by adding agriculture programs for grades K–12 to the purposes of these grants. The current authorization of appropriations of $60,000,000

for each fiscal year is extended through 2012. This section requires a report on the distribution of funds to teaching programs. (Section 7206)

The Senate amendment is the same as House provision with technical differences. (Section 7007)

The Conference substitute adopts the House provision with an amendment to require a biennial report. (Section 7109)

(20) Grants for research on production and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products

The House bill (section 7207) and the Senate amendment (section 7008) extend section 1419(d) of NARETPA through 2012.

The Conference substitute adopts the Senate provision with an amendment to repeal this section from current law. (Section 7110)

(21) Policy Research Centers

The House bill amends section 1419A of NARETPA by including the Food Agricultural Policy Research Institute (FAPRI) and the Agricultural and Food Policy Center (AFPC) as eligible to receive grants under the policy research center authorization and extending the authorization of appropriations through 2012. (Section 7208)

The Senate amendment amends section 1419A of NARETPA by including FAPRI, the AFPC, the Rural Policy Research Institute, and the Community Vitality Center as eligible to receive grants under the policy research center authorization and extending the authorization of appropriations through 2012. (Section 7009)

The Conference substitute adopts the Senate provision with an amendment to remove the Community Vitality Center, add the Drought Mitigation Center, and clarify that the specialty crops sector should be covered by the centers. (Section 7111)

The Managers recognize specialty crops are a vital component of agriculture in the Midwestern region of the United States and encourage the development of a collaborative research program at a land-grant university to support specialty crop research focused on genetic resource development, sustainable production practices, and improved marketing systems. The Managers recognize the resources and expertise available among the Midwestern land-grant universities, such as Purdue University, and encourage the Secretary to support continued expansion of the specialty crop research, extension, and education capabilities of these institutions.

(22) Human Nutrition Intervention and Health Promotion Research Program

The House bill (section 7209) and the Senate amendment (Section 7010) extend section 1424(d) of NARETPA through 2012.

The Conference substitute adopts the House provision. (Section 7114)

(23) Pilot Research Program to combine medical and agricultural research

The House bill (section 7210) and the Senate amendment (section 7011) extend section 1424A(d) of NARETPA through 2012.

The Conference substitute adopts the Senate provision. (Section 7115)

The Managers recognize the potential for the development of pharmaceuticals for human use through the use of bovine blood products. The usefulness of bovine blood products has resulted from a number of technical advances. These advances ensure the proper and necessary level of control of the animal-based raw materials so that they can now meet or exceed the requirements to develop safe and efficacious pharmaceuticals for human use. The Managers encourage the Secretary to fund pilot projects through this authorization to accelerate the development of pharmaceuticals for human use from bovine blood products.

(24) Nutrition Education Program

The House bill authorizes appropriations of $90,000,000 for each fiscal year through 2012 to carry out the food and nutrition education program. (Section 7211)

The Senate amendment has no comparable provision. (Section 7012)

The Conference substitute deletes the House provision.

(25) Continuing animal health and disease research programs

The House bill (section 7212) and the Senate amendment (section 7014) extend section 1433(a) of NARETPA through 2012.

The Conference substitute adopts the House provision. (Section 7117)

(26) Cooperation among eligible institutions

The House bill requires the Secretary to encourage cooperation among institutions eligible for funding under continuing animal health and disease research programs in setting research priorities. (Section 7213)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision. (Section 7118)

(27) Appropriations for research on national or regional problems

The House bill (section 7214) and the Senate amendment (section 7015) extend section 1434(a) of NARETPA through 2012.

The Conference substitute adopts the Senate provision. (Section 7119)

(28) Authorization level of extension at 1890 land-grant colleges

The House bill (section 7215) and the Senate amendment (section 7017) modify section 1444(a)(2) of NARETPA by increasing from 15 to 20 percent the Smith-Lever (extension) formula funding allocated to 1890 institutions.

The Conference substitute adopts the House provision. (Section 7121)

(29) Authorization level for agricultural research at 1890 land-grant colleges

The House bill (section 7216) and the Senate amendment (section 7018) modify section 1445(a)(2) of NARETPA by increasing from 25 to 30 percent the Hatch Act (research) formula funding that is allocated to 1890 institutions.

The Conference substitute adopts the Senate provision. (Section 7122)

(30) Grants to upgrade agriculture food sciences facilities at the District of Columbia Land-Grant University

The House bill (section 7217) and the Senate amendment (section 7020) amend NARETPA by adding an authorization of $750,000 in annual appropriations for grants to be made to UDC to acquire, alter, or repair facilities or relevant equipment necessary for conducting agricultural research.

The Conference substitute adopts the Senate provision. (Section 7124)

(31) Grants to upgrade agricultural and food sciences facilities at 1890 land-grant colleges, including Tuskegee University

The House bill (section 7218) and the Senate amendment (section 7019) extend section 1447(b) of NARETPA through 2012.

The Conference substitute adopts the House provision. (Section 7123)

(32) National research and training virtual centers

The House bill (section 7219) and the Senate amendment (section 7021) extend section 1448 of NARETPA through 2012.

The Conference substitute adopts the Senate provision. (Section 7126)

(33) Matching funds requirement for research and extension activities of 1890 institutions

The House bill (section 7220) and the Senate amendment (section 7022) extend section 1455 of NARETPA through 2012.

The Conference substitute adopts the House provision with an amendment to update current law and clarify the current requirement of providing equal matching funds from non-Federal sources. (Section 7127)

(34) Hispanic-serving institutions

The House bill extends section 1455(c) of NARETPA through 2012. (Section 7221)

The Senate amendment amends section 1455 of NARETPA by removing the ability to receive a grant without a competitive application process. The modification also allows single institutions to receive grants. The annual appropriation is increased from $20,000,000 to $40,000,000 and the authorization of appropriations is extended through 2012. (Section 7023)

The Conference substitute adopts the Senate provision with an amendment to make technical changes. (Section 7128)

(35) Hispanic-serving agricultural colleges and universities

The House bill adds a new section, 1456, to NARETPA which establishes an endowment fund, an institutional capacity building grant program, and a competitive grant program to benefit Hispanic-serving agricultural colleges and universities (HSACUs).

This section defines Hispanic-serving agricultural colleges and institutions as institutions that qualify as Hispanic-serving institutions under the Higher Education Act and offer an associate, bachelor, or other accredited degree in agricultural fields of study.

This section authorizes necessary funds to be appropriated for the endowment fund, extension, and institutional capacity building, and competitive grants through 2012. A formula for the distribution of appropriations is authorized for the endowment and maintenance of Hispanic-serving agricultural colleges and universities in the same manner prescribed under the Second Morrill Act. (Section 7222)

The Senate amendment is similar to the House provision with technical differences. (Section 7024)

The Conference substitute adopts the Senate provision with an amendment to make technical changes. (Section 7129)

(36) International agricultural research, extension, and education

The House bill (section 7223) and the Senate amendment (section 7025) modify section 1458(a) of NARETPA by allowing the Secretary to give priority under this program to institutions with existing memoranda of understanding or agreements with U.S. institutions or State or Federal agencies. This section includes HSACUs as organizations the Secretary may enter into agreements with to help develop a sustainable global agricultural system. This section adds HSACUs to the list of universities eligible for support to do collaborative research with other countries on U.S. agricultural competitiveness. This section also adds HSACUs to the list of colleges and universities where Federal scientists are involved with research conducted internationally. This section establishes a program to provide fellowships to U.S. or foreign students to study at foreign agricultural colleges.

The Conference substitute adopts the Senate provision with an amendment to add anti-hunger and nutrition efforts and increased quantity, quality, and availability of food to the purposes of agreements between eligible institutions or organizations and the Department. (Section 7130)

(37) Competitive grants for international agricultural science and education programs

The House bill (section 7224) and the Senate amendment (section 7026) extend section 1459A(c) of the NARETPA through 2012.

The Conference substitute adopts the House provision. (Section 7131)

(38) Limitation on indirect costs for agricultural research, education, and extension programs

The House bill amends section 1462(a) of NARETPA to allow a recipient of any grant administered under the REE mission area,

excluding those administered under the Small Business Act, to use up to 19 percent of Federal funds for indirect costs. (Section 7225)

The Senate amendment amends section 1462(a) of NARETPA by raising from 19 to 30 percent the allowance of indirect costs a recipient institution can use from a competitive grant awarded by the Department. (Section 7027)

The Conference substitute adopts the House provision with an amendment to increase the indirect cost limitation to 22 percent. (Section 7132)

(39) Research equipment grants

The House bill (section 7226) and the Senate amendment (section 7028) extend section 1462A(e) of NARETPA through 2012.

The Conference substitute adopts the Senate provision. (Section 7133)

(40) University research

The House bill (section 7227) and the Senate amendment (section 7029) extend section 1463 of NARETPA through 2012. (Section 7227)

The Conference substitute adopts the House provision. (Section 7134)

(41) Extension service

The House bill (section 7228) and the Senate amendment (section 7030) extend section 1464 of NARETPA through 2012.

The Conference substitute adopts the Senate provision. (Section 7135)

(42) Supplemental and alternative crops

The House bill (section 7229) and the Senate amendment (section 7032) extend section 1473D(a) of NARETPA through 2012.

The Conference substitute adopts the House provision. (Section 7136)

(43) Aquaculture assistance programs

The House bill extends section 1477 of NARETPA through 2012. (Section 7230)

The Senate amendment extends section 1477 of NARETPA through 2012 and amends section 1475(f) of the Act to prioritize the study and management of Viral Hemorrhagic Septicemia (VHS). (Section 7033)

The Conference substitute adopts the House provision and adds VHS research as a high-priority item in section 7203 of this Act.

The Managers are aware of the devastating impacts that VHS is having on freshwater fish populations in the United States. The Managers encourage the Department's Animal and Plant Health Inspection Service to coordinate its VHS management activities with State natural resource management agencies and tribes to research, develop, and implement a comprehensive set of priorities for managing VHS, including providing funds for research into the spread of the disease, surveillance, monitoring, risk evaluation, enforcement, screening, and management. (Section 7140)

(44) Rangeland research

The House bill extends section 1483(a) of NARETPA through 2012. (Section 7231)

The Senate amendment extends section 1483(a) of NARETPA through 2012 and amends section 1480(a) of the Act by authorizing pilot programs to address natural resources management issues and facilitate the collection of information and analysis to provide information for improved management of public and private rangeland. (Section 7034)

The Conference substitute adopts the House provision. (Section 7141)

(45) Special authorization for biosecurity planning and response

The House bill (section 7232) and the Senate amendment (section 7035) extend section 1484(a) of NARETPA through 2012.

The Conference substitute adopts the Senate provision. (Section 7142)

(46) Resident instruction and distance education grants program for insular area institutions of higher education

The House bill (section 7233) and the Senate amendment (section 7036) extend sections 1490(f) and 1491 of NARETPA through 2012.

The Conference substitute adopts the House provision. (Section 7143)

(47) Hispanic-serving institutions

The House bill (section 7234) and the Senate amendment (section 7001) modify section 1404 of NARETPA to give the term "Hispanic-Serving Institution" the same definition as section 502(a) of the Higher Education Act of 1965.

The Conference substitute adopts the House provision with an amendment to move it into the definitions section of this Act. (Section 7101)

(48) Specialty Crop Policy Research Institute

The House bill amends section 1419A of NARETPA by establishing a Specialty Crop Policy Research Institute within FAPRI. The objectives are to produce and disseminate analyses of the specialty crop sector and an annual review on the state of the specialty crop industry. Necessary sums are authorized to be appropriated. (Section 7235)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with an amendment to incorporate the purposes of this section into subsection (a)(1) of section 1419A of NARETPA. (Section 7111)

(49) Emphasis of Human Nutrition Initiative

The House bill amends section 1424(b) of NARETPA (7 U.S.C. 3174(b)) to add a new emphasis to the Human Nutrition Intervention and Health Promotion Research Program to examine the efficacy of agricultural programs in promoting the health of disadvantaged populations. (Section 7236)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision. (Section 7113)

(50) Grants to upgrade agriculture and food sciences facilities at insular area land-grant institutions

The House bill amends NARETPA by authorizing assistance to insular land-grant institutions to acquire, alter, or repair facilities or equipment for agricultural research. An appropriation of $8,000,000 is authorized for each fiscal year through 2012. (Section 7237)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision. (Section 7125)

(51) Veterinary medicine loan repayment

The Senate amendment amends section 1415A of NARETPA by setting a deadline for rulemaking to implement the National Veterinary Medical Services Act (NVMSA). This section amends NVMSA to prioritize large and mixed animal practitioner shortages in rural communities and prohibits funds to be used for the existing Federal employee loan repayment program under 5 U.S.C. 5379. (Section 7003)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to clarify the priorities within NVMSA and to disapprove of the transfer of funds from CSREES to the Food Safety and Inspection Service (FSIS). The funds are required to be transferred back CSREES from FSIS. (Section 7105)

The Managers continue to be frustrated by the lack of progress by the Department in implementing NVMSA. When developing this legislation, the House Committee on Agriculture worked closely with the various agencies of the Department to ensure that the legislation was drafted in a manner in which it could be implemented and administered. During Committee consideration, amendments were included at the Department's request to ensure quick and efficient implementation. In a legislative report submitted by the Secretary of Agriculture, with the consent of the Office of Management and Budget, the Department reiterated its support and recommended that the legislation be enacted. More than $2,000,000 has been appropriated for this program, yet the Department has not taken steps to develop regulations to implement it. Instead, the Managers note that CSREES, to which authority to administer NVMSA had been delegated, chose to transfer funds appropriated for this important program to another agency of the Department to assist in loan repayment for Federal employees. While this funding transfer was technically within the authority of the NVMSA legislation, it was not in line with the intent of Congress in developing this legislation. The Managers disapprove of this funding transfer and expect the full amount of funds that were transferred to be returned. Likewise, amendments have been included in NVMSA to prevent further funding transfers.

In a hearing held before the House Subcommittee on Livestock, Dairy, and Poultry on February 7, 2008, representatives of the Department were asked repeatedly if the Administration intended to

propose legislation to amend NVMSA to speed its implementation. To date, no proposed legislation has been submitted, leading the Managers to conclude that the Department has sufficient funding and capability to implement and administer this law. The Managers have therefore included a deadline for the Department to propose regulations for NVMSA and expect the Department to meet this deadline without further delay.

(52) Expansion of Food and Agricultural Sciences Award

The Senate amendment amends section 1417(i) of NARETPA by expanding the current National Agricultural Teaching Award to include research and extension. (Section 7006)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7108)

(53) Purposes and findings relating to animal health and disease research

The Senate amendment amends Section 1429 of NARETPA to add a purpose supporting research on the judicious use of antibiotics. (Section 7013)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

(54) Animal Health and Disease Research Program

The Senate amendment amends section 1434(b) of NARETPA by clarifying that 1890 institutions are eligible for animal health and disease research grants under this section. (Section 7015)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7120)

The Managers are concerned about arthropod-borne diseases that increasingly affect the U.S. livestock industry and wildlife. Consequently, the Managers expect the Agricultural Research Service to update the March 2005 feasibility study on the modernization of the arthropod-borne animal disease research laboratory.

(55) Farm management training and public farm benchmarking database

The Senate amendment adds a new section, 1468, to NARETPA that establishes a National Farm Management Center to improve farm management knowledge and the skills of agriculture producers through an education program. It also authorizes the creation of a database that will allow for the comparison of farm management data among producers. This section authorizes annual appropriations for the center and database through 2012. (Section 7037)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to modify the Food, Agriculture, Conservation, and Trade Act of 1990 (FACT Act) and to allow the Secretary to make competitive research and extension grants for the purposes of the program. (Section 7208)

The Managers recognize that the Center for Farm Financial Management at the University of Minnesota has a proven record of providing farm financial planning, marketing, and credit analysis and encourage the Department to continue to support its benchmarking efforts.

(56) Tropical and subtropical agricultural research

The Senate amendment adds a new section, 1473E, to NARETPA that establishes a competitive program for research on tropical and subtropical agriculture. Annual appropriations for the program are authorized through 2012. (Section 7038)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision and adds tropical and subtropical research as a high priority item in Section 7203 of this Act.

(57) Regional centers of excellence

The Senate amendment adds a new section, 1473F, to NARETPA that establishes regional centers of excellence, including a Poultry Sustainability Center of Excellence, funded by Federal, state, and industry funds to research a specific commodity. Annual appropriations are authorized for the centers through 2012. (Section 7039)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision and gives priority to regional centers of excellence that leverage funds from Federal, State, and private sector sources to research a specific agricultural commodity or concern under Section 7203 of this Act.

(58) National Drought Mitigation Center

The Senate amendment adds a new section, 1473G, to NARETPA that authorizes the Secretary to enter into an agreement with the National Drought Mitigation Center. Annual appropriations are authorized for the Center through 2012. (Section 7040)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision and adds the National Drought Mitigation Center as one of the research institutions and organizations that is eligible to receive funding through the policy research center authorization in section 7111 of this Act.

(59) Agricultural development in the American-Pacific region

The Senate amendment adds a new section, 1473H, to NARETPA that establishes consortia of institutions in the American-Pacific region to carry out integrated research, extension, and instruction programs in support of food and agricultural sciences. Annual appropriations are authorized for the consortia through 2012. (Section 7041)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision and adds agricultural development in the American-Pacific region as a high priority item in Section 7203 of this Act.

(60) Farm and ranch stress assistance network

The Senate amendment adds a new section, 1473K, to NARETPA that establishes a farm and ranch stress assistance network to provide behavioral programs to participants in the U.S. agricultural sector. Annual appropriations are authorized for the network through 2012. (Section 7044)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to clarify the activities covered under this authorization and to make technical changes. (Section 7522)

(61) Rural entrepreneurship and enterprise facilitation

The Senate amendment adds a new section, 1473L, to NARETPA to establish a program for the promotion of rural entrepreneurship, rural business development, and collaboration among rural entrepreneurs, local business communities, nonprofit organizations, and K–12 and higher education institutions. The program also provides rural entrepreneurs with technical assistance and access to capital, and it determines the best methods of entrepreneurial training. Annual appropriations for the program are authorized. (Section 7045)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

(62) Seed distribution

The Senate amendment adds a new section, 1473M, to NARETPA that establishes a program to distribute vegetable seeds to underserved communities free-of-charge. Annual appropriations are authorized for the program through 2012. (Section 7046)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to award grants on a competitive basis and to make technical changes. (Section 7523)

(63) Farm and ranch safety

The Senate amendment adds a new section, 1473N, to NARETPA that establishes a grant program to determine how to decrease the incidence of injury and death on farms and ranches. Annual appropriations for the program are authorized through 2012. (Section 7047)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision and adds farm and ranch safety as a high priority item in section 7203 of this Act.

(64) Women and minorities in STEM fields

The Senate amendment adds a new section, 1473O, to NARETPA that establishes a grant program to increase participation by women and underrepresented minorities from rural areas in science, technology, engineering, and mathematics fields (STEM fields). Annual appropriations for the program are authorized through 2012. (Section 7048)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision and adds women and minorities in STEM fields as a high priority item in section 7203 of this Act.

(65) Natural Products Research Program

The Senate amendment adds a new section, 1473P, to NARETPA that establishes a research program for the discovery, development, and commercialization of pharmaceuticals and agrichemicals from natural products, including those from plant, marine, and microbial sources. Annual appropriations are authorized for the program. (Section 7049)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to make technical changes. (Section 7525)

(66) International Anti-Hunger and Nutrition Program

The Senate amendment adds a new section, 1473Q, to NARETPA that authorizes the Secretary to support nonprofit organizations that focus on promoting research concerning anti-hunger and improved nutrition efforts internationally and increased quantity, quality, and availability of food. (Section 7050)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision and adds the purposes of the Senate amendment to section 7130 of this Act.

(67) Consortium for agricultural and rural transportation research and education

The Senate amendment adds a new section, 1473R, to NARETPA that establishes a research program focusing on critical rural and agricultural transportation and logistics issues facing agricultural producers and other rural businesses. Annual appropriations of $19,000,000 are authorized for each fiscal year through 2012. (Section 7051)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to give priority to institutions that apply as a group and to make technical changes. (Section 7529)

(68) Regional centers of excellence in food systems veterinary medicine

The Senate amendment adds a new section, 1473S, to NARETPA that establishes a grant program for veterinary schools to support centers of emphasis in food systems veterinary medicine. Annual appropriations for the centers are authorized through 2012. (Section 7052)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision, adds food systems veterinary medicine as a high priority item in Section 7203 of this Act, and captures the purposes of the Senate amendment in the regional centers of excellence provision under section 7203 of this Act.

(69) National Genetics Resources Program

The House bill extends section 1635(b) of the FACT Act through 2012. (Section 7301)

The Senate amendment extends section 1635(b) of the FACT Act through 2012 and adds research on plant and animal breeding to the purposes and functions of this program as listed in section 1632 of the FACT Act. (Section 7101)

The Conference substitute adopts the House provision. (Section 7201)

(70) National Agricultural Weather Information System

The House bill extends section 1641(c) of the FACT Act through 2012. (Section 7302)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision. (Section 7202)

The Managers recognize the importance of creating a southern mesonetwork of weather stations to support applied research in solar and wind energy production. The Managers are aware of the capabilities and experience of the Center for Earth and Environmental Studies at Texas A&M International University in this area and believe this institution could prove to be a valuable resource in the Rio Grande Valley.

(71) Partnerships

The House bill amends section 1672(d) of the FACT Act by requiring that grant proposals received must be scientifically meritorious and involve cooperation of multiple entities in order to receive priority consideration under the High Priority Research and Extension Initiative. (Section 7303)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision. (Section 7203)

(72) Aflatoxin research and extension

The House bill amends section 1672(e)(3) of the FACT Act by changing the existing grant description contained in current law to improve and commercialize aflatoxin control in corn and other crops. (Section 7304)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision. (Section 7203)

(73) High Priority Research and Extension Areas

The House bill amends section 1672 of the FACT Act by adding the following to the High Priority Research and Extension Area Initiatives: farmed and wild cervid disease and genetic research; air emissions from livestock operations; swine genome project; cattle fever tick program; colony collapse disorder program; synthetic gypsum from power plants research; cranberry research program; sorghum research initiative; and a bean health research program. (Section 7305)

The Senate amendment amends section 1672 of the FACT Act by adding the following to the High Priority Research and Exten-

sion Area Initiatives: Colony Collapse Disorder and Pollinator Research Program; Marine Shrimp Farming Program; Cranberry Research Program; Turfgrass Research Initiative; Pesticide Safety Research Initiative; Swine Genome Project; High Plains Aquifer Region; Cellulosic Feedstock Transportation and Delivery Initiative; Deer Initiative; Pasture-Based Beef Systems; Sustainable Agricultural Production for the Environment; Biomass-Derived Energy Resources; Brucellosis Control and Eradication; and Bighorn and Domestic Sheep Disease Mechanisms. (Section 7102)

The Conference substitute adopts the Senate provision with an amendment to add the following to the list of high-priority research and extension initiatives: Air Emissions from Livestock Operations; Swine Genome Project; Cattle Fever Tick Program; Synthetic Gypsum; Cranberry Research Program; Sorghum Research Initiative; Marine Shrimp Farming Program; Turfgrass Research Initiative; Agricultural Worker Safety Research Initiative; High Plains Aquifer Region; Deer Initiative; Pasture-Based Beef Systems Research Initiative; Agricultural Practices Relating to Climate Change; Brucellosis Control and Eradication; Bighorn and Domestic Sheep Disease Mechanisms; Agricultural Development in the American-Pacific Region; Tropical and Subtropical Agricultural Research; Viral Hemorrhagic Septicemia; Farm and Ranch Safety; Women and Minorities in STEM Fields; Alfalfa and Forage Research Program; Food Systems Veterinary Medicine; Biochar Research.

The Conference substitute also strikes the following from section 1672 of the FACT Act: Brown citrus aphid and citrus tristeza virus research and extension; Mesquite research and extension; Red meat safety research and extension; Grain sorghum ergot research and extension; Low-bush blueberry research and extension; Wild pampas grass control, management, and eradication research and extension; Sheep scrapie research and extension; Forestry research and extension; Wind erosion research and extension; Crop loss research and extension; Harvesting productivity for fruits and vegetables; Agricultural marketing; Beef cattle genetics; Dairy pipeline cleaner; Development of publicly held plants and animal varieties; and Specialty crop research. (Section 7204)

The Managers encourage the Secretary to support collaborative research focusing on the development of viable strategies for the prevention, diagnosis and treatment of infectious, parasitic, and toxic diseases of farmed deer and the mapping of the deer genome. This initiative may be carried out by a consortium that can include land-grant universities and veterinary schools with appropriate facilities and experience in husbandry and care of captive cervidae. The consortium may carry out research dedicated to developing vaccines for epizootic hemorrhagic disease and blue tongue disease in farmed deer and may work to map the deer genome with emphasis on the identification of genes that confer resistance or susceptibility to disease relevant to the production of farmed deer.

The Managers recognize the unique needs of the Appalachian region for the Pasture-Based Beef Systems Initiative.

The Managers intend that the term "Caribbean and Pacific basins" refers to the States of Hawaii and Florida, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Is-

lands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

The Managers intend that the term "American-Pacific region" refers to the States of Hawaii and Alaska, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

(74) High priority research and extension initiative

The House bill extends Section 1672(h) of the FACT Act through 2012. (Section 7306)

The Senate amendment extends section 1672(h) of the FACT Act through 2012 and authorizes an annual appropriation of $20,000,000 for the Colony Collapse Disorder and Pollinator Research Program. (Section 7102)

The Conference substitute adopts the House provision. (Section 7204)

(75) Nutrient management research and extension initiative

The House bill amends section 1672A of the FACT Act by giving a priority to grant proposals that address unique regional concerns as eligible for priority treatment. The House bill also adds dairy cattle waste as a type of waste to be studied to develop new methods of managing air and water quality. The authorization of appropriations is extended through 2012. (Section 7307)

The Senate amendment: establishes a consortium of land grant colleges in the northeast region to perform research on dairy nutrient management and energy production (Section 9023); establishes a Southwest regional dairy, environment, and private land program for the research, development, and implementation of solutions for issues faced by the dairy industry (Section 11092); and extends section 1672A of the FACT Act through 2012. (Section 7103)

The Conference substitute adopts the House provision with an amendment to include the production of renewable energy from animal waste as an eligible activity to receive grants under this section. (Section 7205)

The Managers recognize that different regions of the country have varying needs for both energy development and nutrient management, and that cooperative efforts by institutions and States will leverage available resources to address problems and identify solutions. The Managers therefore encourage the development of regional consortia in which partners would work together to accomplish the goals of developing viable nutrient management systems, energy products from manure, and to asses these systems for cost, performance, and function among dairy, poultry, and swine operations.

(76) Agricultural Telecommunications Program

The House bill (section 7308) and the Senate amendment (section 7105) extend section 1673(h) of the FACT Act through 2012.

The Conference substitute adopts the House provision with an amendment to repeal section 1673 of the FACT Act. (Section 7209)

(77) Assistive Technology Program for Farmers with Disabilities

The House bill (section 7309) and the Senate amendment (section 7106) extend section 1680(c)(1) of the FACT Act through 2012.

The Conference substitute adopts the Senate provision. (Section 7210)

(78) Organic research

The House bill amends section 1672B of the FACT Act by expanding the Organic Agriculture Research and Extension Initiative to examine optimal conservation and environmental outcomes for organically produced agricultural products and to develop new and improved seed varieties that are particularly suited for organic agriculture. This section authorizes $25,000,000 in mandatory funding for each of fiscal years 2008 through 2012. Appropriations of $25,000,000 are authorized for each of fiscal years 2009 through 2012. The Director of NARPO is to coordinate this program to avoid duplication. (Section 7310)

The Senate amendment amends Section 1672B of the FACT Act by authorizing mandatory funds of $16,000,000 per year for fiscal years 2008 through 2012 for the Organic Agriculture Research and Extension Initiative. (Section 7104)

The Conference substitute adopts the House provision with an amendment to provide the initiative with a total of $78,000,000 in mandatory funds for fiscal year 2009 through fiscal year 2012. (Section 7206)

Organic farming has the potential to capture atmospheric carbon and store it in the soil in the form of soil organic matter. The Managers encourage continued support of the research at the Rodale Institute regarding this research as it relates to certified organic standards.

(79) National Rural Information Center Clearinghouse

The House bill (section 7311) and the Senate amendment (section 7107) extend section 2381(e) of the FACT Act through 2012.

The Conference substitute adopts the House provision. (Section 7212)

(80) New Era Rural Technology Program

The House bill establishes a grant program for community colleges to develop an agriculture-based renewable energy and timber industry workforce. Annual appropriations are authorized for the program through 2012. (Section 7312)

The Senate amendment adds a new section, 1473J, to NARETPA to establish a grant program for community colleges to develop an agriculture-based renewable energy and timber industry workforce and provides the definition of rural community college. Annual appropriations are authorized for the program through 2012. (Section 7043)

The Conference substitute adopts the House provision with an amendment to make technical changes and to add a new section, 1473E, to NARETPA. (Section 7137)

The Managers recognize the importance of developing a workforce to support the fields of bioenergy, agriculture-based renewable energy resources, and pulp and paper manufacturing. The

Managers recognize that Alabama Southern Community College, Northeast Iowa Community College, Eastern Iowa Community College District, Hawkeye Community College, Neosho County Community College, Kennebec Valley Community College, Itasca Community College, York Technical College, Midstate Technical College, Jones County Junior College, Minnesota West Technical and Community College, Orangeburg-Calhoun Technical College, Horry-Georgetown Technical College, and Central Carolina Technical College are among the rural community colleges that have a proven record and the ability to develop and implement programs to supply certified technicians. The Managers encourage the Secretary to work with these community colleges to establish the New Era Rural Technology Program.

(81) Partnerships for high-value agricultural product quality research

The House bill (section 7401) and the Senate amendment (section 7202) extend section 402(g) of the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA) through 2012.

The Conference substitute adopts the Senate provision with an amendment to repeal section 402 of AREERA. (Section 7302)

(82) Precision agriculture

The House bill (section 7402) and the Senate amendment (section 7203) extend section 403(i)(1) of AREERA through 2012.

The Conference substitute adopts the House provision with an amendment to repeal section 403 of AREERA. (Section 7303)

(83) Biobased products

The House bill (section 7403) and the Senate amendment (section 7204) extend section 404(e)(2) of AREERA through 2012.

The Conference substitute adopts the House provision. (Section 7304)

(84) Thomas Jefferson Initiative for Crop Diversification

The House bill (section 7404) and the Senate amendment (section 7205) extend section 405(h) of AREERA through 2012.

The Conference substitute adopts the Senate provision with an amendment to repeal section 405 of AREERA. (Section 7305)

(85) Integrated Research, Education, and Extension Competitive Grants Program

The House bill (section 7405) and the Senate amendment (section 7206) extend section 406(f) of AREERA through 2012.

The Conference substitute adopts the Senate provision. (Section 7306)

(86) Fusarium graminearum grants

The House bill amends section 408 of AREERA to provide a technical correction and extends the authorization of appropriations through 2012. (Section 7406)

The Senate amendment extends section 408(e) of AREERA through 2012. (Section 7207)

The Conference substitute adopts the House provision. (Section 7307)

(87) Bovine Johne's Disease Control Program

The House bill (section 7407) and the Senate amendment (section 7208) extend section 409(b) of AREERA through 2012.

The Conference substitute adopts the Senate provision. (Section 7308)

(88) Grants for youth organizations

The House bill amends section 410 of AREERA to provide additional flexibility in content delivery and management of grant funds to recipient organizations under this section. The authorization of appropriations is extended through 2012. (Section 7408)

The Senate amendment extends section 410(c) of AREERA through 2012. (Section 7209)

The Conference substitute adopts the House provision. (Section 7309)

(89) Agricultural research and development for developing countries

The House bill (section 7409) and the Senate amendment (section 7210) extend section 411(c) of AREERA through 2012. (Section 7409)

The Conference substitute adopts the House provision. (Section 7310)

(90) Agricultural bioenergy and biobased products research initiative

The House bill adds a new section, 412, to AREERA that establishes a bioenergy and biobased products research initiative to enhance the production, sustainability, and conversion of biomass to renewable fuels and related products. The research initiative will be supported by a bioenergy and biobased product laboratory network that will focus research on improving biomass production and sustainability and improving biomass conversion in biorefineries. The Director of NARPO, established under section 7410 of the House bill, will coordinate projects and activities under the Biomass Research and Development Act of 2000 to coordinate and maximize the strengths of the Department and the Department of Energy. The Secretary is authorized to carry out research and award grants on a competitive basis. Appropriations are authorized at $50,000,000 for each of fiscal years 2008 through 2012. The Director of NARPO is to coordinate this program to avoid duplication of projects carried out under the Biomass Research and Development Act. (Section 7410)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with an amendment to incorporate the purposes of sections 9010 and 9020 of the House bill, and sections 9010, 9011, 9022, and 9025 of the Senate amendment.

The Conference substitute, titled the "Agricultural Bioenergy Feedstock and Energy Efficiency Research and Extension Initiative," establishes a program to award competitive grants for projects with a focus on supporting on-farm biomass crop research

and the dissemination of results to enhance the production of biomass energy crops and the integration of such production with the production of bioenergy. The Conference substitute directs the Secretary to establish a best-practices database on the production of various biomass crops and on the harvesting, transport, and storage of biomass crops.

The Conference substitute authorizes competitive grants for on-farm energy efficiency research and extension projects aimed at improving the energy efficiency of agricultural operations. (Section 7207)

The Managers encourage the Secretary to consider the approach of the New Century Farm at Iowa State University as a model for integrated research in the areas of biomass crop research and the production of bioenergy and to use its established capabilities.

The Managers encourage the Secretary to consider the Future Farmsteads program at the University of Georgia as a model for on-farm energy efficiency research and to use its established capabilities.

Additionally, the Managers encourage the Secretary to use the capabilities of the Colorado Renewable Energy Collaboratory in carrying out this section.

The Managers recognize the significant work Arkansas State University is conducting in the area of plant cell wall structure and function and encourages the Secretary to continue to recognize the value of plant-produced, biotechnology-derived, enzymatic-developed products.

The Managers are aware of the work being done at the Pennsylvania State University on all aspects of biofuels development from plant transformation to production, harvest, and storage to fuel formulation and engine testing.

(91) Specialty crop research initiative

The House bill adds a new section, 413, to AREERA that establishes the Specialty Crop Research Initiative to develop and disseminate science-based tools to address the needs of specific crops and their regions, including work in plant breeding and genetics, safety, quality, and yield; efforts to identify and address threats posed by invasive species; marketing; pollination; and efforts to improve production. The Secretary is authorized to award competitive grants through this program. Appropriations are authorized at $100,000,000 for each of fiscal years 2008 through 2012. Additionally, $215,000,000 in mandatory funds is to be provided in fiscal year 2008 to remain available until expended. The Director of NARPO shall coordinate this program to avoid duplication. (Section 7411)

The Senate amendment adds a new section, 412, to AREERA that establishes a Specialty Crop Research Initiative. This section is similar to the House provision and has additional language to include in the purposes of the program the optimization of organic specialty crop production and research on methods to prevent, control, and respond to pathogen contamination of specialty crops, including fresh-cut produce. Mandatory funding is provided at

$16,000,000 per year for fiscal years 2008 through 2012 for the initiative. (Section 7211)

The Conference substitute adopts the House provision with an amendment that adds a new section, 412, to AREERA. It expands the initiative to a research and extension initiative; incorporates the prevention, detection, monitoring, control, and response to food safety hazards in the production and processing of specialty crops, including fresh products; allocates 10 percent of the funds obligated through this initiative to each of the research and extension activities described in this section; and provides $230,000,000 in mandatory funds for fiscal years 2008 through 2012. (Section 7311)

The Managers intend that most activities funded by the initiative would have grant terms of short duration. However, the Managers are aware that there are areas of research where longer term grants are needed, such as research related to tree fruits. The Managers expect the Secretary to use 10-year grant terms only when it is critical for long-term systems research.

The Managers recognize the critical importance of research directed at food safety hazards in the production and processing of specialty crops including fresh fruits and vegetables. The Managers encourage the Secretary to select projects for funding in this area that focus on applied research and technology transfer.

(92) Office of Pest Management Policy

The House bill extends section 614(f) of AREERA through 2012. (Section 7412)

The Senate amendment amends section 614 of AREERA by placing the Office of Pest Management Policy within the Office of the Chief Economist and extending the authorization of appropriations through 2012. (Section 7212)

The Conference substitute adopts the House provision. (Section 7313)

(93) Food Animal Residue Avoidance Database Program

The Senate amendment amends section 604 of AREERA by authorizing annual appropriations of $2,500,000 for the Food Animal Residue Avoidance Database program. (Section 7213)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that clarifies that the authorized funds are in addition to other funds available as specified in section 604(c) of AREERA. (Section 7312)

(94) Critical Agricultural Materials Act

The House bill (section 7501) and the Senate amendment (section 7301) extend section 16(a) of the Critical Agricultural Materials Act through 2012.

The Conference substitute adopts the Senate provision. (Section 7401)

(95) Equity in Educational Land-Grant Status Act of 1994

The House bill extends sections 533(b), 535, and 536(c) of the Equity in Educational Land-Grant Status Act of 1994 (EELGSA) through 2012. (Section 7502)

The Senate amendment extends sections 533(b), 535, and 536(c) of EELGSA through 2012 and amends section 532 of the EELGSA to add Ilisagvik College in Alaska to the list of land-grant tribal colleges. (Section 7302)

The Conference substitute adopts the Senate provision with an amendment to redistribute endowment funds that would be paid to a 1994 Institution among other 1994 Institutions if that 1994 Institution declines to accept funds or fails to meet existing accreditation requirements. (Section 7402)

(96) Agricultural Experiment Station Research Facilities Act

The House bill (section 7503) and the Senate amendment (section 7305) extend section 6(a) of the Research Facilities Act through 2012.

The Conference substitute adopts the House provision. (Section 7405)

(97) National Agricultural Research, Extension and Teaching Policy Act Amendments of 1985

The House bill (section 7306) and the Senate amendment (section 7306) extend section 1431 of the NARETPA Amendments of 1985 through 2012.

The Conference substitute adopts the Senate provision. (Section 7416)

(98) Competitive, Special and Facilities Research Grant Act (National Research Initiative)

The House bill amends section 2 of the Competitive, Special, and Facilities Research Grant Act (CSFRGA) to extend the authorization of appropriations through 2012 and to repeal the authority to limit allowable overhead costs. (Section 7505)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision but reauthorizes section 2 of the CSFRGA in section 7406 of this Act.

(99) Agricultural Risk Protection Act of 2000 (carbon cycle research)

The House bill extends the section 221of the Agricultural Risk Protection Act of 2000 (ARPA) through 2012. (Section 7506)

The Senate amendment extends the section 221 of ARPA through 2012 and transfers authority for this program from that Act to the Farm and Energy Security Act of 2007. (Section 7315)

The Conference substitute adopts the House provision. (Section 7407)

(100) Renewable Resources Extension Act of 1978

The House bill (section 7507) and the Senate amendment (section 8201) extend section 6 of the Renewable Resources Extension Act of 1978 (RREA) and section 8 of RREA through 2012. (Section 7507)

The Conference substitute adopts the House provision. (Section 7413)

The Managers are aware of the U.S. Forest Service's (USFS) work on the Fire Research and Management Exchange System, an Internet-based, centralized national portal for access to and ex-

change of science-based data, analysis tools, training materials, and other information related to interagency wildland fire management. The Managers recognize that the system can make a major contribution to science-based understanding and response to wildland fires, which continue to threaten many areas of our nation. The Managers expect the USFS to continue to work with its partners to develop a plan for nationwide implementation by 2011.

(101) National Aquaculture Act of 1980

The House bill (section 7508) and the Senate amendment (section 7311) extend section 10 of the National Aquaculture Act of 1980 (16 U.S.C. 2809) through 2012. (Section 7508)

The Conference substitute adopts the Senate provision. (Section 7414)

(102) Construction of a Chinese garden at the National Arboretum

The House bill amends the Act of March 4, 1927, (20 U.S.C. 191 et seq.) by authorizing the construction of a Chinese garden at the National Arboretum. (Section 7509)

The Senate amendment amends the Act of March 4, 1927, (20 U.S.C. 191 et seq.) by authorizing the construction of a Chinese garden at the National Arboretum, prohibiting federal funds from being used for the construction of the Chinese Garden, and requiring an annual report to Congress on the budget and expenditures of the National Arboretum. (Section 7312)

The Conference substitute adopts the House provision. (Section 7415)

(103) Public education regarding use of biotechnology in producing food for human consumption

The House bill extends section 10802 of the Farm Security and Rural Investment Act of 2002 (FSRIA) through 2012. (Section 7510)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision and repeals section 10802 of FSRIA. (Section 7411)

(104) Fresh cut produce safety grants

The House bill authorizes the Secretary to award competitive research and extension grants to improve and enhance the safety of fresh cut produce. Universities, colleges, and other entities that have relationships with producers of fresh cut produce are eligible. Grant recipients must provide an equal of amount of matching funds or in-kind support from non-federal sources. The Director of NARPO is to coordinate this program to avoid duplication. Mandatory funding of $25,000,000 is provided for each of fiscal years 2008 through 2012. Additionally, an appropriation for necessary funds is authorized from fiscal year 2008 through fiscal year 2012. (Section 7511)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision and incorporates the purposes and priorities of this program and funding into section 7311 of this Act.

(105) UDC/EFNEP eligibility

The House bill (section 7512) and the Senate amendment (section 7313) amend Section 208 of the District of Columbia Public Postsecondary Education Reorganization Act (Public Law 93–471; 88 Stat. 1428) to make the UDC eligible for the Expanded Food and Nutrition Education Program.

The Conference substitute adopts the Senate provision. (Section 7417)

(106) Hatch Act of 1887

The House bill amends Section 3(d)(4) of the Hatch Act of 1887 by requiring a 50 percent match of funds from the District of Columbia in order for UDC to receive formula funds for agricultural research. The Secretary is allowed to waive the matching requirement if necessary. (Section 7513)

The Senate amendment amends Section 3(d)(4) of the Hatch Act of 1887 by requiring a 50 percent match of funds from the District of Columbia in order for UDC to receive formula funds for agricultural research. The Secretary is allowed to waive the matching requirement if necessary. This section also amends Section 6 of the Hatch Act of 1887 by eliminating Penalty Mail Authorities for State agricultural experiment stations and the extension service and making conforming amendments to NARETPA and to 39 U.S.C. 3202(a). (Section 7304)

The Conference substitute adopts the Senate provision. (Section 7404)

(107) Smith-Lever Act

The Senate amendment amends Section 3 of the Act of May 8, 1914 (7 U.S.C. 343) to allow 1890 institutions to participate in the Children, Youth, and Families Education and Research Network Program. This section also amends section 5 of the Act of May 8, 1914 (7 U.S.C. 345) to eliminate the Governor's Report requirement for the extension service. (Section 7304)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change programs authorized under section 3(d) of the Smith-Lever Act (7 U.S.C. 343(d)) into programs that award competitive grants and to add a conforming amendment to section 1444(a)(2) of NARETPA. (Section 7403)

(108) Education grants to Alaska Native Serving Institutions and Native Hawaiian Serving Institutions

The Senate amendment amends section 759 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 by permitting consortia of Alaska Native and Native Hawaiian Serving Institutions to designate fiscal agents and allocate funds for their members. (Section 7308)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to add this provision as a new section, 1419B, to NARETPA. (Section 7112)

(109) McIntire-Stennis Cooperative Forestry Act

The Senate amendment amends Section 2 of the McIntire-Stennis Cooperative Forestry Act (16 U.S.C. 582a–1) by authorizing the participation of 1890 institutions to participate in the McIntire-Stennis cooperative forestry program. (Section 7310)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7412)

(110) Exchange or sale authority

The Senate amendment adds Section 307 to Title III of the Federal Crop Insurance and Department of Agriculture Reorganization Act of 1994 by authorizing USDA to exchange, sell, or otherwise dispose of any qualified items of personal property and to retain and apply the sale or other proceeds to acquire any qualified items of personal property or to offset costs related to the maintenance, care, or feeding of any qualified items of personal property. (Section 7314)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7408)

(111) Enhanced Use Lease Authority Pilot Program

The Senate amendment adds a new section, 308, to Title III of the Federal Crop Insurance and the Department of Agriculture Reorganization Act of 1994 by establishing a pilot program that allows non-Federal entities to use and invest in capital improvements at the Beltsville Agricultural Research Center and the National Agricultural Library by leasing non-excess property of the Center or the Library. (Section 7316)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to limit the terms of leases established under this authority to 30 years, sunset this authority five years after the date of enactment of this Act, and make technical changes. (Section 7409)

(112) Research and education grants for the study of antibiotic-resistant bacteria in livestock

The Senate amendment establishes a competitive grant program for research and education on antibiotic-resistant bacteria in livestock. (Section 7317)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to modify the purposes of this research program. (Section 7521)

The Managers are aware that resistance to antibiotics is a serious and growing public health concern in the United States and around the world. The Managers intend that section 7521 of this Act provide the necessary research and information for livestock producers as well as the general public to minimize the use of such drugs while still ensuring healthy animals and people. The Managers encourage the Secretary to fund research that can minimize the development and spread of antibiotic-resistant bacteria and to

make this a priority research area within relevant competitive research programs, including national programs related to animal production and water quality.

(113) Merit review of extension and educational grants

The House bill amends subsection (a)(2)(A) of section 103 of AREERA by inserting NIFA as the administering body for which merit review procedures must be established. (Section 7601)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision.

(114) Review of plan of work requirements

The House bill (section 7602) and the Senate amendment (section 7503) require a review of the Plan of Work requirements under NARETPA, the Hatch Act, and the Smith-Lever Act. They also require a report to Congress identifying measures to streamline the plan of work requirements

The Conference substitute adopts the House provision with an amendment to remove the reporting requirement. (Section 7505)

(115) Multistate and integration funding

The House bill amends section 3 of the Hatch Act of 1887 and section 3 of the Smith-Lever Act by requiring that, of the federal formula funds States receive under these Acts, 25 percent must be spent on the integration of cooperative research and extension activities. (Section 7603)

The Senate amendment has no comparable provision.

The Conference substitute deletes the House provision.

(116) Expanded Food and Nutrition Education Program

The House bill amends section 1425 of NARETPA by changing the allocation of funds in excess of the amount appropriated in fiscal year 1981. Funds in the amount of $100,000 are to be distributed to each land-grant college and university. The authorization of appropriations is increased to $90,000,000 through 2014. (Section 7604)

The Senate amendment is the same as House provision with technical differences. (Section 7012)

The Conference substitute adopts the Senate provision with an amendment to make technical changes. (Section 7116)

(117) Grants to 1890 Schools to expand extension capacity

The House bill (section 7605) and the Senate amendment (section 7005) amend section 1417(b)(4) of NARETPA to add extension as one of the purposes for which grants may be made through this program.

The Conference substitute adopts the House provision. (Section 7107)

(118) Borlaug International Agricultural Science and Technology Fellowship Program

The House bill establishes a fellowship program that provides scientific training to individuals from eligible countries that specialize in agricultural research, extension, and education. Nec-

essary sums are authorized to be appropriated without fiscal year limitation. (Section 7606)

The Senate amendment adds a new section, 1473I, to NARETPA that authorizes annual appropriations for the Borlaug International Agricultural Science and Technology Fellowship Program. The fellowship program brings scientists from developing countries to U.S. land-grant institutions to learn about improving agricultural productivity. (Section 7042)

The Conference substitute adopts the Senate provision. (Section 7139)

(119) Cost recovery

The House bill amends Section 1473A of NARETPA by raising the indirect cost cap for cost reimbursable agreements between the Secretary and State cooperative institutions or colleges and universities from 10 percent to 19 percent. (Section 7607)

The Senate amendment amends Section 1473A of NARETPA by raising the indirect cost cap for cost reimbursable agreements between the Secretary and State cooperative institutions or colleges and universities from 10 percent to 30 percent. (Section 7031)

The Conference substitute deletes both the House and Senate provisions.

(120) Organic food and agricultural systems funding

The House bill expresses a sense of Congress that a portion of the annual funding provided for ARS should support research specific to organic food and agricultural systems. (Section 7608)

The Senate amendment expresses a sense of the Senate that recognizes the need to increase funding at USDA for research specific to organic agriculture to keep pace with the expansion of the organic sector of U.S. agriculture. (Section 7505)

The Conference substitute deletes the House and Senate provisions.

(121) Demonstration project authority for temporary positions

The Senate amendment authorizes the demonstration project authority for temporary positions indefinitely. (Section 7502)

The House bill has no comparable provision.

The Conference substitute adopts the Senate provision. (Section 7528)

(122) Modifications to information technology service

The Senate amendment prohibits the Secretary from implementing any modification that reduces the availability or provision of information technology service, or administrative management control of that service, including data or center service agency, functions, and personnel at the National Finance Center and the National Information Technology Center service locations until a notification is received by Congress from the Department. This section requires the Secretary to report to Congress and the Government Accountability Office on specified administrative modifications made to the National Finance Center and National Technology Center service locations. (Section 7506)

The House bill has no comparable provision.

The Conference substitute deletes the Senate provision.

(123) Studies and reports by the Department of Agriculture, the Department of Health and Human Services, and the National Academy of Sciences on food products from cloned animals

The Senate amendment requires studies on the safety and the impact on trade of allowing food products from cloned animals and their offspring into the food supply. The Secretary of Health and Human Services (HHS) is prohibited from issuing the final draft risk assessment on food from cloned animals and their offspring. The Secretary of HHS is also prohibited from lifting the voluntary moratorium on allowing food from cloned animals and their offspring from entering the food supply until after the studies are completed. (Section 7507)

The House bill has no comparable provision.

The Conference substitute deletes the Senate amendment.

(124) Animal bioscience facility in Bozeman, Montana

The Senate amendment authorizes appropriations of $16,000,000 for the construction of an animal bioscience facility in Bozeman, Montana. (Section 7508)

The House bill has no comparable provision.

The Conference substitute deletes the Senate amendment.

TITLE VIII—FORESTRY

(1) National priorities for private forest conservation

The House bill amends section 2 of the Cooperative Forestry Assistance Act of 1978 (CFAA) by requiring the Secretary to focus on a set of three national private forest conservation priorities when allocating appropriated CFAA funds: (1) conserving and managing working forest landscapes; (2) protecting forests from threats, including wildfire, hurricane, tornado, windstorm, snow or ice storm, flooding, drought, invasive species, or insect or disease outbreak, and restoring appropriate forest types in response to such threat [included because paragraphs (1) & (3) contain full list of items]; and (3) enhancing public benefits from private forests, including air and water quality, forest products, forestry-related jobs, production of renewable energy, wildlife and wildlife habitat, and recreation. The House bill requires the Secretary to submit a report to Congress describing how funding has been used under the CFAA, and through other programs administered by the Secretary, to address the three national priorities. (Section 8001)

The Senate amendment amends section 2 of the CFAA by adding a new subsection which requires the Secretary to focus on a set of three national private forest conservation priorities when allocating appropriated CFAA funds. The national priorities are: (1) conserving and managing working forest landscapes for multiple values and uses; (2) protecting forests from threats to forest and forest health including unnaturally large wildfires, hurricanes, tornadoes, windstorms, snow and ice storms, flooding, drought, invasive species, insect or disease outbreak, development, and restoring appropriate forest structures and ecological processes in response to such threats; and (3) enhancing public benefits from pri-

vate forests including air and water quality, forest products, forest-related jobs, production of renewable energy, wildlife, enhancing biodiversity, the establishment of wildlife corridors and habitat, and recreation. The Senate amendment amends section 2 of the CFAA by adding a new subsection that requires the Secretary to submit a report to Congress describing how CFAA funds were used to address the three national priorities and the outcomes achieved in meeting the national priorities. (Section 8001)

The Conference substitute adopts the House provision with minor changes. (Section 8001)

(2) Long-term, state-wide assessments and strategies for forest resources

The House bill amends section 2 of the CFAA by adding a new section that requires, for a State to be eligible to receive CFAA funds, that the State forester—or equivalent State official—develop and submit a State-wide assessment of forest resource conditions and a State-wide forest resource strategy. The State-wide assessment of forest conditions is to encompass a number of factors, including: the conditions and trends of forest resources in the State; the threats to forestlands and resources in the State, consistent with the three national priorities; any priority areas or regions in a State that are of priority; and any areas that are of priority to more than just that State. The State-wide forest resource strategy is to encompass a number of factors, including: strategies for addressing threats to forest resources in the State outlined in the State-wide assessment of forest conditions; and a description of the resources available to the State forester—or equivalent State official—from all sources to implement the State-wide forest resource strategy. The State forester—or equivalent State official—is required to submit the State-wide forest resource strategy on an annual basis. The State-wide assessment of forest resource conditions is to be updated as the Secretary or State forester—or equivalent State official—determines to be necessary. The State forester—or equivalent State official—is required in developing the State wide assessment and annual strategy, to coordinate with the State Forest Stewardship Committee established for the State, the State wildlife agency, and the State Technical Committee. The Secretary is prohibited from using more than $10 million in a fiscal year to implement this section. (Section 8002)

The Senate amendment amends the CFAA by inserting after section 19 a new section entitled "Comprehensive Statewide Forest Planning" under which requires Secretary to provide financial and technical assistance to States for use in the development and implementation of statewide forest resource assessments and plans. For a State to be eligible for CFAA funding, the State forester or equivalent State official must develop a statewide forest resource assessment and plan. At a minimum, the statewide forest resource assessment and plan should identify each critical forest resource in the State consistent with national priorities; incorporate any current forest management plan in the State; address the needs of the region without regard to State borders; provide a comprehensive statewide plan for managing forest land that achieves the three national priorities; and include a multiyear forest management strat-

egy for forest management. The statewide forest resource and plan should include a multiyear integrated forest management strategy. The State Forester—or equivalent State official—is required to coordinate with the State Forest Stewardship Coordination Committee, State wildlife agencies, the State Technical Committee and other applicable Federal land management agencies in developing statewide assessments and plans. Subsection (b)(3) requires the Secretary to review the statewide assessments and plans established under this section. Subsection (d) authorizes $10,000,000 to be appropriated to carryout this section. (Section 8004)

The Managers adopt the House provision in the Conference substitute with amendment. The amendment allows Secretary to require the long term State-wide assessment and strategy to be updated and resubmitted as the Secretary or State Forester or equivalent State official determines necessary. The Managers expect that the assessments and strategies will guide the annual allocation of federal resources available under the authorities of the CFAA, to focus such resources on national priorities. In developing and updating the State-wide assessments and strategies, applicable Federal land management agencies are added to the list of organizations with which the State forester or equivalent State official are expected to coordinate. Existing forest management plans of the State are to be incorporated when developing State-wide assessments and strategies. The Conference amendment authorizes up to $10,000,000 to provide States financial and technical assistance needed for the development of the assessments and strategies under this section. The Conference amendment requires the State forester—or equivalent State official—to submit an annual report to the Secretary demonstrating how federal resources under the CFAA were used to implement the state-wide strategy. (Section 8002)

The Managers intend that Multi-State areas that are a regional priority should reflect areas identified at both the national and state level through assessment and mapping efforts. The Managers recognize that there is a national assessment and mapping effort underway and encourage consideration be given to multi-state areas identified in this effort.

(3) Community forest and open space program

The Senate amendment amends the CFAA by adding a new section, 7A, entitled "Community Forest and Open Space Conservation Program." The program provides Federal matching grants to help county or local governments, Indian tribes, or non-profit organizations acquire private forests that are threatened by conversion to non-forest uses and are economically, environmentally and culturally important to communities. The terms "eligible entity," "Indian tribe," "local governmental entity," "non-profit organization," "program" and "Secretary" are defined. The Federal cost share of a grant provided under the program is to equal not more than 50-percent of the cost to acquire one or more parcels of land. Eligible entities are permitted to provide a non-Federal match in cash, donation, or in kind equal to the outstanding amount. An application process is established whereby an eligible entity is required to submit to the State forester or equivalent official (or in the case of an

eligible entity that is an Indian tribe an equivalent official of the Indian tribe) an application that includes a description of land to be acquired and a forest plan that includes a description of community benefits achieved from acquisition. Eligible entities must provide public access for recreational use consistent with the purposes of the program and are prohibited from converting the property to other uses. Eligible entities that sell or convert land acquired under this program to non-forest use must reimburse the Federal government in an amount equal to the greater of the sale price or current appraisal value of the land. Eligible entities that either sell or convert the land are prohibited from being eligible for additional grants under the program. The Secretary is authorized to allocate 10-percent of funds made available for the program to State foresters—or equivalent officials (or in the case of an eligible entity that is an Indian tribe an equivalent official of the Indian tribe)—for program administration and technical assistance. An appropriation of such sums as necessary is authorized to carryout the program. (Section 8002)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 8003) The Managers strongly encourage eligible entities acquiring forestland with resources under this program to manage the forestland as "working forests," generating economic benefits and providing jobs and economic stability to communities. The Managers encourage the Secretary to provide a level of oversight over these acquired forests, to see that these goals are met and maintained. The authorities in this program allow non-profit organizations to use funds to acquire properties under this program. The Managers intend such authorities to be used only when a non-profit organization's acquisition of forestland results in a clear benefit to the community, and where there is not a significant loss in the property-tax base for the community. Where a local government entity can perform the same functions as the non-profit, the Managers encourage the Secretary to work with the local government entity. Additionally, revenues generated by the non-profit in the management of forestland acquired under the program should be used for the direct benefit of the local community.

(4) Assistance to the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau

The House bill amends section 13(d)(1) of the CFAA to specify that the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau are to be included in the terms "United States" or "States" for purposes of the CFAA. (Section 8003)

The Senate amendment is the same as the House bill. (Section 8005)

The Conference substitute adopts the House provision. (Section 8004)

(5) Changes to Forest Resource Coordinating Committee

The House bill amends section 19(a) of the CFAA by revising the Forest Resource Coordinating Committee (FRCC).

The House bill states the FRCC is to be composed of the following: the Chief of the Forest Service, the Chief of the Natural Resources Conservation Service, the Director of the Farm Service Agency; and the Administrator of the Cooperative State Research, Education, and Extension Service.

The House bill states the FRCC is to be composed of the following persons: at least three State foresters or equivalent State officials from geographically diverse regions of the United States; a representative of a State Fish and Game Commission, a private nonindustrial forest landowner, a forest industry representative, a conservation organization representative, a land grant university or college representative, a representative of a State Technical Committees, and such other persons as the Secretary determines appropriate.

The House bill states the FRCC is to perform a number of duties, including: (1) providing direction to the United States Department of Agriculture (USDA) and enabling coordination with State agencies and the private sector to address the three national priorities; (2) clarifying individual agency responsibilities for each agency represented on the FRCC regarding the three national priorities; (3) providing advice on the allocation of funds, including competitive funds; and (4) assisting in developing a report on efforts to address the three national priorities.

The House bill requires the FRCC to meet twice a year to discuss the national priorities and issues regarding nonindustrial private forest land. (Section 8004)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with minor changes. (Section 8005)

(6) Changes to State Forest Stewardship Coordinating Committees

The House bill amends section 19(b)(1)(B)(ii) of the CFAA by specifying that a representative from a State Technical Committee is to be on the State Forest Stewardship Coordinating Committee (SFSCC). It also amends section 19(b)(2)(C) of the CFAA by mandating that the SFSCC is to make recommendations for the Statewide assessments and strategies. The House bill strikes section 19(b)(3) and 19(b)(4) of the CFAA. (Section 8005)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 8006)

(7) Forest legacy applications

The House bill maintains current law.

The Senate amendment amends section 19(b)(2)(D) of the CFAA by stating that applications submitted by Indian tribes do not have to pass through the State Coordinating Committee. (Section 8003)

The Conference substitute deletes the Senate provision.

(8) Competition in programs under Cooperative Forestry Assistance Act of 1978

The House bill authorizes the Secretary to competitively allocate a portion of CFAA funds to State foresters or equivalent State

officials. The Secretary is required to consult with the FRCC when determining the allocation of funds. The Secretary is also required to give priority for funding to States in which the strategies listed in the State-wide assessments best promote the three national priorities. (Section 8006)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 8007)

(9) Cooperative forest innovation partnership projects

The House bill states the Secretary is authorized to competitively allocate not more than 5 percent of CFAA funds to support innovative national, regional, or local education, outreach, or technology projects that the Secretary determines would increase the ability of USDA to address the national priorities outlined in section 8001. State or local governments, Indian tribes, land-grant colleges or universities, or private entities, are authorized to compete for the funds. The House bill states the Secretary is prohibited from covering more than 50 percent of the total cost of a project. The Secretary is required, in calculating the total cost of a project and the contributions made with regard to the project, to include in-kind contributions. (Section 8007)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 8008)

(10) Healthy forest reserve program

The House bill amends section 508(2) of the Healthy Forests Restoration Act by extending the Healthy Forests Reserve Program to 2012, and providing $10 million in mandatory funding for each of the fiscal years 2008 through 2012. (Section 8101)

The Senate amendment moves the Healthy Forest Reserve Program into the Food and Security Act of 1985. An authorization of such sums as necessary are authorized for fiscal years 2008 through 2012 to carry out the program. The 99-year easement option is eliminated and replaced with a permanent easement option. Indian tribes are encouraged to participate in the program by being allowed to enroll in 30-year contracts. The Senate amendment strikes section 502(e) of the Healthy Forest Restoration Act, which limits the amount of acreage that can be enrolled in the program to 2 million acres. (Section 2331)

The Managers agree to adopt the House provision in the Conference substitute, with amendment. The current 99 year easement option is replaced with a permanent easement option. Indian tribes are allowed to enter into 10-year cost-share agreements or 30 year contracts that are equivalent to the value of a 30 year easement. Of the funds expended in a fiscal year, not more that 40 percent of the funding can be used for cost-share agreements while not more than 60 percent can be used for easements. A repooling date of April 1 is put in place to address potential high demand for a particular enrollment method. The Managers provide $9.75 million each of fiscal years 2009 through 2012, in mandatory funding for the Program. The Managers adopted the changes in the Senate amendment regarding Indian tribes, to ensure tribes can partici-

pate in the Program. The Managers intend that tribal land enrolled in the program should be land held in private ownership by a tribe or an individual tribal member. Tribal lands held in trust or reserved by the U.S. government or restricted fee lands should be not enrolled in the program, regardless of ownership. (Section 8205)

(11) Emergency forest restoration program

The House bill amends title VI of the Agricultural Credit Act (ACA) by authorizing the Secretary to provide financial and technical assistance to owners of nonindustrial private forest lands who have suffered a loss due to a number of events, including wildfires, hurricanes, drought, and windstorms, to assist with the development and implementation of plans that: (1) provide for the restoration and the rehabilitation of the nonindustrial private forest land; restores the land and its related natural resources; (2) uses best management practices on the forest land; and (3) incorporates good stewardship and conservation practices on the land.

The House bill provides for a cost share of up to 75 percent, and limits the amount that an owner of nonindustrial forest lands may receive to $50,000 per year. Nonindustrial private landowners are eligible under the House bill if the Secretary determines that their lands are under an eminent threat of loss or damage by insect or disease and immediate action would help them avoid loss or damage.

The House bill defines nonindustrial private forest land to mean rural lands, as determined by the Secretary that: (1) have existing tree cover or had tree cover within the preceding 10 years; and (2) are owned by any nonindustrial private individual, group, association, corporation, Indian tribe, or other private legal entity so long as the individual, group, association, corporation, tribe or entity has definitive decision-making authority over the lands.

The House bill requires the Secretary of Agriculture to issue regulations to carry out the section within one year of enactment. (Section 8102)

The Senate amendment establishes a new emergency landscape restoration program to rehabilitate cropland, grasslands, and private nonindustrial forest lands adversely affected by natural catastrophic events such as fire, drought, flood, excessive wind, ice, or other natural events. Entities eligible for assistance are community-based associations and city, county or regional governments, including watershed councils and conservation districts. Individuals eligible for assistance include producers, ranchers, operators, private nonindustrial forest landowners, and landlords on working agricultural land.

The Senate amendment: provides a source of financial assistance for restoring and protecting natural resources and preventing further impairment of land and water, allows the Secretary to purchase floodplain easements, prioritizes applications that protect human health and safety, and provides technical assistance and cost-share payments up to 75 percent of the cost of remedial activities to rehabilitate watersheds.

The Senate amendment defines "remedial activities" to include debris removal, stream bank stabilization, establishment of cover, restoration of fences, construction of conservation structures, pro-

viding livestock water in drought situations, restoring nonindustrial private forestland. Discretionary funding is authorized.

The Senate amendment provides for the temporary administration of current emergency programs until final regulations are formulated. (Section 2398)

The Conference substitute adopts the House provision with amendment. The amendment clarifies that Secretary is authorized to make payments to owners of nonindustrial private forest land to carry out specific emergency measures on their land following natural disasters. To receive assistance owners will be required to demonstrate that their land had tree cover prior to the natural disaster. The amendment includes a separate authorization of appropriations, at such sums as necessary.

The Managers include a definition of natural disasters, with an allowance for Secretarial discretion in determining if other resource-impacting events other than those specifically mentioned, constitute a natural disaster. The Managers intend the discretion to be used to help forest owners recover from events such as catastrophic insect or disease infestations, if the Secretary determines that such events are far outside normal ranges and did not result from a lack of forest management. Infestations can include outbreaks of non native forest pests including Emerald Ash Borer, Hemlock Woolly Adelgid, and Sudden Oak Death. (Section 8203)

The Managers recognize that the Forest Service has significant experience in responding to natural disasters including assessment of resource damage and responding to a wide range of incidents and emergencies. The Managers encourage the Secretary of Agriculture to utilize this expertise in implementing this section, where appropriate.

(12) Office of International Forestry

The House bill maintains current law, and extends the authorization of appropriation to 2012. (Section 8103)

The Senate amendment is the same as the House bill. (Section 8203)

The Conference substitute adopts the House provision. (Section 8202)

(13) Rural revitalization technologies

The House bill maintains current law, and extends the authorization through 2012. (Section 8014)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 8201)

(14) Renewable Resources Extension Act

The House bill extends authorization through fiscal year 2012 and makes provisions of the Renewable Resources Extension Act effective through September 30, 2012. (Section 7507)

The Senate amendment is the same as the House bill. (Section 8201)

The Conference substitute adopts the House provision. (Section 7413)

(15) Definitions

The Senate amendment provides definitions for "Indian", "Indian Tribe" and "National Forestry System" that will be used under Subtitle B of this bill—Tribal-Forest Service Cooperative Relations. (Section 8101)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(16) Indian Tribes participation in the Forest Legacy Program

The Senate amendment amends section 7(a) of the CF AA by including Indian tribes as direct participants in the Forest Legacy Program. Section 7(l) of the CFAA is amended to allow Indian tribes to receive grants from the Secretary to carry out the Forest Legacy Program. The Secretary is prohibited from providing grant for any project on land held in trust by the United States. Additionally, land acquired using grant funds cannot be converted to land held in trust by the United States on behalf of any Indian tribe. (Section 8111)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(17) Indian Tribes assistance

The Senate amendment authorizes the Secretary to provide financial, technical, educational and related assistance to Indian tribes for consultation and coordination with the U.S. Forest Service on issues relating to: (1) access to Forest Service land by members of a tribe for traditional, religious and cultural purposes; (2) coordinated or cooperative management of resources shared by the tribe and the Forest Service; (3) the provision of expertise or knowledge; (4) projects and activities for conservation education and awareness with respect to forestland and grassland that is eligible Indian land; and (5) technical assistance for forest resources planning, management, and conservation on eligible Indian land. Indian tribes are only allowed to participate in one approved activity that receives assistance under this section or the Forest Stewardship Program under section 5 of the CFAA. The Secretary is required to promulgate regulations relating to assistance under this section within 180 days of enactment, including rules for determining the distribution of assistance. The Secretary is also required to coordinate with the Secretary of the Interior to ensure that activities authorized under this section do not conflict with Indian tribal programs at the Department of the Interior and achieve the goals established by affected Indian tribes. (Section 8112)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(18) Purposes of cultural and heritage cooperative authorities

The Senate amendment: permits the reburial of human remains and cultural items, including items repatriated under the Native American Graves Protection and Repatriation Act, on National Forest System land; prevents the unauthorized disclosure of information regarding burial sites; authorizes the Secretary to allow Indians and Indian tribes to access National Forest System land for traditional and cultural purposes; and authorizes the Sec-

retary to protect the confidentiality of certain information that is culturally sensitive to Indian tribes. (Section 8121)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 8101)

(19) Definitions

The Senate amendment provides definitions for "adjacent site," "cultural items," "human remains," "lineal descendant," "reburial site," and "traditional and cultural purpose." (Section 8122)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 8102)

(20) Authorization for reburial of human remains and cultural items on National Forest System land

The Senate amendment provides that the Secretary may allow the use of National Forest System land for reburial of human remains or cultural items in possession of the Indian tribe or lineal descendant that have been disinterred from National Forest System land or adjacent site. The Senate amendment allows the Secretary to recover or rebury human remains and cultural items on National Forest System land at Federal expense when done with the consent of the affected Indian tribe or lineal descendent. It also allows the Secretary to authorize such uses on reburial sites, or the area immediately surrounding the reburial sites, as the Secretary determines necessary for management of the National Forest System land. The Secretary is required to avoid adverse impacts to cultural items and human remains to the maximum extent practicable. (Section 8123)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with minor changes. (Section 8103)

(21) Temporary closure of National Forest System land for traditional and cultural purposes

The Senate amendment requires the Secretary to ensure, to the maximum extent practicable, that Indian tribes have access to National Forest System land for traditional and cultural purposes. It provides that the Secretary may temporarily close from public access specifically identified National Forest System land to protect the privacy of tribal activities for traditional and cultural purposes on the smallest practicable area for a minimal period of time. (Section 8124)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 8104)

(22) Forest products for traditional and cultural purposes

The Senate amendment allows the Secretary to provide Indian tribes with forest products from National Forest System land if the forest products are for traditional and cultural purposes and are not used for commercial purposes. (Section 8125)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 8105)

(23) Disclosure

The Senate prohibits the Secretary from disclosing information under the Freedom of Information Act relating to: human or cultural items reburied on National Forest System land or a site used for traditional and cultural purposes by an Indian tribe; and resources, cultural items, uses or activities that have a traditional and cultural purpose and are provided to the Secretary by an Indian tribe under an express expectation of confidentiality in the context of forest and rangeland research activities carried out by the Forest Service. The Secretary is not required to disclose information concerning the identity, use or specific location of a site or resource used for traditional and cultural purposes by an Indian tribe; or certain cultural items. The Secretary may disclose information about the location of human remains or cultural items if the Secretary consults with an affected Indian tribe or lineal descendant before disclosure and determines that the disclosure is necessary to protect human remains or cultural items from harm, theft, or destruction and mitigates any adverse impacts that may result from disclosure. The Secretary may disclose information regarding human remains or cultural items if the Secretary determines that disclosing the information to the public would not create an unreasonable risk of harm, theft or destruction of the resource, site or object; and would be consistent with other applicable laws. (Section 8126)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment with minor changes. (Section 8106)

(24) Severability and savings provisions

The Senate amendment provides that if any provision in Subtitle B of the amendment is deemed invalid it will not affect the remainder of the subtitle. It also provides a savings clause that covers trust responsibility, agreements between the Forest Service and Indian tribes, rights of an Indian tribe, and rights relating to National Forest System land or other public land. (Section 8127)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 8107)

(25) Hispanic-Serving Institution Agricultural Land National Resources Leadership Program

The House bill authorizes the Secretary to establish an undergraduate scholarship program to assist Hispanic-serving institutions in the retention, recruitment, and training of Hispanics and other under-represented groups in forestry and related fields. An appropriation of such sums as necessary is authorized for fiscal years 2008 through 2012 to carry out the program. (Section 8201)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 8402)

(26) Green Mountain boundary adjustment

The Senate amendment authorizes modification of the boundary of the Green Mountain National Forest in Vermont to include 13 designated expansion units depicted on forest maps Green Mountain Expansion Area Map I and Green Mountain Expansion Area Map II, which is on file with the Chief of the Forest Service. (Section 8203)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 8301)

(27) Illegal logging

The Senate amendment amends section 2(f) of the Lacey Act Amendments of 1981 to change the definition of "plant." Section 2(j) of the Lacey Act is amended to define the terms taken and taking. Section 3(a)(2)(B) of the Lacey Act is amended to make it illegal for any plant: to be taken, possessed, transported or sold in violation of any State or foreign law that protects plants or regulates the theft of plants; to be taken from a park or forest reserve, or other officially protected area; and to be taken from an officially designated area or without, or contrary to, required authorization. The Senate amendment also makes it illegal to take, possess, transport or sell plants without the payment of royalties, taxes, or stumpage fees or in violation of any limitation under any State or any foreign law. Section 3(a)(3) of the Lacey Act is amended to make it illegal, within the special maritime and territorial jurisdiction of the United States, for any plant to be taken, possessed, transported or sold in violation of any state or foreign law that regulates the theft of plants. The taking of plants from a park or forest reserve, or other officially protected area and the taking of plants from an officially designated area or without, or contrary to, required authorization are also made illegal. Additionally, the amendment makes it illegal to take, possess, transport or sell plants without the payment of royalties, taxes, or stumpage fees or in violation of any limitation under any State or any foreign law, governing the export or transshipment of plants.

A new subsection (f) is created in the Lacey Act to require a plant declaration to be filed upon importation of a plant. The plant declaration must include the scientific name of any plant, a description of the value, quantity (including the unit of measure) of the plant, and the name of the country from where the plant was taken. If a plant species or country of origin cannot be determined, the plant declaration is to include a list of possible plant species that could be found in the product or a list of possible countries from which the plant originated. An exclusion is provided for plants used exclusively as packing material unless the packing materials are the items being brought in. The Secretary is required to review the plant declaration. The Secretary is also required to review the exclusion for wood and paper packing and to limit the scope of the exclusion if the Secretary determines that such a limitation in scope is warranted. The Secretary is required to issue a report with analyses and recommendations on the affects of these new requirements.

Section 4 of the Lacey Act is amended by making conforming technical changes to the penalties and sanctions section of the Act. The forfeiture provisions in Section 5 of the Lacey Act are amended by adding a new subsection (d) which reaffirms, as has been the case since 2002, that civil forfeitures under this section are to be governed by chapter 46 of title 18, United States Code. (Section 8204)

The House bill contains no comparable provision.

The Managers agree to include the Senate provision in the Conference substitute, with an amendment to modify the definition of plant, exclude recycled material from the plant declaration, clarify the application of section 3 paragraph (B)(iii) of the Lacey Act to regulations or laws pertaining to the export or transshipment of plants, and to require the Secretaries of Agriculture and the Interior to develop regulations to further define the term "plant."

The Managers understand illegal logging undermines responsible forest enterprises by distorting timber markets with unfair competition and price undercutting. Illegal logging also threatens the conservation of forest resources, wildlife, and biodiversity, by facilitating forest conversion to non-forest uses and depleting or completely eliminating certain forest ecosystems or the habitat of certain forest dependent wildlife. Finally, illegal logging results in a loss of revenue when taxes or royalties are not paid that could otherwise be invested in sustainable forest management or economic development.

There are several relevant multilateral and international agreements intended to address illegal logging and the illegal timber trade, ranging from voluntary to legally binding multilateral agreements that enable signatory governments to seize illegal products. Yet, despite these many efforts, the problems of illegal logging continue to persist, driven by the demand for products that are developed from illegally harvested wood and the lack of adequate regulatory mechanisms in both exporting and consumer countries.

According to the Department of Justice there is no legal mechanism that currently exists in U.S. law to preclude the importation of wood and wood products known to be illegally harvested in other countries. Currently under the Lacey Act, it is unlawful for any person to: (1) import, export, sell, acquire, or purchase any fish, wildlife or plants taken, possessed, transported, or sold in violation of U.S. law or regulation or in violation of any Indian tribal law; or (2) to import, export, sell, receive, acquire, or purchase in interstate or foreign commerce any fish or wildlife, taken, possessed, transported, or sold in violation of State or foreign law or any plant taken, possessed, transported or sold in violation of any State law. There are misdemeanor felony criminal and civil penalties for violations of the Act, and strict liability is established for forfeiture of illegal fish, wildlife or plants.

Current law applies to all fish and wildlife and their parts, but is much narrower in its application of plants. The Lacey Act currently only applies to species of plants that are native to the United States and that are specifically protected either under State law or the Convention on International Trade in Endangered Species of Wild Fauna and Flora. It currently does not apply to plants that are protected under foreign laws.

Because the Lacey Act does not extend to plants that are taken, transported, or sold in violation of foreign laws, the U.S. government is not able to use the criminal and civil penalties of the Act to preclude the importation of wood and wood products or other plants and plant products harvested in violation of the laws of foreign governments designed to protect such plants, or to seize such illegally harvested plants and products when they enter the United States. According to Justice Department enforcement officials, changes to the Lacey Act that would extend its coverage to plants taken in violation of foreign laws would allow law enforcement officers to initiate actions similar to those they now use for fish and wildlife taken in violation of foreign laws.

Section 8204 of the Senate amendment amends the prohibited acts section of the Lacey Act by making it unlawful to import any plant or plant product taken in violation of foreign laws related to the harvest, taking and protection of plants or to fees or taxes applicable to the plants.

The Conference substitute amends the Senate amendment to clarify the definition of the term "plant." This definition clarifies that "wild" members of the plant kingdom includes trees, whether they are naturally or artificially regenerated. The inclusion of trees, whether in natural or planted forest stands, is consistent with the longstanding interpretation of the Lacey Act to cover wild species whether the specimens are taken from the wild or captive bred.

The exclusions to the term "plant" in section 2 subsection (f)(2) of the Lacey Act are meant to maintain the exclusions in current law with respect to cultivars and food crops.

The exclusion to the definition of "plant" in the new subsection (f)(2)(C) of section 2 of the Lacey Act applies to plants (as that term is defined in new subsection (f)(1)) that are to remain planted or to be planted or replanted, and should include related or preparatory uses such as grafting or plant breeding. Thus, consistent with subsection (f)(1) of the Act, any member of the plant kingdom, including roots, seeds, germplasm, cuttings, parts, or products thereof, and including trees from either natural or planted forest stands, that is to remain planted or to be planted or replanted is covered under the exclusion."

The Conference substitute adds a new Section 7(c) to the Lacey Act which authorizes the Secretaries of Agriculture and the Interior to promulgate regulations to define the terms used in section 2(f)(2)(A). The Managers added this new section to clarify the scope of what constitutes common cultivars and common food crops. The Managers are aware that some plant species produced in agricultural settings as cultivars or for food, food supplements, or medicines, also continue to be taken from the wild in volumes that threaten the conservation of these species. For example, the Court in United States v. McCullough, 891 F. Supp. 422 (N.D. Ohio 1995) read the current Lacey Act exclusion from the definition of plant for "common food crops and cultivars" as applying to American ginseng, a species that is artificially produced but also threatened in the wild by unsustainable exploitation. Therefore, the Managers added section 7(c) to the Act to help clarify the terms of this exclusion such that trade in cultivars and common food crops is not un-

duly burdened, while wild plant species threatened with extinction (which may also be artificially produced) are adequately protected from illegal and unsustainable exploitation.

The Managers are aware that the exclusion to the definition of "plant" in section 2, subsection (f)(2)(A), could capture some commonly cultivated trees, grown on very short rotation, in a farm or nursery and not in a forest stand, that are harvested (as compared with those that are replanted) but do not typically face problems with illegal logging. Such trees could include conifers grown and harvested for Christmas trees or trees not typically grown in forest stands grown and harvested for floral arrangements. It is the intention of the managers to allow the Secretaries of Agriculture and the Interior, through the promulgations of regulations as provided in section 7(c), to clarify the application of this Act and minimize the burden on growers of Christmas trees and other flowering trees, for which the Secretaries have determined there is little risk of illegal harvesting.

It is the Manager's intention that in developing any regulations pursuant to this Act, the Secretaries of Agriculture and the Interior minimize the cost and regulatory burden placed on importers and consumers of plants and plant products covered by this Act. The Managers note in particular that the statutory language creating the requirement for a plant declaration does not include, or reference any authority to impose user fees to administer this provision. The Managers intend that the administration of the plant declaration requirement be carried out using appropriated funds and urge caution on the part of the Administration in seeking to interpret other laws to enable the taxation of importers of plants and plant products for this purpose. Additionally, the Managers urge the Secretaries of Agriculture and the Interior to develop a system to allow electronic filing of plant declarations required under this Act.

It is the Manager's intention that with regards to "plants", in this Act, term "Secretary", as clarified in paragraph (a) subparagraph (2), means primarily the Secretary of Agriculture. The addition of the term "also" is meant to ensure that the Secretary of Agriculture consults with the Secretary of the Interior and the Secretary of Commerce in the implementation of this Act. This modification should not be interpreted to remove the Secretary of Agriculture as the lead authority with respect to plants. (Section 8204)

(28) Green Mountain land exchange/sale

The Senate amendment authorizes the Secretary to sell or exchange a few specific parcels in the Green Mountain National Forest designated on the map entitles "Proposed Bromley Land Sale or Exchange" dated April 7, 2004. Funds from the sale of this land are to be used to relocate small portions of the Appalachian Trail or purchase additional land within the boundary of the Green Mountain National Forest. (Section 8205)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 8303)

(29) Timber contracts

The Senate amendment authorizes the Secretary to cancel or re-determine rates of qualifying timber contracts if the rate at which a qualifying contract would be advertised on the date of enactment of this language is at least 50 percent less than the original purchased rate of the contract. The Secretary is also authorized to substitute the Producer Price Index for other authorized producer price indexes for a qualifying contract. The Secretary is authorized to extend re-determined contracts by one year. The provision is to have the effect of surrendering any claim by the United States against any timber purchaser that arose under a qualifying timber contract before the date of enactment of the provision. (Section 8301)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to allow the Secretary to adjust the terms of certain hardwood lumber contracts, if the Secretary does not substitute the Producer Price Index. The Secretary is also allowed to apply market-related contract term additions, consistent with regulations, to contracts awarded before January 1, 2007. (Section 8401)

The Managers appreciate the efforts of the Forest Service to provide certain contractual relief to timber sale purchasers within their legal abilities under the timber sale contract and through existing regulations during these times of difficult markets. In that context, the provisions within this section provide additional help to timber sale purchasers. The Forest Service is encouraged to implement this section as quickly as possible. Because the provision in paragraph (c) is limited in scope, i.e. contracts awarded prior to January 1, 2007, the Managers encourage the Forest Service to revise the existing regulations within 90 days of enactment of this Act to reflect provisions of this section for future market problems. The Forest Service should modify existing contracts upon the request of the purchaser to include these revised regulations so that purchasers will not have similar problems with Market Related Contract Term Adjustments in the future.

(30) Land conveyances, New Mexico and Virginia

The Senate amendment authorizes the conveyance, without consideration, of certain lands in New Mexico, to the Chihuahuan Desert Nature Park. (Section 11075)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize the conveyance, without consideration, of certain lands in the George Washington National Forest. (Section 8302)

TITLE IX—ENERGY

(1) Table of contents

The House bill provides a table of contents. (Section 9001)

The Senate amendment provides a substitute amendment to title IX of FSRIA of 2002. The amendment makes the new section 9001 the definitions section and includes definitions for: Administrator, Advisory Committee, advanced biofuel, biobased product,

biofuel, biomass conversion facility, biorefinery, board, Indian Tribe, Institute of Higher Education, intermediate ingredient or feedstock, renewable biomass, renewable energy, rural area and Secretary. (Section 9001)

The Conference substitute adopts the Senate approach of amending title IX of the FSRIA of 2002 and accepts the Senate definitions with amendments. (Section 9001, new section 9001 of FSRIA)

The Managers intend that the term "advanced biofuel" includes home heating fuels and aviation and jet fuels made from cellulosic biomass.

(2) Federal procurement of biobased products

The House bill clarifies that products with at least 5 percent of intermediate ingredients and feedstocks, that are biobased, should be considered for a procurement preference. (Section 9002(a))

The Senate amendment changes the name of this section to Biobased Markets Program and clarifies that products to be considered for procurement preference should be composed of at least 5 percent of biobased intermediate ingredients and feedstocks, or a lesser percentage that the Secretary determines to be appropriate. (Section 9001)

The Conference substitute deletes both of these provisions.

(3) Designation and information provided

The Senate amendment provides for designation of items for which there is only one product or manufacturer in the category and automatic designation of items composed of at least 50 percent biobased intermediate ingredients or feedstocks. It also specifies that information provided for a biobased intermediate ingredient or feedstock shall be considered to be provided for an item composed of that ingredient or feedstock. This subsection also specifies that the Secretary may not require more information from manufacturers or vendors of biobased products than is required from other vendors or manufacturers. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments. (Section 9001, new Section 9002 of FSRIA)

The Managers recognize that USDA and its contractors have developed considerable capabilities in the designation of biobased products and have established an extensive network of biobased industry contacts. The Managers encourage USDA to continue to utilize those capabilities and resources in carrying out the biobased products procurement and labeling programs.

(4) State procurement models

The Senate amendment directs the Secretary to offer models for States for procurement of biobased products within 180 days of enactment. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. The Managers encourage the Secretary to make models for the procurement of biobased products available to States upon request.

(5) Procurement guideline considerations

The House bill clarifies that the Secretary should consider life cycle costs only to the extent that information on life cycle costs is appropriate and available. (Section 9002(b))

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(6) Labeling requirement and revised deadline

The House bill requires the Secretary to issue new regulations for the program within 90 days of enactment with criteria for finished products and intermediate ingredients and feedstocks. It also requires the Secretary to consult with other Federal agencies and non-governmental groups with an interest in biobased products, including small and large producers of biobased materials and products, industry, trade organizations, academia, consumer organizations, and environmental organizations. (Section 9002(c))

The Senate amendment is the same as the House bill, except consultation is with the Administrator and representatives from small and large businesses, academia, other Federal agencies and such other persons as the Secretary considers appropriate. (Section 9001)

The Conference substitute adopts the Senate provision. (Section 9001, new Section 9002 of FSRIA)

(7) Biobased Markets Program—Establishment

The Senate amendment establishes a voluntary program under which the Secretary is directed to recognize agencies, contractors and persons that use significant amounts of biobased products. (Section 9002(b)(4))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 9001, new Section 9002 of FSRIA)

(8) Biobased Markets Program—Applicability

The Senate amendment requires that Capitol Complex procurement shall comply with the biobased product mandate within 90 days of enactment. The Senate amendment also requires the secretary to sponsor or support a biobased products showcase annually. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute does not require that the Capitol Complex procurement comply with the biobased product mandate, but encourages the Capitol procurement agencies to consider products designated under this program when making their procurement decisions. (Section 9001, new Section 9002 of FSRIA)

The Managers also encourage the Secretary to continue outreach activities to the applicable agencies that may include an annual showcase of biobased products to meet the requirements of this section.

(9) Biobased Markets Program—Testing centers

The Senate amendment permits the Secretary to establish one or more national testing centers for biobased products, giving pref-

erence to entities with established biobased testing capabilities. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute directs the Secretary to create a national registry of biobased product testing centers. (Section 9001 new Section 9002 of FSRIA)

The Managers intend that the registry should include entities with expertise in performance testing, verifying conformance with long-term performance standards, establishing biobased contents, evaluating uniformity of product quality, and other biobased product characteristics that producers may require. The Managers believe that the University of Northern Iowa is an example of an appropriate entity for listing in the national registry because of its biobased product testing activities.

(10) Biobased Markets Program—Education and awareness

The Senate amendment establishes a new Education and Awareness campaign for bioenergy (other than biodiesel) and biobased products, which is to be carried out through competitive grants to eligible entities. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(11) Authorization of appropriations; Federal procurement

The House bill caps the currently unlimited authorization at $1,000,000 annually for 2008–13 to implement the section (other than the labeling provisions). (Section 9002(d))

The Senate amendment provides for mandatory funding of $3,000,000 annually for 2008 through 2012 to carry out mandatory testing and implement the bioenergy education and awareness campaign. Any additional sums, as necessary, are authorized. (Section 9001)

The Conference substitute provides for mandatory funding $1,000,000 in fiscal year 2008 and $2,000,000 annually for 2009 through 2012 to carry out mandatory testing and labeling. The Conference substitute authorizes an additional $2,000,000 per year for fiscal year 2009 through fiscal year 2012. (Section 9001, new Section 9002 of FSRIA)

(12) Authorization of appropriations—Labeling

The House bill authorizes $1,000,000 annually for 2008–2013 for labeling. (Section 9001)

The Senate bill contains no comparable provision.

The Conference substitute deletes the House provision.

(13) Report requirements—Report by agencies to administrator for Federal procurement policy

The House bill requires procurement agencies to assist the Administrator for Federal Procurement by submitting annual reports and requires the Secretary of Agriculture to submit a report to Congress on implementation 6 months after enactment and annually thereafter. (Section 9002 (e))

The Senate amendment provides that the Office of Federal Procurement Policy submit a report to Congress every 2 years de-

scribing implementation progress, including information provided by the Agencies with specific data related to the biobased procurement requirement. It requires the Secretary to report to Congress on program implementation within 180 days and each year thereafter. (Section 9001)

The Conference substitute adopts the Senate provision with amendments. The substitute requires a report on program implementation progress and program details once every 2 years, and deletes the requirement to report to Congress after the first 180 days. (Section 9001, new Section 9002 of FSRIA)

(14) Grants and loan guarantees for biorefineries and biofuel production plants

The House bill provides for loan guarantees to help pay for development and construction of biorefineries and biofuel production plants and retrofitting of other facilities to demonstrate the commercial viability of converting biomass to fuels or chemicals. (Section 9003(3))

The Senate amendment renamed this section as the Biorefinery and Repowering Assistance Program. It establishes grants for pilot or demonstration scale biorefineries, for repowering projects, and for repowering feasibility studies. It establishes loan guarantees for commercial scale biorefineries and repowering projects. Biorefineries are limited to advanced biofuels production. Repowering projects replace fossil fuel energy systems with renewable energy systems for biorefineries (including corn ethanol plants), power plants, or manufacturing facilities. (Section 9001)

The Conference substitutes a provision entitled "Biorefinery Assistance," which provides for grants and loan guarantees for construction and retrofitting of biorefineries for the production of advanced biofuels. The substitute provides for grants for constructing demonstration-scale biorefineries, and loan guarantees for the development and construction of commercial-scale biorefineries that use technologies that are either pre-commercial or commercially available. (Section 9001, new section 9003 of FSRIA)

The Managers believe that it is in the nation's interest to accelerate the commercialization of the production of advanced biofuels. The Managers also are aware that several commercial biorefinery projects are at the advanced planning stages and are ready for construction as soon as loan guarantees can become available through this program.

Therefore, the Managers expect the Secretary to implement this program as soon as possible in fiscal year 2009. The Managers have provided specific funding for this program for fiscal year 2009 to emphasize the need to implement this program as soon as possible. To enable expedited implementation of this program, the Managers expect that the Secretary consider issuing a Notice of Funds Availability (NOFA) to initiate the program as was done in the case of the section 9006 grants program after passage of the Farm Security and Rural Investment Act of 2002. The Managers expect that the NOFA will comply with, and be consistent with the spirit of, the provisions contained in section 9003 of this Act. At the same time of the release of the NOFA, the Managers expect the Secretary will issue an Advanced Notice of Proposed Rulemaking

(ANPR) to offer the public an opportunity to provide comments regarding the development of an Interim Rule for this program. Specifically, the Managers expect the ANPR will solicit comments with respect to critical issues regarding the implementation of section 9003, such as whether the program loan guarantee will cover construction of the facility or be limited to post construction financing. It is expected that comments received will be included in the record of subsequent rulemaking regarding this program and will be considered by the Secretary during the development of such regulations. To further facilitate the rapid implementation of this program, the Managers expect that the Secretary consider using the processes and aspects developed for existing USDA loan guarantee programs including the Business and Industry Program and the Rural Energy for America Program (including its predecessor the section 9006 program), in the initial development of this program, especially if the Secretary intends to initiate implementation through the use of a NOFA.

To ensure that proposals that are not yet in their final development stage can be considered, the Managers expect the Secretary to reserve funds for the second half of each fiscal year and reserve a portion of funds to be made available over the life of the Farm Bill.

The Managers also expect the Secretary to take steps to evaluate the credit worthiness and the technical merit of proposals to make decisions regarding the responsible use of funds.

It is the intent of the Managers that the Secretary use the approach for defining pre-commercial and commercially available technologies that were adopted in the regulations for Section 9006 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106) prior to the date of enactment of this Act.

It is the intent of the Managers that, to the maximum extent practicable, preference be given to applicants seeking assistance for development and construction of biorefineries planning to convert cellulosic biomass feedstocks into advanced biofuels. It is also the intent of the Managers that for the purpose of ranking applications under the Biorefinery Program, the level of financial participation by the applicant from non-federal sources could include direct financial support, technical support, and contributions of in-kind resources, including such kinds of support from state governments.

The Managers expect that demonstration or pilot-scale facilities will demonstrate the potential of a technology for commercial application at a biorefinery, including operational characteristics such as throughput rates and process yields.

It is the intent of the Managers that the Secretary use the approach for defining pre-commercial and commercially available technologies that were adopted in the regulations for Section 9006 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106) prior to the date of enactment of this Act.

The Managers understand that over the life of this Act, it is likely that mandatory funding provided for loan guarantees will be awarded to commercial projects that are first-of-a-kind. This may include the commercial application of a technology that is: expanded to new regions, modified to utilize different feedstocks, or

substantially improved such that it represents a significant technological risk.

It is the intent of the Managers that existing facilities including wood products facilities and sugar mills seeking to retrofit the facility with technologies to produce advanced biofuels be eligible for assistance under this section.

The Conference substitute establishes a new section to support the repowering of existing biorefineries by making payments for the installation of new systems that use renewable biomass or for the new production of energy from renewable biomass. (Section 9001, new section 9004 of FSRIA)

It is the intent of the Managers that this repowering program should focus on biorefineries whose primary product is liquid transportation biofuels. The Managers encourage the Secretary to consider providing payments over time to help to ensure that repowering projects are operated as intended and produce the reduction in fossil fuels projected. The Managers also intend that new energy production need not come from a new energy system in order to be eligible for new production payments. The Managers also intend that no support should be given for installation or operation of repowering facilities that use feed grains that receive Title I payments, such as corn, as their energy source.

(15) Grants—Limitations

The Senate amendment provides for grants for pilot or demonstration scale biorefineries limited to 50 percent of project costs, grants for repowering projects limited to 20 percent of project costs and grants for repowering feasibility studies limited to the lesser of 50 percent of study costs and $150,000. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute authorizes grants for pilot or demonstration scale biorefineries for up to 30 percent of project costs. (Section 9001, new section 9003 of FSRIA)

(16) Loan Guarantees—Limitations

The House bill requires that loan guarantees not exceed 90 percent of the principal and interest due on the loan. It provides that the total amount of principal and interest guaranteed may not exceed $1,000,000,000 for relatively small plants (up to $100,000,000) and may not exceed $1,000,000,000 for larger plants ($100,000,000–$250,000,000). The Secretary determines the maximum loan term. (Section 9003(3))

The Senate amendment authorizes the Secretary to guarantee up to 100 percent of the principal and interest on such loans. The principal amount of a loan guaranteed for commercial biorefineries is limited to $250,000,000. The principal amount of a loan guaranteed for repowering projects is limited to $70,000,000. A loan guaranteed for a commercial biorefinery or repowering a biomass conversion facility shall not exceed 80 percent of project costs. (Section 9001)

The Conference substitute limits guarantees to 90 percent of the principal and interest on loans. The maximum principal amount of a loan guaranteed may not exceed $250,000,000 or 80 percent of project costs. The substitute requires that the amount of

the loan guaranteed by the Department be reduced by the amount of other direct Federal funding going toward the project. (Section 9001, new section 9003 of FSRIA)

(17) Loan guarantees (and grants)—Priority

The House bill provides selection criteria for loans which follow those for the existing grants program in section 9003 of FSRIA. Two new selection criteria are added to address the level of local ownership and the impact on other users of feedstocks. (Section 9003(4))

The Senate amendment's selection criteria for grants follow those for the existing grant program in Section 9003 of FSRIA. One new selection criterion is added: whether the distribution of funds would have minimal impact on existing manufacturing and other facilities that use similar feedstocks. Selection criteria for grants for repowering projects include the change in energy efficiency, the reduction in fossil fuel use, and the volume of biomass feedstock within a proximity to make local sourcing economically practicable. Preference for grants and loan guarantees is to be given to projects that receive financial support from the State in which they are located and priority is given to projects with significant local ownership. (Section 9001)

The Conference substitute requires a feasibility study conducted by a third party be submitted as part of any application. Ranking criteria for grants include: the potential market for the biofuel and by-products; the level of financial participation by the applicant including other non-Federal and private sources; whether the applicant is proposing to use a feedstock not previously used in advanced biofuel production; whether the applicant is proposing to work with producer associations or cooperatives; whether the process will have a positive impact on resource conservation, public health and the environment; the potential for rural economic development; whether the area where the proposed facility will be located has other similar facilities; whether the project can be replicated; and the scalability of the proposed technology to commercial production.

Ranking criteria for the loan guarantees include the same criteria as for the grants, with several changes and additions, including: whether the applicant has an established market for the biofuels and by-products; whether the applicant can establish that, if adopted, the biofuels production technology proposed in the application will not have any significant negative impacts on existing manufacturing and other facilities that use similar feedstocks; and the level of local ownership proposed in the application. The scalability of the project is not included in the loan guarantee criteria. (Section 9001, new section 9003 of FSRIA)

In considering the level of financial participation by the applicant from non-federal sources, it is the intent of the Managers that such support could include direct financial support, technical support, and contributions of in-kind resources, including such kinds of support from state governments.

(18) Loan guarantees (and grants) condition of assistance

The House bill requires prevailing wages for workers on projects financed under the section. (Section 9003(5))

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision. (Section 9001, new section 9003 of FSRIA)

(19) Requirement for commitment

The Senate amendment states conditions for assistance in the form of a loan guarantee include a binding commitment to cover at least 20 percent of project costs from non-Federal funds, demonstration of technology readiness, and demonstration that investment opportunities have been offered to local investors. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(20) Loan guarantees (and grants) funding

The House bill extends the grant program in section 9003 of FSRIA through fiscal year 2012 and specifies mandatory funding levels for loan guarantees that total $800,000,000 over the period fiscal year 2008 through fiscal year 2012. (Section 9003(6)(7))

The Senate amendment provides mandatory funding of $300,000,000 for fiscal year 2008 to remain available until expended. (Section 9001)

The Conference substitute provides mandatory funding of $75,000,000 for fiscal year 2009 to remain available until expended and $245 for fiscal year 2010 to remain available until expended for loan guarantees. It also authorizes $150,000,000 annually for fiscal year 2009 through fiscal year 2012. (Section 9001, new section 9003 of FSRIA)

(21) Energy audit and renewable energy development program

The House bill extends the energy audit and renewable energy development program through 2012. (Section 9004)

The Senate amendment folds the energy audit program into the new REAP program. (Section 9001)

The Conference substitute adopts the Senate provision with amendments as presented below. (Section 9001, new Section 9007 of FSRIA)

(22) Rural Energy for America Program—Name

The House bill renames program under section 9006 the "Rural Energy for America Program." (Section 9005(2)(3))

The Senate amendment is the same as the House bill, except that section 9006 is renumbered to become section 9007. (Section 9001)

The Conference substitute adopts the House provision. (Section 9001, new Section 9007 of FSRIA)

(23) Rural Energy for America Program—Eligible participant—Grants, loans and loan guarantees

The House bill expands program eligibility, which currently extends to farmers, ranchers, and rural small businesses, to also include "other agricultural producers". (Section 9005(2)(3))

The Senate amendment provides for grants or loan guarantees for renewable energy systems and energy efficiency improvements for agricultural producers and rural small businesses. The Senate amendment excludes direct loans. (Section 9001)

The Conference substitute adopts the Senate provision. (Section 9001, new Section 9007 of FSRIA)

(24) Rural Energy for America Program—Eligible participants—Energy audit and renewable energy development assistance

The Senate amendment adds State agencies and public power entities to eligible participants in the Energy Audit and Renewable Energy Assistance Program. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments to make units of State, tribal, or local governments eligible. (Section 9001, new section 9007 of FSRIA)

The Managers expect the definition for the term public power entity used in this section to be the same as the definition of state utility as defined in section 217(a)(4) of the Federal Power Act (16 U.S.C. 824q(a)). The Committee intends that in carrying out subsection 9007(b), the Secretary may conduct a merit review process through the solicitation of input regarding applications from qualified experts either individually or collectively.

(25) Rural Energy for America Program—Eligible participants—Energy from animal manure

The Senate amendment specifies the following as eligible participants: agricultural producers; rural small businesses; rural cooperatives; and other similar entities. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. It is the intent of the Managers that the Rural Energy for America Program continue to provide significant support for projects that convert animal manure to energy, including both on-farm and community projects.

(26) Rural Energy for America Program—Eligible activities—Grants, loans and loan guarantees

The House bill expands to include sale of electricity generated by new renewable energy systems. (Section 9005(2))

The Senate amendment adds production-based incentives for renewable energy to eligible activities, eliminates direct loans and renewable energy systems. (Section 9001)

The Conference substitute deletes both provisions.

(27) Rural Energy for America Program—Eligible activities—Energy from animal manure

The Senate amendment provides for grants and loan guarantees for facilities to convert animal manure to energy, including as-

sociated feedstock gathering systems and gas pipelines, as well as first-year operating costs. For new technologies, the first 2 years of operation are eligible. This section also directs extension of the Energy Star program to address equipment and facilities for the agricultural sector. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers encourage the Secretary to compile and submit a list of equipment commonly used by agricultural producers to the Environmental Protection Agency and the Department of Energy for consideration in the existing Energy Star program.

(28) Rural Energy for America Program—Criteria and preference—Grants, loans and loan guarantees

The award considerations in the Senate amendment for energy efficiency improvements and renewable energy systems (section 9007(c)(2)) include: the type of renewable energy system; estimated quantity of renewable energy to be produced; expected environmental benefits; quantity of energy savings expected; expected energy savings payback time; and expected system's energy efficiency. Preferences for grants and loan guarantees under section 9007 are to be given to projects that receive financial support from the state in which they are located. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate award considerations, but deletes the Senate provision that gives preference to projects receiving state funds. (Section 9001, new Section 9007 of FSRIA)

The Managers encourage the Secretary to continue funding animal manure digester projects. The Managers believe these projects have and will continue to be an important tool to produce renewable energy in rural areas, create value for agricultural producers, and address environmental concerns surrounding manure management. It is the Managers' intent that funding under this section may be used for the construction of infrastructure for collection and transportation of feedstocks and biogas for manure digesters, including community digesters. The Managers also intend that bioenergy production and utilization projects that also produce useful byproducts, such as fertilizer or biochar to be used as a soil conditioner, are eligible for support under the Rural Energy for America program.

The Managers encourage the Secretary to use the references to energy efficiency and renewable energy sources in this section include geothermal heat pump systems using ground loops and that small hydroelectric systems (as determined by the Secretary) be considered renewable energy systems for the purpose of receiving financial assistance under this program.

(29) Rural Energy for America Program—Criteria and preferences—Energy from animal manure

The Senate amendment states selection considerations for energy from animal manure projects include quality of energy produced, net energy conversion efficiency, environmental issues, net

impact on greenhouse gas emissions, diversity factors, and proposed costs. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(30) Rural Energy for America Program—Cost sharing

The House bill increases the limit on the maximum amount of the combined loan and grant from 50 percent to 75 percent of the funded activity. It limits the maximum amount of loan guaranteed to 75 percent of the funded activity and not more than $25,000,000. (Section 9005(4))

The Senate amendment states that for energy from animal manure projects: grants are limited to 50 percent of project costs for smaller systems costing less than $500,000; for larger projects, grants are limited to the greater of $250,000 or 25 percent of project costs, with a cap of $2,000,000; loan guarantees are limited to loans not exceeding $25,000,000 and 80 percent of developer's project costs. (Section 9001)

The Conference substitute adopts the House provision. (Section 9001, new section 9007 of FSRIA)

(31) Rural Energy for America Program—Feasibility studies

The House bill allows the Secretary to use up to 10 percent of funds available under the section to provide assistance to eligible participants to conduct feasibility studies for eligible projects, but provides that if such assistance is provided, the participant is ineligible for assistance under other law for such assistance. (Section 9005(6))

The Senate amendment is the same as the House provision. (Section 9001)

The Conference substitute adopts the House provision. (Section 9001, new section 9007 of FSRIA)

(32) Rural Energy for America Program—Reserve

The House bill reserves 15 percent of funds for projects costing $50,000 or less. (Section 9005(6))

The Senate amendment directs the Secretary to develop a streamlined process for projects seeking less than $20,000, and it directs that not less than 20 percent of the funds for this section be made available for such projects. (Section 9001)

The Conference substitutes sets aside not less than 20 percent of the funds for this section for grants of less than $20,000, with any remaining funds reverting to the general pool of funding on June 30 of each fiscal year. The substitute directs the Secretary to perform outreach at the State and local levels. This outreach should include local Rural Development, Farm Service Agency, Natural Resources Conservation Service and Extension offices. (Section 9001, new Section 9007 of FSRIA)

(33) Rural Energy for America Program—Funding

The House bill reauthorizes the program and provides mandatory funding of $50,000,000 in fiscal year 2008; $75,000,000 in fiscal year 2009; $100,000,000 in fiscal year 2010; $125,000,000 in fis-

cal year 2011; and $150,000,000 in fiscal year 2012. (Section 9005(7))

The Senate amendment provides mandatory funding of $230,000,000 in fiscal year 2008, to remain available until expended, for audits, loan guarantees and grants for energy efficiency improvements and renewable energy systems and loan guarantees and grants for animal manure facilities. It specifies that not less than 5 percent of the funding is to be used for Energy Audit and Renewable Energy Development Program and not less than 15 percent is to be used for animal manure facilities. It also authorizes additional funds as necessary to carry out this section from fiscal year 2008 through fiscal year 2012. (Section 9001)

The Conference substitute provides mandatory funding of $50,000,000 in fiscal year 2009, $60,000,000 in fiscal year 2010, and $70,000,000 annually in fiscal year 2011 and fiscal year 2012. It also specifies that 4 percent is to be used for the Energy Audit and Renewable Energy Development Assistance portion of the program. The Conference substitute authorizes an additional $25,000,000 annually from fiscal year 2009 through fiscal year 2012. (Section 9001, new section 9007 of FSRIA)

(34) Biomass Research and Development Act of 2000

The House bill modifies findings to include biodiesel. It increases the number of individuals affiliated with an environmental or conservation organization on the Advisory Committee from 1 to 2. It adds an individual with expertise in agronomy, crop science, or soil science to the Advisory Committee. The provision includes language to improve dried distillers grain quality and clarifies the role of commercial applications in the objectives of the Biomass Research and Development Initiative. It requires the Secretary to submit a management plan to Congress every five years evaluating the success of the Initiative. It also provides mandatory funding of $35,000,000 for fiscal year 2008; $60,000,000 for fiscal year 2009; $75,000,000 for fiscal year 2010; $100,000,000 for fiscal year 2011; and $150,000,000 for fiscal year 2012. The House bill does not change the current law provision that authorizes an additional annual appropriation of $200,000,000 through fiscal year 2015. It amends technical study areas to clarify that research areas include sugar processing and refining plants and self-processing crops that express enzymes capable of degrading cellulosic biomass. (Section 9006)

The Senate amendment removes findings from the language. It changes "biobased fuel" to "biofuel" and "biomass" to "renewable biomass" for consistency across the Title. It also adds an individual with expertise in plant biology and biomass feedstock development. The provision adds language to emphasize research on harvest, collection, transport and storage of renewable biomass feedstocks. It removes specific funding allocations to the different technical areas and instead requires that at least 15 percent of funds go to each technical area. The Senate language requires the Secretary to submit a management plan to Congress every five years evaluating the success of the Initiative. It provides mandatory funding of $15,000,000 for fiscal year 2008; $25,000,000 for fiscal year 2009; and $35,000,000 for fiscal year 2010. The Senate amendment au-

thorizes an additional annual appropriation of $85,000,000 through fiscal year 2012. (Section 9001)

The Conference substitute moves the Initiative in statute to Title IX of the FSRIA of 2002. It removes findings from the language and changes "biobased fuel" to "biofuel" and "biomass" to "renewable biomass" for consistency across the Title. The substitute increases the number of individuals affiliated with an environmental or conservation organization on the Advisory Committee from 1 to 2, adds an individual with expertise in plant biology and biomass feedstock development and adds an individual with expertise in agronomy, crop science, or soil science to the Advisory Committee. The substitute reduces the number of technical areas from 6 to 3 and streamlines considerations for grant selection. The new technical areas include feedstock development, biofuels and biobased products development, and biofuels development analysis. At least 15 percent of the available funding is required to be allocated to each of the three technical areas. The substitute also increases the minimum cost-share requirements for demonstration projects from 20 percent to 50 percent and for research projects from 0 percent to 20 percent, with a provision that allows the Secretary to waive the matching requirement for research if a waiver is determined to be necessary and appropriate.

The substitute provides mandatory funding of $20,000,000 in fiscal year 2009, $28,000,000 in fiscal year 2010, $30,000,000 in fiscal year 2011, and $40,000,000 in fiscal year 2012. It authorizes $35,000,000 per year for fiscal year 2009 through fiscal year 2012. (Section 9001, new section 9008 of FSRIA)

The substitute replaced language that was included in the Energy Independence and Security Act of 2007 (P.L. 110–140) (EISA) that amended Section 307(d) of the Biomass Research and Development Act of 2000 (7 U.S.C. 8606(d)). In order to ensure the sustainable production of biofuels, the Managers want to clarify that an intention of Sec. 9008(e)(3)(C)(ii) is to improve and develop analytical tools to facilitate the analysis of life-cycle energy and greenhouse gas emissions, including emissions related to resource management, associated with all potential biofuel feedstocks and production processes.

The Managers encourage the Board to consider funding projects that address the critical need for integrated research and technology development in the area of biofuels. Funded projects should consider an integrated approach along the full biofuels and biobased products value chain and should serve as a platform for both technology transfer and workforce development. The Managers recognize that the New Century Farm project at Iowa State University specifically includes integrated research and development activities ranging from cropping practices and feedstock production, to biomass harvest and handling, and including biorefinery conversion processes. The Managers also are aware that Pennsylvania State University is working on all aspects of biofuels development from plant transformation to production, harvest, and storage; and from biomass pretreatment to fuel formulation and engine testing in collaboration with private industry and the government. The Managers are aware that Claflin University has been undertaking work in the area of biofuels and biobutanol and hope they

can continue that work. The Managers recognize that these are viable models which can provide invaluable feedback and systematic improvement to development of a national biofuels infrastructure.

The Managers recognize the tremendous potential market that exists in this country for renewable aviation and jet fuel, and acknowledges that while much research and development has been directed toward the development of biofuels for ground transportation, the development of renewable aviation fuels has lagged far behind. For this reason, the Managers encourage the Secretary of Agriculture and the Secretary of Energy to give equal consideration to projects under this initiative that would perform innovative and beneficial research and commercial development of renewable aviation fuels.

The Managers are aware of the use of algae to create biodiesel fuels, and believe this technology will contribute to relieving the U.S. of its dependence on fossil fuels. The Managers understand that algal-based oil yields are 2–3 times that of the highest yielding land plants and that algae can be cultured on land unfit for traditional commercial crops. The Managers encourage the Department to support existing algaculture laboratories that have the ability to develop algal-based feedstocks for the biodiesel industry. The Managers request the Department to report back within 90 days, or as soon as practicable on the status of this effort.

The Managers hope that scientists and students at minority serving institutions, such as the nation's historically black colleges and universities and Hispanic-serving institutions will utilize this program and other research and development programs in this title to continue the development of biofuels and biobased products in all regions of the country.

The Managers also believe that this program plays a critical role in bridging the funding gap that many promising technologies face after university basic research is completed and before becoming attractive to venture capitalists and commercialized in the market. The Managers believe that support between basic research and commercialization is important for quickly bringing new technologies to market, and the Managers urge the Secretary to make sufficient funds available to address this issue.

The Managers encourage consideration of collaborative research on corn and cellulosic genomics to support improved biofuels conversion processes.

The Managers recognize the need for research and development to convert forest biomass to advanced biofuels and encourage USDA and DOE, in implementing the authorities in this section, work in partnership with the Forest Service to develop new techniques, technologies and methods toward this goal. The Managers do not intend the additional authority in section 9012 to preclude these activities under this section.

(35) Adjustments to the bioenergy program—Eligibility

The House bill clarifies that the term "bioenergy" also includes the production of heat and power at a biofuels plant, biomass gasification, hydrogen made from cellulosic commodities for fuel cells, and renewable diesel. The provision excludes corn starch from the list of eligible feedstock under the program. (Section 9007)

The Senate amendment clarifies that this program is intended to support increased production of advanced biofuels, which includes fuels derived from renewable biomass excluding those derived from corn starch. (Section 9001)

The Conference substitute directs the Secretary to make payments to producers of advanced biofuels to support a stable and expanding production base. The payments are to be based on the quantity and duration of production, the net non-renewable energy content of the advanced biofuel, and other factors as determined by the Secretary. (Section 9001, new section 9005 of FSRIA)

It is the intent of the Managers that the Secretary support existing advanced biofuel production, as well as encourage new production.

The Managers recognize that, with respect to forest biomass, the feedstock for the production of advanced biofuels is often the same feedstock used by forest products facilities, include pulp and paper mills. The Managers encourage the Secretary to consider competing market outlets when establishing the payment rate for such feedstocks.

(36) Adjustments to the bioenergy program—Renewable diesel

The House bill defines renewable diesel. (Section 9007)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(37) Adjustments to the bioenergy program—Payment rate and priority

The House bill provides for a priority based on factors listed in section 9003(e)(2)(B) of FSRIA. (Section 9007(2))

The Senate amendment directs the Secretary to base payments on: level of production; price of feedstock; net nonrenewable energy content; and other appropriate factors. It restricts the payment to producers that do not receive the small producer tax credits and to production from facilities with capacity of less than 150,000,000 gallons per year. (Section 9001)

The Conference substitute directs the Secretary to base payments on the quantity and duration of production, the net non-renewable energy content of the advanced biofuel, and other appropriate factors as determined by the Secretary. (Section 9001, new Section 9005 of FSRIA)

(38) Adjustments to the bioenergy program—Project viability

The House bill requires Secretary to review project viability before renewing contracts. (Section 9007(2))

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(39) Adjustments to the bioenergy program—Funding

The House bill provides mandatory funds of $225,000,000 for fiscal year 2008; $250,000,000 for fiscal year 2009; $275,000,000 for fiscal year 2010; $300,000,000 for fiscal year 2011; and $350,000,000 for fiscal year 2012. (Section 9007(3))

The Senate amendment provides mandatory funds of $245,000,000 for fiscal year 2008 to remain available until expended. (Section 9001)

The Conference substitute provides mandatory funding of $55,000,000 in fiscal year 2009, $55,000,000 in fiscal year 2010, $85,000,000 in fiscal year 2011, and $105,000,000 in fiscal year 2012. It authorizes $25,000,000 per year for fiscal year 2009 through fiscal year 2012. It stipulates that no more than 5 percent of each year's funding may be for production at facilities with a total refining capacity exceeding 150,000,000 gallons per year. (Section 9001)

(40) Research, extension and educational programs on biobased energy technologies and products

The House bill extends current authorization for appropriations at a level of $75,000,000 through 2012. It provides a research focus for insular and Pacific areas. (Section 9008)

The Senate amendment provides for mandatory funding of $5,000,000 for fiscal year 2008; and $10,000,000 for fiscal year 2009 and fiscal year 2010 and provides for authorization for appropriations at an annual level of $70,000,000 from fiscal year 2008 through fiscal year 2012. It provides for a "subcenter" at the University of Hawaii with a research focus for insular and Pacific areas. (Section 9001)

The Conference substitute adopts the Senate provision with amendments and moves the provision in statute to the Research Title of this Act. No mandatory funding is provided. The Conference substitute authorizes $75,000,000 per year for fiscal year 2008 through fiscal year 2010. (Section 7526)

(41) Regional biomass crop experiments

The Senate amendment establishes a program of regional biomass crop experiments at 10 geographically dispersed and competitively selected land-grant universities. Crop experiments are to include all appropriate biomass species, including perennials, annuals, and woody biomass species. Selection criteria include crop experiment capabilities and experience, species and cropping practices proposed, crop experiment plan, and commitment of adequate acreage and resources. The provision calls for coordination among participants, with the Biomass Research and Development Board and with the Sun Grant Centers, and the establishment of a "best practices" database on all aspects of biomass crop production. It provides mandatory funding of $40,000,000 over the life of the bill, to be allocated as $1,000,000, $2,000,000, and $1,000,000 per institution for years fiscal year 2008, fiscal year 2009, and fiscal year 2010, respectively. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers believe that the agricultural bioenergy feedstock and energy efficiency research and extension program included in section 7207 of the Research title will accomplish the purposes of this section.

(42) USDA Energy Council

The House bill creates an Energy Council in the Office of the Secretary at USDA to coordinate energy policy at the Department and consult with other agencies. (The existing Office of Energy Policy and New Uses will support the activities of the Council.) (Section 9009)

The Senate amendment directs the Secretary to assign coordination of projects and information, liaison work with other agencies and public outreach on USDA's energy programs to one entity within the Department. (Section 9001)

The Conference substitute deletes both provisions.

It is the intent of the Managers that the Department should implement the actions outlined in the Senate bill using existing authorities. It is also the Managers' intent that a single entity in the Department be responsible for coordinating energy policy activities in the Department and with other agencies.

(43) Farm energy production pilot program

The House bill establishes a pilot program to provide grants to farmers for the purpose of demonstrating the feasibility of making a farm energy neutral using existing technologies. It authorizes $5,000,000 for fiscal years 2008 through 2012. (Section 9010)

The Senate amendment contains no comparable provisions.

The Conference substitute deletes the House provision.

The Managers believe that the purposes of this Section can be carried out through Section 7207 of the Research title.

(44) Rural energy self-sufficiency initiative and rural energy systems renewal

The House bill authorizes the Secretary to make cost-share grants to enable eligible rural communities develop renewable energy systems to increase their energy self-sufficiency. The provision authorizes appropriations of $5,000,000 in fiscal year 2008 and such sums as necessary in fiscal year 2009 through fiscal year 2012. (Section 9011)

The Senate amendment: (1) establishes a program of competitive cost-shared grants for rural communities to assess their energy systems, and to formulate and implement strategies for improvements; (2) specifies appropriate activities; (3) requires a 50 percent cost share; (4) directs the USDA in consultation with DOE to provide technical assistance; and (5) authorizes $5,000,000 per year for fiscal year 2008 through fiscal year 2012. (Section 9001)

The Conference substitute authorizes $5,000,000 per year for fiscal year 2009 through fiscal year 2012 for a program of cost-shared grants to enable rural communities to assess their energy usage, formulate strategies for improvements and install and utilize integrated renewable energy systems. (Section 9001, new Section 9009 of FSRIA)

It is the intent of the Managers that energy assessments will include total energy usage by all members and activities of the community, including an assessment of energy used in community facilities, energy for heating, cooling, lighting, and energy for all other building and facility uses; energy used in transportation by community members; current sources and types of energy used; en-

ergy embedded in other materials and products; and the major impacts of the energy usage, including the impact on the quantity of oil imported, total costs, the environment, and greenhouse gas emissions.

Energy system improvement strategies are intended to reduce conventional energy usage and greenhouse gas emissions by the community through adoption or use of measures such as building insulation, automatic controls on lighting and electronics, zone energy usage, and building energy conservation practices; transportation alternatives, vehicle options, transit options, transportation conservation, and walk- and bike-to-school programs; community configuration alternatives to provide pedestrian access to regular services; and community options for alternative energy systems, including alternative fuels, photovoltaic electricity, wind energy, geothermal heat pump systems, and combined heat and power.

(45) Agricultural biofuels from biomass internship pilot program

The House bill authorizes an internship program to encourage students to pursue employment in renewable energy related jobs. (Section 9012)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(46) Feedstock flexibility program for bioenergy producers

The House bill amends the energy title of FSRIA to require the Secretary to purchase sugar to produce bioenergy if necessary to avoid forfeitures of sugar to the Commodity Credit Corporation, and to ensure that the sugar loan program operates at no cost to the Federal government. (Section 9012)

The Senate amendment is the same as the House bill. (Section 1501(f))

The Conference substitute adopts the House provision with amendments. (Section 9001, new Section 9010 of FSRIA)

Since the Feedstock Flexibility Program is a new program involving many interests, the Managers expect the program to be implemented following a public notice and comment period, providing an opportunity for all parties affected by the program to have input into its operations.

(47) Biomass inventory report

The House bill requires the Secretary to conduct an inventory of biomass resources on a county by county basis and report to Congress within 1 year of enactment. (Section 9014)

The Senate amendment requires the Secretary to conduct an assessment of the growth potential for cellulosic material on a state-by-state basis, and to report to Congress within 18 months. (Section 9001)

The Conference substitute deletes both provisions.

The Managers believe that adequate biomass resource assessments are underway or planned. The Economic Research Service (ERS) in the Department is working on a biomass resource inventory and the Managers encourage the Secretary to continue this important work.

(48) Future farmsteads program

The House bill establishes a program to advance farm energy use efficiencies and on farm production of renewable energies. (Section 9015)

The Senate amendment is the same as the House bill. (Section 9001)

The Conference substitute deletes both provisions.

The Managers believe that the agricultural bioenergy feedstock and energy efficiency research and extension program included in section 7207 of the Research title will accomplish the purposes of this section.

(49) Sense of Congress on renewable energy

The House bill provides a sense of Congress on renewable energy. (Section 9016)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(50) Biodiesel fuel education program.

The House bill doubles funding to $2,000,000 annually for fiscal year 2008 through fiscal year 2012. (Section 9017)

The Senate amendment is the same as the House bill except it adds oil refiners, automotive companies and owners and operators of watercraft fleets to the list of entities targeted for education about biodiesel. (Section 9001)

The Conference substitute adopts the House provision except that it funds the program at $1,000,000 annually for fiscal year 2008 through fiscal year 2012. (Section 9001, new Section 9006)

(51) Biomass energy reserve

The House bill establishes a biomass energy reserve (BER) and provides financial and technical assistance to landowners and operators to produce energy crops and harvest, store, and transport cellulosic material. BER project areas must be within a 50-mile radius of an existing bioenergy facility.

Under the House provision, BER eligible crop land must have been tilled in the current or immediately preceding crop year, and does not include Federal land, certain forest land, or land enrolled in specified conservation programs (unless biomass harvest occurs in accordance with a conservation plan outside of nesting and rearing season, and payments under the conservation program are reduced—subsection (h)). (Forest land is covered in subsection (e), which provides $5,000,000 for grants to help owners develop plans for sustainable management of biomass from forest land.)

Groups of owners and operators, energy and agricultural companies, and Agricultural Innovation Centers (AICs) are all "Eligible Applicants" that may submit proposals for BER project areas. AICs have a dual role in the program, and may also serve as "Qualified Organizations", which assist other Eligible Applicants in developing proposals for approval by USDA.

Under the House provision, the Secretary selects 10 qualified organizations across the country. Qualified organizations, which may also be colleges and universities, help eligible applicants structure projects that will advance the goal of sustainable production

of dedicated energy crops. Specifically, a qualified organization will help eligible applicants to identify suitable land and crop mixtures and get a commitment from a bioenergy facility. Program crops and invasive or noxious species are ineligible. Qualified organizations then rate the various project area applications according to a ranking system established by the Secretary, based on criteria set out in subsection (d)(5). The Secretary selects at least one project area in each of the 10 qualified organizations, which are regionally dispersed.

Under the House provision, the Secretary enters into 5-year contracts with owners and operators (Eligible Participants) in the BER project area. Such contracts must comply with certain conservation requirements and provide for information sharing. The Secretary makes Establishment Payments to eligible participants to cover seeds, stock, and the cost of planting, and annual Rental Payments in an amount to be determined by the Secretary.

Under the House provision, the Secretary may also provide Matching Payments of not more than $45 per ton for collecting, harvesting, storing, and transporting biomass. (Matching Payments are at a rate of $1 for every $1 per ton paid by the bioenergy facility for the biomass. The Secretary must reduce Rental Payments if making a Matching Payment to an eligible participant.) Forest land owners are eligible for this Matching Payment if acting under a forest stewardship plan. (Section 9018)

The Senate amendment establishes a Biomass Crop Transition Assistance Program (BCTAP) to provide transitional assistance (including grants) for the establishment and production of eligible crops to be used in the production of advanced biofuels. The program includes assistance for the harvesting, transportation and storage of renewable biomass. Producers are not eligible to receive assistance for the establishment and production of crops eligible to receive benefits under Title I and that are invasive or noxious. Eligible land is defined as private agriculture or forest land planted or considered to be planted for at least 4 of the 6 years preceding enactment.

The Senate amendment provides that contract requirements include adherence to conservation compliance and implementation of a conservation plan approved by the local soil conservation district. The conservation plans should advance the goals and objectives of fish and wildlife conservation plans and initiatives and comply with mandatory environmental requirements for a producer under Federal, State and local law.

Eligible participants under the Senate amendment include individual agricultural producers, forest land owners or other individuals holding the right to collect or harvest the crop. Farmer-owned cooperatives, agricultural trade associations (or similar entitles on behalf of producer members) may serve as aggregators and enter into contracts as eligible participants. The Secretary is directed to provide planning grants of up to $50,000 (with a required 100 percent match) to assist in assessing the viability for, or assembling of, a regional supply.

Under the Senate amendment, the Secretary will enter into contracts for perennial crops, covering the cost of establishing the crops during the first year and each subsequent year the Secretary

will make an incentive payment determined by the Secretary to encourage the participant to produce renewable biomass. All participants in this Section are required to keep records determined by the Secretary to allow for best practices to be studied and shared.

Assistance under the Senate amendment is restricted to crops for use in the production of advanced biofuels, other biobased products, heat or power from a biomass conversion facility. Participants must have a letter of intent or proof of financial commitment from a biomass conversion facility and the production operation must be located in proximity of a biomass conversion facility to make delivery to the location economically practicable. Eligibility is also conditioned on the impact on wildlife, air, soil and water quality and availability and the local and regional economic impacts/benefits.

The Senate amendment allows the Secretary to provide technical assistance and establishment cost-sharing for eligible participants planting annual biomass crops. The crop shall not be eligible for benefits under Title I and assistance is conditioned on adherence to conservation compliance requirements.

The Senate amendment also creates a program that provides fixed-rate payments to eligible participants for the estimated cost of collection, harvest, storage and transport of renewable biomass. It also provides for forest biomass planning grants to help forest landowners sustainably harvest woody biomass for heat, energy or biobased products for use in a biomass conversion facility.

The Senate amendment included $130,000,000 in mandatory funding for fiscal year 2008, to remain available until expended, for transition assistance for biomass crops. Of this amount, no more than $5,000,000 was to be used for biomass planning grants and no more than 5 percent expended for forest biomass planning grants. The payments for collection, harvest, storage and transportation were appropriated mandatory funding of $10,000,000 per year for each of fiscal year 2009, fiscal year 2010, and fiscal year 2011, to remain available until expended. (Section 9001)

The Conference substitute establishes a Biomass Crop Assistance Program (BCAP). Under this Section, the Secretary will select BCAP project areas from applications consisting of a group of producers willing to commit to biomass crop production or a biomass conversion facility.

Biomass crop producers within these BCAP project areas will enter into contracts directly with the Secretary which will enable producers to receive financial assistance for crop establishment costs as well as annual payments to support biomass production. Contracts include resource conservation requirements.

The Secretary is directed to reduce annual payments when the biomass crops are sold to the conversion facility, used for other allowed purposes or if the producer violates the BCAP contract. This section also authorizes cost-sharing support for biomass harvest, transport, storage, and delivery to biomass user facilities, both within BCAP project areas and elsewhere. The Conference substitute provides mandatory funding of such sums as necessary to carry out this section for each of fiscal year 2008 through fiscal year 2012. (Section 9001, new Section 9011 of FSRIA)

The Managers expect the Secretary to determine if a producer is within an economically practicable distance from a facility based

on the expected cost of transporting a feedstock to the facility. The Managers understand that this distance may vary depending on several factors including the density of the feedstock and the producer's plan for preprocessing the biomass including chopping, pelletizing or other techniques that make the biomass more easily transportable.

The Managers intend that nonindustrial private forestland be included as 'eligible land' in a BCAP area and also be eligible for establishment and annual payments. Prior to entering into a contract with an owner of nonindustrial private forestland with existing tree cover, the Managers encourage the Secretary to consider the most suitable use of the land and encourage the maintenance of native forests and late successional forest stands and discourage conversion of native forests to non-forest use. The Managers understand that woody biomass feedstocks may require varying management practices including: establishment (natural or artificial regeneration), site preparation, and management of competing vegetation. The Managers recognize that in some cases, biomass from forests established or enhanced under this program may not be available for harvest within the timeframe of the contract, but may provide a long-term source of feedstock for a biomass conversion facility.

It is the intent of the Managers that in determining the amount of an annual payment, the Secretary shall consider the costs of the activity being funded and the need for the involved biomass conversion facility to bear some costs of producing the feedstock.

The Managers intend that the use of "soil, water and related resources" under this section includes wildlife-related concerns.

The Managers also intend that the primary focus of the BCAP will be promoting the cultivation of perennial bioenergy crops and annual bioenergy crops that show exceptional promise for producing highly energy-efficient bioenergy or biofuels, that preserve natural resources, and that are not primarily grown for food or animal feed. In making BCAP project area selections, the Managers expect that the Secretary will consider the economic viability of the proposed biomass crop. The Managers do not intend that BCAP contract acreage provide all the feedstock necessary to supply a biomass conversion facility.

It is the Managers' intent that if the establishment or annual payment to a producer is reduced under this section, that the Secretary may vary the amount of payment reduction based on the reason for reducing the payment. It is also the intent of the Managers that establishment and annual payments are to be reduced by an appropriate amount in the case where a portion of an eligible crop is not sold or intended to be sold to the biomass conversion facility.

The Managers direct the Secretary to provide a report to Congress on how information gathered under this Section was disseminated. The Managers urge the Secretary to utilize the Best Practices database created in Section 7207 of this Act and to utilize the expertise of institutions of higher education and Agriculture Innovation Centers to collect such information.

(52) Forest biomass for energy

The House bill requires the Secretary of Agriculture, through the Forest Service, to conduct a competitive research and development program to encourage use of forest biomass for energy. The House bill provides $15,000,000 per year for fiscal year 2008–2012 in mandatory funding. (Section 9019) Note that there are 2 sections numbered 9019 in the House bill.

The Senate amendment is similar to the House bill but does not provide mandatory funding for the program. (Section 9001)

The Conference substitute adopts the House provision with amendments. It authorizes $15,000,000 per year for fiscal year 2009 through fiscal year 2012. (Section 9001, new Section 9012 of FSRIA)

As part of this program, the Managers encourage the Secretary to work closely with the Pine Genome Initiative (PGI), which would promote healthy forests and the development of new biofuels technology.

(53) Community wood energy program

The House bill provides grants for community wood energy systems. (Section 9019) Note that there are 2 sections numbered 9019 in the House bill.

The Senate amendment is similar to the House provision. (Section 9001)

The Conference substitute adopts the Senate provision with amendments. It authorizes $5,000,000 per year for fiscal year 2009 through fiscal year 2012. (Section 9001, new Section 9013)

(54) Supplementing corn as an ethanol feedstock

The House bill requires the Secretary of Agriculture to establish a program to make grants of not to exceed $1,000,000 each to no more than 20 universities for a 3-year program of demonstration of supplementing corn as an ethanol feedstock with sweet sorghum and switchgrass. (Section 9020)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

The Managers believe that the agricultural bioenergy feedstock and energy efficiency research and extension program included in section 7207 of the Research title will accomplish the purposes of this section.

(55) New Century Farm Project

The Senate amendment authorizes support for the development and operation of an integrated and sustainable biomass, feedstock, and biofuels production system to serve as a model for a new century farm. It authorizes $15,000,000 for fiscal year 2008 through fiscal year 2012, to remain available until expended. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers believe that the agricultural bioenergy feedstock and energy efficiency research and extension program included in section 7207 of the Research title will accomplish the purposes of this section.

(56) Biochar research, development and demonstration

The Senate amendment establishes a program of competitive grants for research and demonstration of the production and use of biochar in the agricultural sector. Activity areas include biochar production and use, agronomic effects, biochar characterization, soil carbon and greenhouse gas emission effects, integration with renewable energy systems, and economics. The provision authorizes $3,000,000 for each year of fiscal year 2008 through fiscal year 2012. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. Research on biochar production and use is included as a high-priority research and extension area in section 7203 of the Research title.

(57) Voluntary renewable biomass certification

The Senate amendment establishes a voluntary certification program for renewable biomass that is grown using sustainable practices, in consultation with EPA. Standards are to be designed to reduce greenhouse gases and improve soil carbon, protect wildlife habitat, and protect air, soil, and water quality. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(58) Biofuels infrastructure study

The Senate amendment directs USDA, in collaboration with the Secretaries of Energy and Transportation and the Administrator of the Environmental Protection Agency, to conduct a study of the infrastructure needs associated with a significant expansion in biofuel production and use. The amendment specifically includes dedicated ethanol pipeline feasibility studies and examination of water resource needs. The provision requires a report to Congress including recommendations. It also authorizes $1,000,000 in each of fiscal year 2008 and fiscal year 2009. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute directs USDA to jointly conduct a study with DOE, DOT and EPA on the infrastructure needs associated with significant expansion in biofuels production and use. (Section 9002)

It is the intent of the Managers that this study should include an assessment of appropriate planning and development timelines associated with infrastructure development. The Managers suggest that the Biomass Research and Development Board established under the Biomass Research and Development Initiative may be an appropriate entity for coordination and oversight of this multi-agency study. While this study is to use the information and results from the two related studies authorized in sections 243 and 245 of the Energy Independence and Security Act of 2007 (P.L. 110–140), it is the intent of the Managers that the Secretary should not wait on the execution or completion of those related studies before undertaking this study.

(59) Nitrogen fertilizer study

The Senate amendment directs USDA to assess the feasibility of producing nitrogen fertilizer from renewable energy, including

formulation of recommendations for an R&D program. It authorizes $1,000,000 for fiscal year 2008. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments. It authorizes $1,000,000 in fiscal year 2009. (Section 9003)

(60) Study of life-cycle analysis of biofuels

The Senate amendment directs USDA in consultation with the Secretary of Energy and the Administrator of the EPA to conduct a study of methods for evaluating the life-cycle greenhouse gas emissions of conventional fuels and biofuels, and to provide recommendations for a streamlined, simplified method for evaluating the lifecycle greenhouse gas emissions of fuels. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(61) E–85 fuel program

The Senate amendment authorizes $20,000,000 for the period fiscal year 2008 through fiscal year 2012 for the USDA to award grants to ethanol production facilities where a majority of ownership is comprised of agricultural producers, to install blending and retail fueling infrastructure. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(62) Research and development of renewable energy

The Senate amendment directs the Secretary to carry out a program of biomass and other renewable energy research in coordination with the Colorado Renewable Energy Collaboratory and authorizes funding to USDA and DOE for this purpose. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. The Managers believe that the agricultural bioenergy feedstock and energy efficiency research and extension program included in section 7207 of the Research title will accomplish the purposes of this section.

(63) Northeast Dairy Nutrient Management and Energy Development Program

The Senate amendment provides for nutrient management and research extension. (Section 9001)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers believe that the nutrient management research and extension initiative included in section 7204 of the Research title will accomplish the purposes of this section.

(64) Sense of the Senate concerning higher levels of ethanol blended gasoline

The Senate amendment provides a Sense of the Senate encouraging the federal government to investigate and authorize the use of higher blends of ethanol in gasoline. (Section 9002)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(65) Conforming amendments

The Senate amendment makes conforming amendments. (Section 9003)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(66) Sense of Senate concerning regional bioenergy consortia

The Senate amendment directs the Secretary to continue to allow and support regional consortia of public institutions to support the bioeconomy. (Section 9004)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers encourage the Secretary to continue to allow and support efforts of regional consortiums of public institutions, including land grant universities and State departments of agriculture, to jointly support the bio-economy through research, extension and education activities.

TITLE X—HORTICULTURE AND ORGANIC AGRICULTURE

(1) Annual report on response to honey bee colony collapse disorder

The House bill requires the Secretary to submit a report to Congress on the investigation of honey bee colony collapse and strategies to reduce colony loss. (Section 10001)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision. Language incorporating the goals and objectives of this provision appears in section 7203 of the research title.

(2) National Honey Board

The Senate amendment amends section 7(c) of the Honey research, Promotion and Consumer Information Act (7 U.S.C. 4606(c)) to ensure that the Honey Board continues and that the Secretary cannot conduct any referendum on the continuation or termination of the order without first conducting a concurrent referendum for approval of orders to establish a successor marketing board. (Section 1854)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to discontinue the current Honey Board after the Secretary has conducted a referendum for honey producers or honey packers, importers, and handlers. The Secretary is also required to act as a fiduciary in the conducting of referenda for new marketing boards to ensure that the rights and interests of producers, importers, packers, and handlers of honey are equitably protected in the transition to any 1 or more new successor marketing boards. (Section 10401)

(3) Identification of Honey

The Senate amendment amends section 203(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) to require the grading mark, statement, inspection mark of the Department of Agri-

culture to be located in close proximity of the country of origin label on packaged honey. (Section 1855)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to specify that violations of the labeling requirements of this section, with respect to honey, may be deemed by the Secretary to be sufficient cause for debarment from the benefits of the Agricultural Marketing Act of 1946. (Section 10402)

(4) Tree assistance program

The House bill: (1) amends subtitle C of the Farm and Rural Investment Act of 2002, (2) makes nursery tree growers eligible under the Tree Assistance Program and future disaster assistance programs for which assistance is provided under that program, (3) changes the $75,000 limitation on assistance to $150,000 per year, and (4) maintains current discretionary authorization. (Section 10101)

The Senate amendment: (1) amends the Trade Act of 1974 by creating a Tree Assistance Program to compensate eligible growers for losses suffered due to natural disasters, (2) makes nursery tree growers eligible under the Tree Assistance Program, (3) changes the $75,000 limitation on assistance to $100,000 per year, (4) adds reimbursement for 50 percent of the cost of pruning, removal, and other costs to salvage existing trees or prepare the land to replant trees, and (5) provides necessary mandatory funding to carry out the program over the next five years. (Section 12101(e))

The Conference substitute adopts the Senate provision with amendments to modify the reimbursement of the cost of replanting trees lost due to a natural disaster; amend the Federal Crop Insurance Act with a provision identical to that which appears in the Trade Act of 1974; incorporate these changes into sections 12033 and 15101 of this Act; and to make other technical changes. (Section 12033; Section 15101)

The Managers wish to clarify that the insurance requirement for eligibility in the Tree Assistance Program applies only to insurance on crops and not on the underlying vines or trees.

(5) Specialty crop block grants

The House bill amends section 101 of the Specialty Crops Competitiveness Act by continuing the Specialty Crop Block Grant Program through 2012, and increasing the mandatory levels of funding to:

$60,000,000 in FY'08
$65,000,000 in FY'09
$70,000,000 in FY'10
$75,000,000 in FY'11
$95,000,000 in FY'12.

The House provision changes the definition of "specialty crop" under the Specialty Crops Competitiveness Act of 2004 to include "horticulture," and the definition of "State" to include Guam, American Samoa, the U.S. Virgin Islands and the Northern Mariana Islands. (Section 10102)

The Senate amendment is the same as the House bill, except funding is discontinued after FY'11. The Senate definitions are the

same as in the House bill, but also includes "turfgrass sod" and "herbal crops" in the definition of "specialty crop".

The Senate amendment modifies section 101(e) to require that States, to the maximum extent practicable and appropriate, develop plans that take into consideration the views of beginning and socially disadvantaged farmers and ranchers who produce specialty crops. It also changes the minimum grant amount from $100,000 to one-half of one percent of the overall funding allocated to the program in a given fiscal year. (Section 1841)

The Conference substitute adopts the House provision with amendments to specify that any funds made available for a fiscal year under the program that are not expended by certain date, to be determined by the Secretary, will be reallocated to other States; change the minimum grant amount to $100,000 or one-third of one percent of the overall funding allocated to the program in a given fiscal year (whichever is higher); provide mandatory levels of funding in the amounts of:

$10 million for fiscal year 2008;

$49 million for fiscal year 2009; and

$55 million for each of fiscal years 2010 through 2012. (Section 10109)

The Managers expect that the Secretary will encourage each state making applications for funding under the Specialty Crop Block Grant Program to provide a written plan detailing the affirmative steps it will take to perform outreach to specialty crop producers in the development of the State's overall grant plan, including outreach to socially disadvantaged and beginning farmers of specialty crops. The Managers also note that herbal crops fall within the statutory definition of eligible specialty crops under the Specialty Crop Block Grant Program, and direct the Agricultural Marketing Service to include a comprehensive list of specific categories of eligible specialty crops in all relevant promotional materials distributed in connection to the program. The Managers expect the Secretary to continue to consider the cultivation of turfgrass sod as horticulture, and therefore included as part of the definition of specialty crop under the Specialty Crop Competitiveness Act of 2004, and as a specialty crop for any other purposes in this or any other Act.

The Managers urge the Secretary to encourage state departments of agriculture to develop their grant plans through a competitive process in order to ensure maximum public input and benefit. The Managers expect the Secretary to ensure that States conduct extensive outreach to interested parties through a transparent process of receiving and considering public comment so that grant applications are developed with proven and justified public support, particularly when developing applications for multi-state projects. Further, the Managers expect the Secretary to carefully review requests that extend existing projects to ensure that support remains across the broad array of public-private partnerships unique to the structure of the specialty crop industry.

The Managers note that since 2006 many states have used specialty crop block grant funding for marketing programs, some of which promote state grown products. The Managers expect the Secretary to carefully monitor the use of funds under grant awards to

ensure that funds are promoting specialty crops as defined under the Specialty Crop Competitiveness Act of 2004 and are not being used in generically cross-marketing other commodities which fall under state marketing programs but are outside the scope of the Act's definition.

The Managers recognize the ability of States to submit multi-state projects under current program regulations. The Managers also recognize the growing need for solutions to problems that cross state boundaries and may therefore be addressed more effectively by multi-state projects. These problems include addressing good agricultural practices, research on crop productivity or quality, enhancing access to federal nutrition programs, pest and disease management, or commodity-specific projects addressing common issues in multi-state regions. The Managers therefore request that the Secretary encourage state departments of agriculture to submit grant plans that include multi-state and regional project proposals. The Managers also request that the Secretary give strong consideration to multi-state projects when reallocating unobligated block grant funding.

(6) Additional section 32 funds for purchase of fruits, vegetables and nuts to support domestic nutrition assistance programs

The House bill provides funding in addition to amounts available under section 32. Additional amounts of section 32 funds dedicated to fruit, vegetable, and nut purchases are:

$190,000,000 in FY'08
$193,000,000 in FY'09
$199,000,000 in FY'10
$203,000,000 in FY'11
$206,000,000 in FY 2012 and each FY thereafter.

The House provision expands the Secretary's purchase discretion to include value-added fruit, vegetable, and nut products. (Section 10103)

The Senate amendment is the same as the House bill, with technical differences. (Section 4907)

The Conference substitute adopts the House provision with an amendment to require that, for each of fiscal years 2008 through 2012, the Secretary shall use not less than $50,000,000 of the funds dedicated to fruit, vegetable, and nut purchases under section 32 to purchase fresh fruits and vegetables for distribution to schools and service institutions in accordance with section 6(a) of the National School Lunch Act. This provision appears in section 4404 of this Act. (Section 4404)

(7) Additional section 32 funds to provide grants for the purchase and operation of urban gardens growing organic fruits and vegetables for the local population

The House bill provides grants to individuals or cooperatives composed of residents of urban neighborhoods where urban gardens or greenhouses are located to assist in purchasing and operating organic fruit and vegetable gardens and greenhouses. Provides that grants may not exceed $25,000 per year; $20,000,000 in discretionary funds are appropriated for fiscal year 2008 and each fiscal year thereafter. (Section 10103A)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

The Managers recognize the importance of urban gardens in providing opportunities for individuals and groups to produce food, beautify their neighborhoods, and educate themselves about food production systems. The Managers also recognize with the growing consumer awareness of organically produced food many communities may wish to operate organic gardens and greenhouses. The Managers further recognize the role of the Community Food Projects program in satisfying the need for these projects and strongly encourage the Secretary to increase the program's outreach to urban areas in order to increase the submission of grant applications for urban gardens and greenhouses.

(8) Independent evaluation of Department of Agriculture commodity purchase process

The House bill requires an independent evaluation of the commodity purchasing processes and the importance of increasing purchases of specialty crops. (Section 10104)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to require the Secretary to arrange to have performed an independent evaluation of the purchasing processes used by the Department of Agriculture to implement the requirement that funds available under section 32 of the Act of August 24, 1935 be principally devoted to perishable agricultural commodities. (Section 10101)

(9) Quality requirement for clementines

The House bill amends section 8e(a) of the Agricultural Adjustment Act by adding clementines to the list of commodities. (Section 10105)

The Senate amendment is the same as the House bill. (Section 3207)

The Conference substitute adopts the Senate provision. (Section 10102)

(10) Implementation of food safety programs under marketing orders

The House bill amends section 8c of the Agricultural Adjustment Act by authorizing the implementation of quality-related food safety programs under specialty crop marketing orders. (Section 10106)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

The Managers are aware that the Secretary has issued marketing orders which include quality-related provisions intended to enhance the safety of the commodities to which they are applicable. Therefore, the managers recognize that statutory language is unnecessary. It is not the Manager's intention to alter the Secretary's authority to incorporate practices to improve the safety of commodities in marketing orders, but rather, to encourage the development of programs of quality-related good agricultural, manufacturing

and handling practices with full industry and public participation and in consultation with the Food and Drug Administration.

(11) Inclusion of specialty crops in census of agriculture

The House bill amends section 2(a) of the Census of Agriculture Act to include a census of specialty crops as part of the general census of agriculture. (Section 10107)

The Senate amendment contains a freestanding provision which requires the Secretary to conduct a census of specialty crops not later than September 30, 2008 and each 5 years thereafter. It also allows the Secretary to include the census of specialty crops in the census on agriculture. (Section 1814)

The Conference substitute adopts the House provision. (Section 10103)

(12) Maturity requirements for Hass avocados

The House bill: (1) amends subtitle A of the Agricultural Marketing Act of 1946 by adding at the end of the title a new section, (2) requires the Secretary to issue regulations requiring all Hass avocados sold in the U.S. to meet a minimum maturity requirement, (3) allows for exceptions from this requirement for avocados intended for charities, relief agencies or processing, (4) uses existing inspectors that already inspect avocados under other orders, and allows the Secretary to collect fees to pay for inspection activities, (5) imposes civil penalties between $50 and $5,000 for each violation, (6) allows for the diversion of avocados that don't meet the maturity requirements, and (7) authorizes appropriations for necessary sums. (Section 10108)

The Senate amendment contains a freestanding provision which authorizes an organization of domestic avocado producers to submit to the Secretary a proposal for a grades and standards marketing order for Hass avocados. Once that proposal is received, the Secretary is required to initiate established procedures under the normal marketing order process for the purpose of determining whether there is sufficient industry support for the proposal submitted by the organization. If the Secretary deems it appropriate to establish a marketing order, the language also requires the Secretary to complete that order within 15 months. (Section 1856)

The Conference substitute adopts the Senate provision. (Section 10108)

(13) Mushroom promotion research and consumer information

The House bill: (1) amends the Mushroom Promotion, Research and Consumer Information Act of 1990, (2) reflects the changed geographic distribution of mushroom growers and their productivity by combining the regions that are represented on the Board, and increasing the number of pounds required for representation in the region, and (3) allows the development of good agricultural practices and good handling practices under the mushroom research and promotion order. (Section 10109)

The Senate amendment is the same as the House bill, except also allows the development of food safety programs under the promotion order. (Section 1853)

The Conference substitute adopts the House provision with an amendment to clarify that the mushroom council may develop and propose to the Secretary programs for good agricultural and good handling practices and related activities for mushrooms. (Section 10104)

(14) Fresh produce education initiative

The House bill authorizes a program to educate persons involved in the fresh produce industry and the public about ways to reduce pathogens in fresh produce and sanitary handling practices. It authorizes necessary sums for each FY 2008 through 2012. (Section 10110)

The Senate amendment is the same as the House, except authorizes $1,000,000 in discretionary funding to carry out the section. (Section 1813)

The Conference substitute adopts the Senate provision with an amendment to specify that there are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2008 through 2012, to remain available until expended. (Section 10105)

(15) Pest and disease program

The House bill establishes a new program to conduct early pest detection and surveillance activities in coordination with state departments of agriculture, to prioritize and create action plans to address pest and disease threats to specialty crops, and to create an audit-based certification approach to protect against the spread of plant pests. It provides mandatory funding in the amount of:

(1) $10,000,000 in FY 2008;
(2) $25,000,000 in FY 2009;
(3) $40,000,000 in FY 2010;
(4) $55,000,000 in FY 2011; and
(5) $70,000,000 in FY 2012. (Section 10201)

The Senate amendment is the same as the House, except for technical differences and provides mandatory funds in the amounts of:

(1) $10,000,000 for FY 2008;
(2) $25,000,000 for FY 2009;
(3) $40,000,000 for FY 2010;
(4) $50,000,000 for FY 2011;
(5) $64,000,000 for FY 2012. (Section 12101(f))

The Conference substitute adopts the Senate provision with an amendment to: describe the application procedure for the program; prohibit the Department of Agriculture from considering the availability of nonfederal funds in determining whether to enter into a cooperative agreement with a State department of agriculture; direct the Secretary to consider various risk factors when considering an application for a cooperative agreement; express Congressional disapproval of a cost-sharing rule for animal and health emergency programs and; specify mandatory funding in the amounts of:

(1) $12,000,000 for fiscal year 2009;
(2) $45,000,000 for fiscal year 2010;
(3) $50,000,000 for fiscal year 2011; and
(4) $50,000,000 for fiscal year 2012. (Section 10201)

The Managers believe that the nursery plant pest risk management systems established under this section will provide the nursery industry with assistance and flexibility in developing programs that meet its needs to determine and manage plant pest and disease risks.

The Managers note that the U.S. Department of Agriculture has taken specific steps to promote new methods of inspection and regulation based on new approaches to nursery pest risk management, sometimes referred to as the "systems approach." These steps include a technical agreement under the auspices of the North American Plant Protection Organization (Regional Standards for Phytosanitary Measures Number 24), and the development of the U.S. Nursery Certification Program, a limited test-pilot program developed by Animal and Plant Health Inspection Service Plant Protection and Quarantine to promote U.S. nursery shipments to Canada.

The Managers are aware of the U.S. Department of Agriculture's efforts to promote the systems approach for the nursery industry. The development of effective systems of pest risk management and the industry adoption of such systems will be hastened and made more effective through an initiative based on collaboration among key agencies, Departmental personnel, industry organizations, and research institutions. To implement the nursery plant pest risk management systems under this section, U.S. Department of Agriculture policies and regulations must have a sound foundation in research and experience through pilot programs of nursery plant pest risk management systems. In addition, there must be collaboration among industry and state and federal regulators to improve programs of inspection, certification and regulation using such systems.

The Managers recognize that systems of pest risk management developed by the nursery industry must satisfy prevailing regulatory requirements if they are to be useful and effective. The Managers encourage the U.S. Department of Agriculture to provide guidance and technical assistance to the nursery industry, and to promote and coordinate related programs of research in the implementation of nursery plant pest risk management systems under this section.

(16) Multi-species fruit fly research and sterile fly production

The House bill authorizes the construction of a warehouse and irradiation containment facility for fruit fly rearing and sterilization in Waimanalo, Hawaii. It also authorizes the appropriation of $15,000,000 for construction and $1,000,000 for 2008 and each subsequent fiscal year for facility maintenance. (Section 10202)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

The Managers recognize that fruit flies are among the most destructive pests of fruits and vegetables in the world and pose a significant risk to U.S. agriculture. Further, the Managers recognize the importance of the Animal and Plant Health Inspection Service's (APHIS) Fruit Fly Control Programs in controlling fruit flies. Given the need for a backup sterile fruit fly facility for Mediterranean, Melon, Oriental, and Solanaceaous fruit flies, the Managers strong-

ly encourage the Secretary to fully consider Waimanalo, Hawaii, when determining where such a multi-species facility will be located. In examining Waimanalo, Hawaii, and other locations, APHIS should consider whether the locations will support the establishment of the species of fruit flies being produced, existing researcher expertise and experience, whether the area is already infested with the species of fruit flies being produced, and cost effectiveness. The Managers strongly encourage APHIS to request appropriated funding as authorized by 7 U.S.C. 428a to provide for the costs of building, maintaining, and operating a backup sterile multi-species fruit fly facility at the location deemed most suitable.

(17) National organic certification cost-share program

The House bill amends section 10606 of the Farm Security and Rural Investment Act to provide $22,000,000 for the national organic certification cost-share program, to be available until expended. It provides that the federal share may not exceed 75 percent of the cost of certification, and the maximum amount a producer may receive is raised from $500 to $750. (Section 10301)

The Senate amendment amends section 10606 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 6523) to reauthorize the National Organic Certification Cost-Share program, which provides funds for the Secretary to assist producers and handlers of agricultural products in obtaining certification under the Organic Foods Production Act of 1990. Payments to producers or handlers are limited to $750, and the federal share of the certification cost will be no more than 75 percent of the total certification cost incurred. The Senate provision adds language to require the Secretary to submit to Congress, reports that describes the expenditures for each state under the program during the previous fiscal year. It also provides $22,000,000 in mandatory funding. (Section 1823)

The Conference substitute adopts the Senate provision with an amendment to delete the federal share requirements as well as the federal and state recordkeeping requirements, and to require the Secretary to submit to the House and Senate Agriculture Committees a report containing certain program information. (Section 10301)

The Managers encourage the Secretary to keep accurate and current records of requests by and disbursements to States under the program, and require accurate and consistent recordkeeping from each State and entity that receives program payments. The Managers also recognize the importance of distributing cost-share funds to the States in a timely manner, and request that the Secretary distribute such funds at the soonest date practicable following the deadline for submission of funding requests under the program. The Managers are aware that there have been discussions between the Department of Agriculture and the States regarding administrative fees for the program and encourage the Department to review administrative fees to ensure optimal performance in serving the needs of organic producers and handlers.

(18) Organic production and market data

The House bill: (1) amends section 7407 of the Farm Security and Rural Investment Act to add pricing of organic products as new data to be included in the ongoing collection of data on agriculture production and marketing, (2) provides that the data on organics under this section shall be collected to analyze crop loss risk of organic methods of production, (3) provides $3,000,000 in mandatory funds to be available until expended, and (4) includes a free-standing provision that requires the Secretary of Agriculture to submit to Congress a report regarding the progress made in implementing this amendment. (Section 10302)

The Senate amendment amends section 2104 of the Organic Foods Production Act of 1990 (7 U.S.C. 6503) by granting the Secretary authority to segregate data as it relates to the organic industry by publishing organic production and marketing information and surveys. The language is intended to remedy the lack of price and yield information for organic producers.

Senate expands upon House language by requiring detailed data collection for: organic production and market data initiatives and surveys; expand, collect, and publish organic census data analysis, fund comprehensive reporting of prices relating to organically-produced agricultural products; conduct analysis relating to organic production, handling, distribution, retail, and trend studies; study and perform periodic updates on the effects of organic standards on consumer behavior; conduct analysis for organic agriculture using the national crop table.

The Senate provision provides $5,000,000 in mandatory funding. (Section 1821)

The Conference substitute adopts the Senate provision with an amendment to clarify the data collection, analysis, and survey development requirements for the Secretary, as well as to further specify the contents of the report that the Secretary shall submit to the House and Senate Agriculture Committees. (Section 10302)

The Managers have provided $5,000,000 in mandatory funding in an effort to jump-start organic data collection efforts at the Department of Agriculture, but recognize that remedying the unmet data collection needs of the organic sector will require further investment, and therefore, have provided an additional authorization of appropriations of $25,000,000 for the period of fiscal years 2008 through 2012 to carry out the program. The Managers intend that $3.5 million of the funding provided for this section be allocated to the Agricultural Market Service to collect and distribute comprehensive reporting of prices relating to organically produced agricultural products. The Managers also note the critical importance of collecting data related to crop loss risk, and farm-gate prices, in order to determine appropriate products and premiums for crop insurance policies offered to organic producers. The Managers further intend that $1.5 million of the funding provided for this section be used by the Economic Research Service and National Agricultural Statistics Service to carry out the specified requirements of the initiative that are appropriate to each agency.

(19) Organic conversion, technical and educational assistance

The House bill authorizes $50,000,000 over five years to provide technical assistance and cost-sharing grants to farmers trying to transition to organic farming. (Section 10303)

The Senate amendment contains a comparable provision in the conservation title (EQIP).

The Conference substitute deletes the House provision. Language addressing the goal of providing technical assistance to farmers trying to transition to organic farming appears in section 2501 of the conservation title.

(20) Exemption of certified organic products from assessments

The Senate amendment amends section 501(e) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7401 (e)) to allow farmers who have some or part of their farm certified organic to receive the exemption. Only producers that are USDA organically certified may receive the exemption for that portion of land they produce organically. (Section 1822)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(21) National organic program

The Senate amendment amends section 2123 of the Organic Foods Production Act of 1990 (7 U.S.C. 6522) to provide increased authorized incremental funding levels for the National Organic Program to ensure proper compliance and oversight of the National Organic Program. It also authorizes $5,000,000 for fiscal year 2008; $6,500,000 for fiscal year 2009; $8,000,000 for fiscal year 2010; $9,500,000 for fiscal year 2011; and $11,000,000 for fiscal year 2012. (Section 1824)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide such additional sums as are necessary to carry out the program. (Section 10303)

The National Organic Program (NOP) is the first line of defense in assuring consumers that organic products certified under the program consistently meet the program's standards. The Managers are aware of concerns raised by numerous organic agriculture interests concerning the level of resources devoted to the NOP. While the program's funding level has increased over time, the Managers view the current level of funding as inadequate to permit the NOP to properly address the world-wide scope of accreditation oversight and certifier training. The Managers strongly encourage the Secretary to prepare NOP budget requests at least equal to the appropriations levels authorized in this Act.

(22) Grant program to improve the movement of specialty crops

The House bill: (1) authorizes the Secretary to make grants to State and local governments, grower cooperatives, and producer and shipper organizations to improve the cost-effective movement of specialty crops, (2) provides that the grant recipient must match the amount of funds received under this program, and (3) authorizes appropriations for necessary sums to carry out the section. (Section 10401)

The Senate amendment is the same as the House bill, except Senate language amends title II of the Specialty Crops Competitiveness Act of 2004 (Public Law 108–465; 118 Stat. 3884), and clarifies that non-profit trucking associations and their research entities are eligible to receive grants. (Section 1842)

The Conference substitute adopts the House provision with an amendment to allow national, state, or regional organizations of producers, shippers or carriers to be eligible for grants under the program. (Section 10403)

(23) Authorization of appropriations for market news activities regarding specialty crops

The House bill authorizes necessary funds for each of fiscal years 2008 through 2012 to support market news activities regarding specialty crops. (Section 10402)

The Senate amendment authorizes $9,000,000 for each of fiscal years 2008 through 2012, to remain available until expended for market news activities to provide timely price information on fruits and vegetables. (Section 1811)

The Conference substitute adopts the Senate provision with an amendment to specify that in addition to any other funds made available through annual appropriations for market news services, there is authorized to be appropriated $9,000,000 for each of fiscal years 2008 through 2012, to remain available until expended. (Section 10107)

(24) Farmer marketing assistance program

The House bill: (1) amends section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976 and provides findings, (2) renames the Farmers' Market Promotion Program the "Farmer Marketing Assistance Program", (3) specifies categories of farmer-to-consumer direct marketing activities eligible for funding under the program, (4) provides mandatory funds in the amounts of $5,000,000 for fiscal years 2008 through 2010; and $10,000,000 for fiscal years 2011 through 2012, and (5) provides that 10 percent of these funds shall be used to support the use of electronic benefit transfers at farmer's markets. (Section 10403)

The Senate amendment: (1) amends section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3005) to reauthorize the Farmers Market Promotion Program, (2) adds language to include producer networks or associations, and (3) provides mandatory funds in the amounts of $5,000,000 for each of fiscal years 2008 through 2011; and $10,000,000 for fiscal year 2012. (Section 1812)

The Conference substitute adopts the Senate provision with an amendment to specify that 10 percent of the funds available to carry out the Farmers' Market Promotion Program be used to implement electronic benefit transfer systems at farmers' markets; and to specify mandatory funding in the amounts of:

$3,000,000 for fiscal year 2008;

$5,000,000 for each of fiscal years 2009 and 2010;

$10,000,000 for each of fiscal years 2011 and 2012. (Section 10106)

The Managers recognize that farmer-to-consumer direct marketing activities offer significant economic opportunities for farmers and ranchers seeking to increase profit retention. The Farmers' Market Promotion Program is intended to support the development and expansion of farmers' markets, and all other forms of direct marketing, through the provision of grants to assist in organizing, marketing, training, business plan development, community outreach and education, and other associated activities designed to establish or improve direct marketing opportunities for farmers and ranchers and the consumers they serve.

The Managers recognize that the growth of farmers' markets and other direct marketing ventures has been limited in some communities and regions, and therefore encourage the Department to determine the underlying reasons for this uneven distribution, with the goal of addressing this disparity through the support of meritorious projects in these locations.

The Managers are aware of the growing role that the more than 4,300 farmers markets and 1,200 community supported agriculture enterprises across the country play in providing access to fresh, healthy, and local foods, to all Americans, including those who participate in federal food assistance programs. As of 2006, the USDA estimated that only 6 percent of farmers' markets nationwide have electronic benefit transfer (EBT) systems in place to accept food stamp benefits. To increase the use of food stamp benefits at farmers' markets and community supported agriculture enterprises, the Managers have required a minimum of ten percent of the Farmers' Market Promotion Program funds be devoted to projects designed to implement EBT systems. The Managers also encourage the Secretary to examine and implement more systemic administrative approaches to increase the nationwide access of EBT technology suitable for farmers' markets and community supported agriculture enterprises, including possible ways to improve the administration of EBT service provider contracts to achieve this goal.

(25) National clean plant network

The House bill creates a funding source for clean planting stock and authorizes the Secretary to enter into cooperative agreements to produce, maintain and distribute healthy planting stock. It authorizes the appropriation of necessary funds through 2012 in addition to $20,000,000 in mandatory funds for the period of fiscal years 2008 through 2012. (Section 10404)

The Senate amendment is the same as the House bill, with technical differences. (Section 1851)

The Conference substitute adopts the Senate provision with an amendment to add NLGCA institutions to the list of entities the Secretary shall consult with in carrying out the program, and to specify mandatory funding in the amounts of $5,000,000 for each of fiscal years 2009 through 2012. (Section 10202)

(26) Healthy food urban enterprise development program

The House bill: (1) provides competitive grants to eligible entities to conduct studies on improving access of underserved communities to affordable, locally produced food, (2) provides that the

maximum grant amount shall not exceed $250,000, and (3) authorizes the appropriation of necessary funds for each of fiscal years 2008 through 2012. (Section 10405)

The Senate amendment requires the Secretary of Agriculture to establish, through a competitive grant process, the Healthy Enterprise Development Center, the mission of which is to increase access to healthy, affordable foods to underserved communities. The Healthy Food Enterprise Development Center will be required to collect, develop, and provide technical assistance to agricultural producers, food wholesalers and retailers, schools, and other entities regarding best practices for aggregating, storing, processing, and marketing local agricultural products and increasing the availability of such products in underserved communities. The Healthy Food Enterprise Development Center is also provided with the authority to subgrant funds to carry out feasibility studies to carry out the purposes of the Center. The provision provides $7,000,000 in mandatory money. (Section 1843)

The Conference substitute adopts the Senate provision with amendments to place language for the Healthy Urban Food Enterprise Development Center within the Community Food Projects statute; clarify that subgrants may be used to establish and facilitate enterprises that process, distribute, aggregate, store, and market healthy affordable foods; limit the amount allocated for administrative expenses; provide $1,000,000 in funding for each of fiscal years 2009 through 2011; and authorize $2,000,000 for fiscal year 2012. (Section 4402)

The Managers expect that sub-grants be provided for activities in underserved areas that assist appropriate institutions in modifying and upgrading facilities through the purchase of refrigeration units, coolers or other equipment appropriate to accommodate healthy and locally produced agricultural food products.

(27) Definitions

The Senate amendment sets out definitions to apply throughout subtitle F for the terms "specialty crop", "state", and "state department of agriculture." (Section 1801)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to remove the definition of the term "State." (Section 10001)

(28) Foreign market access study and strategy plan

The Senate amendment requires the Comptroller General of the United States to carry out a study regarding the extent to which United States specialty crops have or have not benefited from the reduction of foreign trade barriers under the Uruguay Round. (Section 1831)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(29) Consultations on sanitary and phytosanitary restrictions for fruits and vegetables

The Senate amendment requires the Secretary to consult with interested persons and conduct annual briefings on sanitary and

phytosanitary trade issues, included the development of a strategic risk management framework and as appropriate implementation of a peer review for risk analysis. (Section 1833)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(30) Market loss assistance for asparagus producers

The Senate amendment establishes a program to pay those producers currently growing asparagus for revenue losses during the 2004–2007 crop years due to imports. The language provides $15,000,000 in mandatory funding ($7,500,000 for producers of fresh asparagus and $7,500,000 for producers of processed or frozen asparagus). (Section 1852)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 10404)

TITLE XI—LIVESTOCK

(1) Livestock mandatory price reporting

The Senate amendment amends the Livestock Mandatory Reporting Act in subsection (a). It amends section 232(c)(3) to change the time of the afternoon swine report from 2:00 p.m. to 3:00 p.m. (Central Time). It also changes the time that USDA will publish the afternoon swine report from 3:00 p.m. to 4:00 p.m. (Central Time). Subsection (b) directs USDA to study the economic impacts of including wholesale pork product sales reporting on producers and consumers, including the effects of a confidentiality requirement on mandatory reporting. Upon completion of that study, USDA may establish mandatory packer reporting of wholesale pork product sales (such as pork cuts and retail-ready pork products), requiring each packer processing plant to report to USDA price and volume information at least twice each reporting day. Subsection (c) ensures that USDA continues to publish retail scanner data. (Section 10001)

The House bill contains no comparable provision.

The Conference substitute deletes subsection (a) of the Senate provision to amend the afternoon swine report. The conference substitute adopts subsection (b) of the Senate provision with an amendment to restrict the focus of the wholesale pork study to only pork cuts. Additionally, the Secretary of Agriculture will be provided 1 year to complete the study upon enactment of this Act. The substitute also clarifies that the Secretary is only authorized to collect the data necessary to complete the study during the period preceding the completion of the report. An authorization of such sums as necessary is provided to complete the study.

The Conference substitute deletes subsection (c) of the Senate provision. The conference substitute also provides enhancements to improve readability and understanding of information published under the Livestock Mandatory Reporting Act through electronic reporting.

The Managers expect the website improvements to be presented in a user friendly format that can be readily understood by producers, packers and other market participants. The website

should include charts and graphs that provide real time data, including comparable data from previous days so that producers and other industry participants can track market changes. (Section 11001)

(2) Grading and inspection

The Senate amendment amends section 203 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622) to provide USDA authority to establish a voluntary grading program at USDA for catfish. The provision requires USDA to provide inspection activities under the Federal Meat Inspection Act for farm raised catfish, by adding catfish to the list of "amenable species." The Secretary, while establishing the grading and inspection program for catfish, is required to ensure that nothing duplicates, impedes, or undermines any of the food safety or product grading activities conducted by the Department of Commerce or the Food and Drug Administration. (Section 10002)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize a voluntary fee-based grading program at USDA for catfish. Additional species of farm-raised fish or farm-raised shellfish may be added to the grading program through a petition process to the Secretary of Agriculture. The conference substitute also provides that catfish shall be an amenable species under the Federal Meat Inspection Act, and therefore will be subject to examination and inspection by USDA's Food Safety and Inspection Service (FSIS) when processed for use as human food. In conducting such inspections, FSIS is authorized to take into account the conditions under which the catfish are raised and transported to a processing establishment. Additional species of fish and shellfish are not addressed in this amendment; however, the Managers note that the Secretary has underlying authority within the Federal Meat Inspection Act to amend the definition of amenable species as he considers necessary and appropriate.

Additionally, the conference substitute requires the Secretary, in promulgating regulations for inspection activities, to consult with the Commissioner of the Food and Drug Administration. Final regulations for grading and inspection activities shall be promulgated not later than 18 months after the date of enactment of this section. The Conference substitute also requires the Secretary of Agriculture to submit an estimate of the costs of implementing the program. (Section 11016)

It is the intent of Congress that catfish be subject to continuous inspection and that imported catfish inspection programs be found to be equivalent under USDA regulations before foreign catfish may be imported into the United States.

The Managers intend that nothing in this section be interpreted to reduce funding or the level of inspection for meat, poultry and egg products. The Managers expect the Secretary to budget accordingly each year for catfish inspection. The Managers expect the Secretary, in approving any petition for voluntary, fee-based grading services for any additional farm-raised fish or farm-raised shellfish species, to make any resulting service available only on a facility by facility basis.

(3) Country of origin labeling

The House bill amends the Agricultural Marketing Act of 1946 to provide new country of origin labeling requirements for beef, lamb, pork and goat. It amends the list of covered commodities to include goat meat. The provision specifies labeling requirements for products that are of United States country of origin, multiple countries of origin, imported for immediate slaughter, and from a foreign country of origin. To be eligible for U.S. country of origin, the product must be derived from an animal that was exclusively born, raised, and slaughtered in the U.S. (with a narrow exception for animals from Alaska or Hawaii and transported through Canada), or present in the U.S. on or before January 1, 2008. The House provision authorizes the Secretary to conduct audits to verify compliance with this section. It prohibits the Secretary from requiring a person or entity to maintain a record of the country of origin of covered commodities, other than those maintained in the course of the normal conduct of business of such person or entity. The House bill amends section 283 to clarify that a retailer or person engaged in the business of supplying a covered commodity to a retailer notified of a violation will be provided 30 days to come into compliance with the law. It provides that if such person does not make a good faith effort to comply, and continues to willfully violate the law, the Secretary may fine the person in an amount up to $1,000 for each violation. (Section 11104)

The Senate amendment is similar to the House language but has several modifications. It amends the list of covered commodities to include goat meat, macadamia nuts and chicken. In addition to House language, Senate adds language to U.S. country of origin labeling category to require that animals present in the United States on or before January 1, 2008, and once present in the United States, must have remained continuously in the United States. In addition to House language regarding multiple countries of origin, Senate adds disclaimer under subsection (B) to clarify that labeling for multiple countries of origin is a mandatory requirement. (Section 10003)

The Conference substitute adopts the Senate provision with an amendment to add ginseng and pecans as covered commodities. Covered commodities, such as beef, lamb, pork, chicken, or goat present in the United States on or before July 15, 2008 will be labeled as product of the United States. The Managers reinstate current law regarding the labeling of processed wild fish to include locations such as aboard a vessel that is documented under chapter 121 of title 46, United States Code, or registered in the United States. (Section 11002)

(4) Definitions

The Senate amendment: (1) amends the definitions of terms provided for the purposes of the Agricultural Fair Practices Act of 1967, (2) expands the definition of "association of producers" to also include general livestock, poultry and farm groups, and (3) clarifies that a handler is not a producer, nor a person that provides custom feeding services. (Section 10101)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to define the term associations of producers to include organizations with a membership exclusively limited to agricultural producers and dedicated to promoting the common interest and general welfare of agricultural products. Additionally, the conference substitute deletes the Senate provision that excluded the term "producer" from the definition of "handler." The conference substitute also removes the provision defining the Secretary of Agriculture under the Agricultural Fair Practices Act of 1967. (Section 11003)

It is the intent of the Managers that custom feeding services should be interpreted to mean a producer or business that feeds livestock for other producers, but does not own the livestock they are feeding and raising for those producers.

(5) Prohibited practices

The Senate amendment: (1) amends section 4 of the Agricultural Fair Practices Act to expand the list of prohibited practices, (2) amends the first category to add that it shall also be unlawful for any handler to knowingly engage or permit any employee or agent to coerce any producer in the exercise of his right to *form* an association of producers, and (3) adds that it shall be unlawful to "fail to bargain in good faith with an association of producers." (Section 10102)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(6) Enforcement

The Senate amendment amends the enforcement provisions by striking section 5 and replacing it with a directive for the Secretary to conduct rulemaking to clarify what constitutes normal and fair dealing per section 10104. It also strikes section 6 of the current law to provide the Secretary of Agriculture the authority to bring a civil action in United States District Court by filing a complaint requesting preventative relief, including an application for a permanent or temporary injunction, restraining order or other order, against the handler. Under the Senate provision, handlers found to have violated the Act are liable for the amount of damages including the costs of litigation and reasonable attorneys' fees. The Senate provision changes the statute of limitations from 2 years to 4 years and provides for an additional penalty of not more than $1,000 per violation. (Section 10103)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(7) Rules and regulations

The House bill amends the Agricultural Fair Practices Act by adding provisions for the promulgation of new rules and regulations. It directs USDA to promulgate rules and regulations, including rules or regulations necessary to clarify what constitutes fair and normal dealing for purposes of the selection of customers by handlers. Please note section 5 (7 U.S.C. 2304) was struck pursuant to section 10103. (Section 10104)

The Senate amendment

The Conference substitute deletes the Senate provision.

(8) Special counsel for agricultural competition

The Senate amendment amends the Packers and Stockyards Act by adding a new subtitle that provides for the appointment of a special counsel at USDA to investigate and also prosecute violations of Packers and Stockyards Act and Agricultural Fair Practices Act. The Special Counsel will oversee the Office of Special Counsel and will have the responsibility for all duties and functions of the Packers and Stockyards programs at USDA. Employees within GIPSA's Packers and Stockyards programs will report to the Special Counsel. Grain inspection activities currently carried out by GIPSA would continue to report to the Administrator for GIPSA as a separate agency or as determined by the Secretary upon implementing this section. The Administrator for GIPSA would no longer oversee activities of the Packers and Stockyards programs. The Senate provision provides that the Special Counsel will report to the Secretary of Agriculture. The Special Counsel shall be free from the direction and control of any person in the Department of Agriculture other than the Secretary. The Special Counsel shall be appointed by the President with the advice and consent of the Senate. The Senate provision provides that the Special Counsel shall report twice each year to Congress that details the number of complaints received and closed, number of investigations and civil and administrative actions initiated, carried out and completed, number and type of decisions agreed to and number of stipulation agreements, the number of investigations and civil and administrative actions that the Secretary objected to or prohibited from being carried out, and the stated purpose of the Secretary for each objection or prohibition. The Special Counsel, prior to commencing, defending, or intervening in any civil action under the Packers and Stockyards Act or the Agricultural Fair Practices Act, shall give written notification to the Attorney General. Should the Attorney General fail to commence, defend, or intervene in the proposed action, the Special Counsel may commence, defend or intervene and supervise the litigation in the name of the Special Counsel. Nothing prevents the Attorney General from intervening on behalf of the United States in any civil action under the Packers and Stockyards Act or the Agricultural Fair Practices Act. (Section 10201)

The House bill contains no comparable provision.

The Conference substitute provides that the Secretary shall submit an annual report by the Grain Inspection, Packers and Stockyards Administration at the Department of Agriculture to detail the number of investigations into possible violations of the Packers and Stockyards Act, 1921. The annual report will detail the length of time that investigations are pending with the Grain Inspection, Packers and Stockyards Administration, the General Counsel of the Department of Agriculture and the Department of Justice. The annual report requirement will expire with the expiration of this Act. (Section 11004)

It is the intent of the Managers that the annual report provide ranges into the length of time investigations may be pending with the Grain Inspection, Packers and Stockyards Administration, the Office of General Counsel, or the Department of Justice. The Man-

agers have provided flexibility for the Secretary to conduct the report using various summary statistics such as range, maximum, minimum, mean and average times. However, at a minimum, the Managers request charts to be provided in the annual report denoting the ranges in 6 month intervals.

(9) Investigation of live poultry dealers

The Senate amendment: (1) amends section 2 of the Packers and Stockyards Act to remove the poultry slaughter requirement from the existing definitions, (2) amends title II of the Packers and Stockyards Act to give the USDA administrative enforcement authority over live poultry dealers under the Act, (3) defines "poultry grower" as any person engaged in the business of raising or caring for live poultry under a poultry growing arrangement, regardless of whether the poultry is owned by the person or by another person, (4) amends section 408 of the Packers and Stockyards Act to provide authority for the Secretary to request a temporary injunction or restraining order if a person subject to the Act fails to pay a poultry grower what is due the poultry grower for poultry care, (5) increases the penalty for violations under the Act from $10,000 to $22,000, and (6) repeals sections regarding poultry enforcement under sections 411, 412, and 413. (Section 10202)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(10) Definition of capital investment

The Senate amendment amends title I of the Packers and Stockyards Act to add the definition of a capital investment. Capital investment is defined as an investment in a structure, such as a building or manure storage structure; or machinery or equipment associated with producing livestock or poultry that has a useful life of more than 1 year. (Section 10203(a))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(11) Definition of contractor

The Senate amendment amends title I of the Packers and Stockyards Act to add the definition of a contractor. Contractor is defined as a person that obtains livestock or poultry from a contract producer in accordance with a production contract. (Section 10203(a))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(12) Definition of contract producer

The Senate amendment amends title I of the Packers and Stockyards Act to add the definition of a contract producer. Contract producer is defined as a producer that produces livestock or poultry under a production contract. (Section 10203(a))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(13) Definition of investment requirement

The Senate amendment amends title I of the Packers and Stockyards Act to add the definition of an investment requirement. Investment requirement is defined as an investment that requires a contract producer to make a capital investment that, but for the production contract, the producer would not have made; or a representation by a contractor that results in the contract producer making a capital investment. (Section 10203(a))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(14) Definition of production contract

The Senate amendment amends title I of the Packers and Stockyards Act to add the definition of a production contract. A production contract is defined as a written agreement that provides for the production of livestock or poultry by a contract producer or the provision of a management service relating to the production of livestock or poultry by a contract producer. (Section 10203(a))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(15) Right to cancel production contracts

The Senate amendment amends title II of the Packers and Stockyards Act to add a new section (section 208) governing production contracts. It allows contract producers to cancel a production contract within three business days after the contract execution date. The contract shall disclose the right of the producer to cancel a production contract and the method by which the contract producer may cancel the production contract, including the deadline for canceling the production contract. (Section 10203(b))

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to provide that poultry growers and swine production contract growers may cancel their contract up to three business days after the date on which the contract was signed. (Section 11005)

(16) Production contracts requiring large capital investments

The Senate amendment amends title II of the Packers and Stockyards Act to add a new section (section 208) governing production contracts that require large capital investments. The provision allows contract producers who have made an investment of $100,000 or more for purposes of securing the production contract with a packer, live poultry dealer, or swine contractor, to be given at least 90 days to correct an alleged breach before a contractor can terminate a contract. The contractor may terminate or cancel a production contract without notice for voluntary abandonment by the contract producer, conviction of the contract producer for an offense or fraud or theft committed against the contractor, the natural end of the production contract, or the well-being of the livestock or poultry would be in jeopardy once under the care of the contract producer. If not later than 90 days, a producer remedies the cause of breach under the contract, the contractor may not terminate or cancel a production contract. (Section 10203(b))

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

In Section 11006 of the conference substitute, the Managers require the Secretary to promulgate rules regarding what constitutes a reasonable period of time for a live poultry dealer or swine production contract grower to remedy a breach of contract that could lead to termination of the poultry growing arrangement or swine production contract.

(17) Additional capital investments

The Senate amendment amends title II of the Packers and Stockyards Act to add a new section (section 208) to prohibit a contractor from requiring additional investments of the contract producer during the term of the contract unless the additional investments are offset by reasonable additional consideration, including compensation or a modification of the terms of the contract; and the contract producer agrees in writing that there is acceptable and satisfactory consideration for the additional capital investment; or without the additional capital investments the well-being of the livestock or poultry subject to the contract are in jeopardy. (Section 10203(b))

The House bill contains no comparable provision.

The Conference substitute provides that a poultry growing arrangement or swine production contract contain a conspicuous statement that additional large capital investments may be required of the poultry grower or swine production contract grower during the term of the poultry growing arrangement or swine production contract. The provision will apply to any poultry growing arrangement or swine production contract entered into, amended, altered, modified, renewed, or extended after the date of enactment of this section. (Section 11005)

(18) Choice of law, jurisdiction and venue

The Senate amendment: (1) amends title II of the Packers and Stockyards Act to add a new section (section 209) governing the settlement of disputes arising under production or marketing contracts governed by the Packers and Stockyards Act, (2) provides that any provision of a livestock or poultry contract shall be subject to the jurisdiction, venue of the state in which the production occurs, and (3) designates that the choice of law, jurisdiction and venue requirements shall apply to any production or marketing contract entered into, amended, altered, modified, renewed, or extended after the date of enactment. (Section 10203)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to require that the forum for resolving any dispute among the parties to a poultry growing arrangement or swine production or marketing contract shall be the Federal judicial district in which the principle part of the performance takes place under the arrangement or contract. A poultry growing arrangement or swine production or marketing contract may specify which State's law is to apply to issues governed by State law in any dispute arising out of the arrangement or contract, except to the extent that doing so is prohibited by the law of the State in which the principal

part of the performance takes place under the arrangement or contract. (Section 11005)

(19) Arbitration of livestock and poultry contracts

The Senate amendment amends title II of the Packers and Stockyards Act to add a new section (section 210) governing the settlement of disputes arising under contracts governed by the Packers and Stockyards Act. The Senate provision provides that arbitration may be used to settle a controversy arising from a livestock or poultry contract only if, after the controversy arises, both parties consent in writing to use arbitration to settle the controversy. (Section 10203(b))

The House bill amended the Packers and Stockyards Act to instruct the Secretary to promulgate regulations to establish standards related to arbitration provisions in livestock and poultry contracts. The provision directs the Secretary to promulgate regulations addressing venue, costs, number and appointment of arbitrators, and other elements of arbitration, as necessary. The provision requires that any person appointed as arbitrator disclose any circumstances that could raise doubt as to impartiality.

The Conference substitute provides a producer or grower the ability to decline arbitration prior to entering the contract. Any livestock or poultry contract that contains a provision requiring the use of arbitration shall conspicuously disclose the right of the contract producer or grower, prior to entering the contract, to decline the requirement to use arbitration to resolve any controversy that may arise under the livestock or poultry contract. Any contract producer or grower that declines arbitration prior to entering the contract has the right to still seek the use of arbitration after a controversy arises, if both parties consent in writing to use arbitration to settle the controversy. The conference substitute provides that it shall be an unlawful practice under the Packers and Stockyards Act for a packer, swine contractor, or live poultry dealer to violate this section including any action that has the intent or effect of limiting the ability of a producer or grower to freely make a choice to decline the use of arbitration. The Secretary is also required to promulgate regulations to establish criteria to be used in determining whether the arbitration process provided in a contract provides a meaningful opportunity for the grower or producer to participate fully in the arbitration process. (Section 11005)

When used in this section, the Managers intend that the term "contract" means at a minimum, poultry growing arrangements, livestock production, marketing and forward contracts.

The Managers expect that this section be implemented in such a manner that producers and growers have a choice and the ability to decline arbitration prior to entering the contract. Additionally, it is the intent of the Managers that the Secretary of Agriculture develop regulations which provide producers and growers a reasonable period of time in which to decide whether or not to decline arbitration prior to entering the contract.

(20) Right to discuss terms of contracts

The Senate amendment amends section 10503 of the Farm Security and Rural Investment Act of 2002 to add to the list in cur-

rent law. It would allow contract growers to also discuss contract terms with business associates, neighbors, and other producers. (Section 10204)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(21) Attorneys' fees

The Senate amendment amends section 308 to allow producers to attempt to recover the costs of the litigation, including reasonable attorneys' fees, (in addition to damages) in an action arising under the Packers and Stockyards Act. (Section 10205)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(22) Appointment of outside counsel

The Senate amendment amends section 407 to provide the Secretary with the authority to obtain the services of attorneys who are not federal employees to aid in investigations and civil cases. (Section 10206)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(23) Prohibition on packers owning, feeding, or controlling livestock

The Senate amendment amends section 202 of the Packers and Stockyards Act (7 U.S.C. 192) to add to the list of prohibited practices. It prohibits most major packers from owning, feeding, or controlling livestock directly, or through a subsidiary, or through an arrangement that gives the packer operational, managerial, or supervisory control over livestock or over the farming operation that produces the livestock, to such an extent that the producer is no longer materially participating in the management of the livestock operation. The prohibition does not apply to: packers who enter into arrangements within 14 days before slaughter; cooperatives where the majority of ownership interest is held by active cooperative members; packers not required to report to USDA under section 212 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635a); or a packer that only owns one livestock processing plant. The provision provides that a packer of swine would be in violation of this provision if it owns, feeds or controls swine later than 18 months after the enactment of this Act. It provides that a packer of livestock, other than swine, would be in violation of this provision if it owns, feeds or controls livestock later than 180 days after enactment of this Act. (Section 10207)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(24) Regulations

The Senate amendment directs USDA to promulgate rules and regulations, including regulations dealing with discrimination against smaller volume producers. It provides that regulations shall also be promulgated to require that live poultry dealers provide written notice to poultry growers if the live poultry dealer imposes an extended layout period in excess of 30 days prior to removal of the previous flock. (Section 10208)

The House bill contains no comparable provision.

The Conference substitute provides for the promulgation of regulations under the Packers and Stockyards Act, 1921 not later than two years after enactment, to establish criteria that the Secretary of Agriculture will consider when developing the regulations enumerated in this section (Section 11006)

(25) Sense of Congress regarding pseudorabies eradication program

The House bill expresses the sense of Congress that the eradication of pseudorabies is a high priority that should be carried out under the authorities of the Animal Health Protection Act. (Section 11101)

The Senate amendment is similar to House provision but expands upon the House language to recognize the threat that feral swine pose to not only swine, but also the entire livestock industry. Senate language also details the importance of pseudorabies surveillance funding to assist the swine industry in monitoring, surveillance, and eradication of pseudorabies, including the monitoring and surveillance of other diseases effecting swine production and trade. (Section 10301)

The Conference substitute adopts the House provision with an amendment to recognize the threat that feral swine pose to not only the domestic swine population but also the entire livestock industry. (Section 11007)

(26) Sense of Congress regarding the cattle fever tick eradication program

The House bill expresses the sense of Congress that implementing a national strategic plan for the cattle fever tick eradication program is a high priority in order to identify and procure the necessary tools to prevent and eradicate fever ticks in the United States. (Section 11106)

The Senate amendment is the same as the House bill. (Section 10302)

The Conference substitute adopts the House provision. (Section 11008)

(27) National Sheep and Goat Industry Improvement Center

The House bill amends section 375 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j by eliminating the requirement that the National Sheep Industry Improvement Center privatize its revolving fund. An authorization of appropriations of $10 million is authorized for each of the fiscal years 2008 through 2012. (Section 6015)

The Senate amendment: (1) amends section 375 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j) by eliminating the requirement that the National Sheep Industry Improvement Center privatize its revolving fund, (2) renames the Center as the National Sheep and Goat Industry Improvement Center, and (3) provides for new mandatory funding of $1,000,000 for FY2008, to be available until expended, and authorizes $10,000,000 for each FY2008–2012. (Section 10303)

The Conference substitute adopts the Senate provision with an amendment to delete the renaming of the Center. (Section 11009)

(28) Trichinae certification program

The Senate amendment amends section 10409 of the Animal Health Protection Act, to direct the USDA to establish and implement a trichinae certification program to certify farm operations that are trichinae free to be eligible for export or other market opportunities. It authorizes appropriations of $1.25 million for each of fiscal years 2008 through 2012. (Section 10304)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to require the Secretary of Agriculture to provide an explanation should the final rule not be promulgated within 90 days of enactment of this Act. Subject to appropriation of funds, the Secretary is authorized to use $6,200,000 to carry out the certification program. (Section 11010)

(29) Protection of information in the animal identification program

The Senate amendment directs the Secretary of Agriculture to promulgate regulations consistent with the Freedom of Information Act regarding the disclosure of information submitted by farmers and ranchers who participate in the national animal identification system. The regulations promulgated are subject to public comment and should address the protection of trade secrets and other proprietary and or confidential business information. (Section 10305)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(30) Sense of Congress regarding the voluntary control program for low pathogenic avian influenza

The House bill expresses the sense of Congress that the voluntary control program for low pathogenic avian influenza is a critical component of the animal health protection system, and that the Secretary should continue to provide 100 percent compensation for eligible costs to owners of poultry and cooperating States. (Section 11105)

The Senate amendment amends section 10407(d)(2) of the Animal Health Protection Act. It defines "eligible costs" for the purpose of low pathogenic avian influenza indemnification as "costs determined eligible for indemnity under part 56 of title 9, Code of Federal Regulations, as in effect on the date of enactment of this clause." The Senate provision also provides that, subject to subparagraphs (B) and (D), with respect to compensation provided to an owner of an animal required to be destroyed under section 10407 of the Animal Health Protection Act, the compensation to any owner or contract grower of poultry participating in the voluntary control program for low pathogenic avian influenza under the National Poultry Improvement Plan, and payments to cooperating State agencies, shall be made in an amount equal to 100 percent of the eligible costs. (Section 10306)

The Conference substitute provides that the Secretary compensate industry participants and States that cooperate with the Secretary in conducting livestock pest or disease detection, control or eradication measures for 100 percent of eligible costs.

It is the intent of the Managers that compensation under this section go to any owner or contract grower of poultry participating

in the voluntary control program for low pathogenic avian influenza under the National Poultry Improvement Plan, and payments to cooperating state agencies in an amount equal to 100 percent of the eligible costs. Eligible costs are defined in accordance with part 56 of title 9, Code of Federal Regulations, as in effect on the date of enactment of this section. (Section 11011)

CHRONIC WASTING DISEASE

The Managers expect the Secretary to promulgate, as soon as practicable, a final rule to establish a herd certification program to combat chronic wasting disease in farmed and captive deer, elk and moose. The Managers expect the rule to include appropriate certification procedures to allow for the interstate movement of participating deer, elk, and moose.

(31) Study on bioenergy operations

The Senate amendment directs USDA to submit to the House and Senate Agriculture Committees a report describing the potential economic issues (including potential costs) associated with animal manure used in normal agricultural operations and as a feedstock in bioenergy production. (Section 10307)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to require the study to evaluate the extent to which animal manure is utilized as fertilizer in agricultural operations, the potential impact on consumers and on agricultural operations resulting from limitations being placed on the utilization of animal manure as a fertilizer, and the effects on agriculture production contributable to the increased competition for animal manure use due to bioenergy production, including as a feedstock or a replacement for fossil fuels. The study is to be submitted to the respective House and Senate Committees within 1 year of enactment of this Act. (Section 11014)

(32) Sense of the Senate on indemnification of livestock producers

The Senate amendment expresses the sense of the Senate that the USDA should "partner with the private insurance industry to implement an approach for expediting the indemnification of livestock producers in the case of catastrophic disease outbreaks." (Section 10308)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(33) State-inspected meat and poultry

The House bill requires the Secretary to submit a report to Congress with the results of a review of each State meat and/or poultry inspection program in section 11103(a). Such review will include a determination of the effectiveness of the program, and an identification of the changes necessary for the program to meet and enforce Federal inspection standards. Subsections (b) and (c) of section 11103 amend the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA), respectively, with regard to State inspection programs. Authorizes the Secretary to approve a State to ship product inspected under such State's inspection pro-

gram in interstate commerce, if such State inspection program has implemented identical requirements to those contained in the FMIA and/or PPIA and Federal regulations under such statutes. The House bill provides requirements for new State inspection programs, including that the Secretary shall review all new State inspection programs within one year after such State inspection program was approved. Upon such review, the State inspection program must implement all recommendations from the review. The provision provides that a State inspection program will operate subject to a cooperative agreement with the Secretary, and establishes the terms of such cooperative agreement, including: State must adopt requirements identical to Federal inspection requirements; State mark of inspection will be deemed an official mark; State will comply with labeling requirements issued by the Secretary; Secretary will have authority to detain and seize products under the State program; Secretary will have access to facilities and records of State program; and other provisions as determined by the Secretary. The provision also provides that the Secretary shall reimburse a State for not more than 50 percent of the State's costs for the State meat inspection program, and not more than 60 percent of the State's costs for the State poultry inspection program. The House bill requires the Secretary to take action if the Secretary determines that a State inspection program is not in compliance with the cooperative agreement, including suspending or revoking the approval of the State inspection program. Authorizes the Secretary to institute Federal inspection at a State-inspected plant if the Secretary determines that such State plant is not operating in accordance with the cooperative agreement and requirements herein. It also requires the Secretary to conduct annual review of each State inspection program. It provides that no State may prohibit or restrict the movement or sale of meat or poultry products that have been inspected and passed in accordance with this section. (Section 11103)

The Senate amendment amends the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) to create an option for state inspected plants that are 25 employees or less to ship in interstate commerce. This will not replace the existing state inspection programs. Plants that are selected by the Secretary to ship in interstate commerce using this option must follow the Federal Meat Inspection Act and Poultry Products Inspection Act in the same manner as expected of a federally inspected establishment. Establishments that are larger than 25 employees but less than 35 employees are eligible for this option, but must transition to a federal establishment three years after promulgation of the final rule. Establishments that are currently under Federal inspection are not eligible for this option. The Secretary shall reimburse a state for costs related to the inspection of selected establishments in the state at an amount not less than 60 percent of eligible state costs. The Secretary may also reimburse a state for 100 percent of the eligible state costs if the selected establishment provides additional verification microbiological testing in excess of typical Federal establishments. The Secretary shall designate a Federal employee as a state coordinator for each state agency that has a state inspection program. The state coordinator

will be under direct supervision of the Secretary. The state coordinator will visit selected establishments with a frequency appropriate to ensure that these establishments are operating in a manner consistent with the Federal Meat Inspection Act and Poultry Products Inspection Act. The state coordinator shall provide on a quarterly basis a report that describes the status of each selected state establishment in regard to compliance with the Federal Meat Inspection Act and Poultry Products Inspection Act. If a state coordinator finds any selected establishment in violation of the Federal Meat Inspection Act or Poultry Products Inspection Act, the state coordinator shall notify the Secretary of the violation and deselect the selected establishment or suspend inspection. The Senate provision requires USDA's Inspector General not later than two years after the effective date of enactment, and not less than every two years, conduct an audit of each activity taken by the Secretary to determine compliance of this program with the law. The Government Accountability Office shall also conduct an audit of the implementation of this program. It also authorizes the Secretary of Agriculture to establish within the Food Safety Inspection Service (FSIS) at USDA an inspection training division to coordinate outreach, education, training and technical assistance of very small and certain small establishments. The Senate language allows the Secretary to provide grants to appropriate state agencies to help establishments covered by intrastate inspection under title III of the Federal Meat Inspection Act to transition to the new program under title V. (Section 11067)

The Conference substitute adopts the Senate provision with an amendment to strike section (c)(2) of the Senate amendment regarding microbiological verification testing. Periodic audits required of the Inspector General under Senate section (e)(1) was changed from two years to not less often than every three years. (Section 11015)

(34) Food Safety Commission

The Senate amendment establishes a Congressional Bipartisan Food Safety Commission to review the food safety system of the United States and to prepare a report that makes recommendations on ways to: modernize the U.S. food safety system; harmonize and update food safety statutes; improve Federal, State, local, and interagency coordination of food safety personnel, activities, budgets, and leadership; allocate scarce resources according to risk; ensure that regulations directives, guidance, and other standards and requirements are based on best-available science and technology; emphasize preventative strategies; provide to Federal agencies funding mechanisms necessary to effectively carry out food safety responsibilities; and to draft specific statutory language that would implement recommendations of the Commission. The Commission is required to review and consider statutes, studies and reports as listed in legislative language to understand the U.S. food safety system. The initial meeting is required to take place 30 days after the final Commission member is appointed. One year after its initial meeting, the Commission is required to publish a report on its findings, upon which the Commission will dissolve. The members of the Commission will be appointed 60 days after the enactment

of this legislation. Members are required to have training, education or experience in food safety research, food safety law and policy, or program design and implementation. Members must consist of the Secretary of Agriculture (or a designee), the Secretary of Health and Human Services (or a designee), one Member of the House of Representatives, one Member of the Senate, and 15 members that represent consumer organizations, agricultural and livestock production, public health professionals, State regulators, Federal employees, and the livestock and food manufacturing and processing industry. Two members of the Commission are appointed by the President, 13 are appointed by Congress. The Commission is required to hold at least five stakeholder meetings, and can hold hearings and secure information from Federal agencies to carry out its work. Commission members who are not officers or employees of the Federal government can be compensated for serving on the Commission. Commission members are allowed travel expenses while away from home or place of business. The Chairperson of the Commission can appoint an executive director and additional personnel to carry out the work of the commission. Federal Government employees can be detailed to the Commission without reimbursement. This provision authorizes appropriations to carry out this section. (Section 11060)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(35) Action by President and Congress based on report

The Senate amendment states: (1) the President is required to review the report from the Congressional Bipartisan Food Safety Commission established by the Senate amendment, and is required to submit to Congress proposed legislation based on the recommendations for statutory language contained in the Commission's report and proposed legislation, and (2) Congress may hold hearings and other activities for consideration of the statutory language from the Commission and the President. It also contains a Sense of the Senate expressing: the need for additional resources and direction for the food safety agencies of the Federal Government; the need for additional food safety inspectors; the need for food safety agreements between the United States and its trading partners; the need for Congress to work on comprehensive food safety legislation. (Section 11072)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(36) Food safety improvement

The Senate amendment modifies the FMIA and PPIA to create a reporting requirement for establishments regulated by USDA–FSIS to provide information to the Secretary upon determining that a meat and/or poultry product it manufactured had entered the stream of commerce and was reasonably likely to cause serious adverse health events or death (the Class I recall standard). Reports are not required if products are under the control of the establishment and corrective actions are taken to ensure that the product is no longer adulterated, or if the product never enters into the stream of commerce. Upon receipt of a report, the Secretary

would be able to use existing authority to request additional information related to the incident, issue a public health alert, and work with the establishment to notify relevant members of the supply chain and pursue a corrective action plan. The language encourages USDA to coordinate such efforts with State and local public health officials. The provision: (1) requires all establishments regulated by USDA–SIS to have in place a recall plan per USDA Directive 8080.1, Revision 4, (2) requires all beef establishments regulated by USDA–FSIS to have in place an E. coli reassessment as described in 67 Federal Register 62325 (October 7, 2002), (3) directs the Secretaries of Agriculture and HHS to promulgate sanitary food transportation regulations, as described in section 416(b) of the Federal Food, Drug, and Cosmetics Act, and (4) directs USDA, HHS, and DOT to enter into a Memorandum of Understanding related to sanitary food transportation. (Section 11087)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to add a new section 12 to the Federal Meat Inspection Act (21 U.S.C. 611) to require immediate notification of the Secretary if an establishment believes or has reason to believe that an adulterated or misbranded meat or meat food product has entered commerce; add a new section 13 to the Federal Meat Inspection Act (21 U.S.C. 611) to require establishments to prepare and maintain, in writing, a recall plan and any reassessments of their hazard analysis and critical control point plans, and to have those plans and reassessments available to USDA inspectors. Identical changes were made to the Poultry Products Inspection Act (21 U.S.C. 459) by modifying section 10 of the PPIA. (Section 11017)

(37) Oversight of national aquatic animal health plan

The Senate amendment establishes a General advisory Committee for Oversight of National Aquatic Animal Health (composed of not more than 20 members). The advisory committee is to make recommendations to the Secretary on:

- the establishment and membership of appropriate experts to efficiently implement the national aquatic animal health plan developed by the National Aquatic Animal Health Task Force
- disease and species-specific best management practices related to activities carried out under the national aquatic animal health plan developed by the National Aquatic Animal Health Task Force
- the establishment and administration of an indemnification fund (see below)

The Senate amendment requires the Secretary to promulgate regulations establishing the national aquatic animal health improvement program, in accordance with the Animal Health Protection Act. The provision allows for participation by State and Tribal Governments and the Private Sector who upon election to participate will enter into agreements with the Secretary to assume responsibility for a portion of the non-Federal share of the costs of carrying out the national aquatic animal health plan developed by the National Aquatic Animal Health Task Force. It establishes an indemnification fund to compensate aquatic farmers for specified

purposes. It also requires a report not later than 2 years after the date of enactment to describe:

- activities carried out under the national aquatic animal health plan developed by the National Aquatic Animal Health Task Force
- activities carried out by the advisory committee
- recommendations for subsequent years' funding

The Senate amendment authorizes appropriations of $15,000,000 for fiscal years 2008 and 2009, of which not less than 50 percent is to be deposed into the indemnification fund and not more than 50 percent shall be used to carry out the national aquatic animal health plan developed by the National Aquatic Animal Health Task Force. (Section 11086)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment. (Section 11013)

The Managers are conscious of the need for an aquatic animal health plan. The United States is facing a seafood trade deficit of over $9 billion, and faces loss of export markets in Europe, partially due to the lack of a coordinated industry health program. Without an effective control program in place, the United States faces difficulty in safeguarding against pest and disease incursions. The Managers therefore encourage the Animal and Plant Health Inspection Service to implement a National Aquatic Animal Health Plan (NAAHP) within 18 months of enactment of this Act. It is further expected that NAAHP should be based on the existing plan developed by the National Aquatic Animal Health Task Force, and to be refined with extensive consultation of cooperators, including state agencies, tribal governments, industry, and fish health professionals.

The Managers note the potential benefits of an advisory board to ensure the success of such a Plan; such a board should have a balanced representation of state and tribal governments and commercial aquaculture interests. The Managers likewise recognize the potential benefits of an appropriate number of representative expert committees. Such expert committees would be charged with recommending disease- and species-specific plans, taking into account any existing aquaculture-related projects undertaken under the aegis of the Plan as of the date of enactment of this legislation.

TITLE XII—CROP INSURANCE

(1) Premiums and reinsurance requirements

(a) Premium Adjustments (Section 508(a) of the Federal Crop Insurance Act)

The House bill: prohibits paying premiums, offering rebates for premiums, or making other inducements to purchase crop insurance or after crop insurance has been purchased, except for administrative fees pursuant to section 508(b)(5)(B) of the Federal Crop Insurance Act or performance-based discounts under section 508(d)(3) of the same Act. (Section 11001(a))

The Conference substitute adopts the House provision, with the following modification—the rebating rules are modified so as to permit certain cooperatives that were authorized to offer payments

in accordance with section (b)(5)(B) as in effect the day before the date of enactment by the Risk Management Agency (RMA) in the 2005, 2006, and 2007 reinsurance years to continue to do so. (Section 12004)

The Managers' intent in including clause (9)(B)(iii) is to "grandfather in" entities that have previously been approved by the Federal Crop Insurance Corporation (Corporation) to make payments in accordance with subsection (b)(5)(B) as in effect on the day before the date of enactment. These entities must provide payments or patronage dividends in a consistent manner with the payment plan previously approved in accordance with such subsection for the entity by the Corporation. The Managers expect the Corporation to notify, in writing and on an annual basis, entities covered under the grandfather clause as well as 508(b)(5)(B) as amended of their ability to provide such payments and the scope of providing such payments. The Managers expect the Corporation to exercise strict oversight to ensure that these entities are operating consistent with federal and state law and the payment plan submitted and approved. The Managers understand through discussions with RMA that the parties covered by the grandfather clause represent the universe of parties engaged in this activity. The Managers also understand from RMA that, while two submissions are still under review, no further requests are pending or expected from additional parties seeking to engage in the activities of those parties covered by the grandfather clause.

(b) Administrative Fee (Section 508(b) of the Federal Crop Insurance Act)

Section 11001(b) of the House bill amends the Federal Crop Insurance Act to limit the ability of an insurance provider, cooperative association, or trade association to pay for only catastrophic risk protection administrative fees on behalf of a producer. The Senate amendment clarifies language that permits cooperatives or trade associations to pay premiums on behalf of farmer-members to make it clear that the provision applies only to fees for catastrophic coverage. It also strikes clause (ii) which requires that licensing fees in connection with the issuance of catastrophic risk protection or additional coverage to be paid to cooperatives or trade associations from insurance providers shall be subject to laws regarding rebates in the various states in which the fee or other payment is made. (Section 1905)

The Conference substitute adopts the Senate provision (Section 12006).

(c) Time for Payment (Section 508(d) of the Federal Crop Insurance Act)

Section 11001(c) of the House bill requires that beginning with the 2012 reinsurance year, the Corporation must establish August 1 as the billing date for crop insurance premiums.

Paragraph (1) of section 1906 of the Senate amendment establishes the date when policyholder premiums must be paid, beginning in the 2012 reinsurance year, to no later than September 30. (Section 1906)

The Conference substitute adopts the House provision, with a date change to August 15. (Section 12007)

(d) Reimbursement rate (Section 508(k) of the Federal Crop Insurance Act)

Paragraph (1) of Section 11001(d) of the House bill amends section 508(k)(4)(A) of the Federal Crop Insurance Act to provide that beginning with the 2009 reinsurance year, the Corporation shall reimburse insurance providers and agents for administrative and operating (A&O) expenses at a rate 2.9 percentage points below the rates in effect on the day of enactment of this Act.

Section 1912 of the Senate amendment reduces the reimbursement rate for existing plans of insurance by 2 percentage points below the rates in effect at the time of enactment of this Act, except that the reduction shall not be applied in any reinsurance year for a state in which the loss ratio exceeds 1.2, beginning in the 2009 reinsurance year. It also reduces the reimbursement rate for area policies (such as Group Risk Plan (GRP) and Group Risk Income Protection (GRIP)) to 17 percent of premiums because delivery costs are not as high relative to delivery costs for other products. (Section 1912)

The Conference substitute adopts the Senate provision, with the following modification—it provides for a 2.3 percentage point reduction from current levels for the overall A&O reduction, with a snapback that restores one half of the reduction to states in years in which their overall loss ratio exceeds 1.2. In addition, it includes the reduction to the reimbursement rate for area policies from the Senate provision, with the rate lowered to 12 percent of total premiums. (Section 12016)

The Managers intend for the limitation in paragraph (F) to apply only to plans of insurance that are established and widely available at the time of enactment, and not apply to area plans such as the Pasture, Rangeland, and Forage program that have higher delivery costs than policies such as GRIP and GRP.

(e) Renegotiation of the Standard Reinsurance Agreement (Section 508(k) of the Federal Crop Insurance Act)

Paragraph (2) of Section 11001(d) of the House bill provides that during the year following the reinsurance year ending June 30, 2012, the Corporation may renegotiate the financial terms of the Standard Reinsurance Agreement (SRA), and subsequently conduct such renegotiations once during each period of five reinsurance years thereafter and stipulates that changes in Federal law that require the Corporation to revise the financial terms of the SRA will not be considered to be a renegotiation of the agreement. It also provides that approved insurance providers may confer with each other during the renegotiation process.

The Senate amendment allows the Federal Crop Insurance Corporation to renegotiate the SRA, which contains the contractual obligations and financial terms of the relationship between RMA and the crop insurance companies, every five years, the first occurring not sooner than the end of the 2012 reinsurance year. It provides an exception to allow the SRA to be renegotiated more frequently if necessary to address unexpected adverse circumstances

experienced by the companies. The Secretary is required to notify the relevant Congressional Committees before invoking this exception. This section also allows crop insurance companies to confer with each other in the course of the renegotiation process, as well as collectively with RMA. (Section 1913)

The Conference substitute adopts the Senate provision with modifications, incorporating the House language on treatment of changes in the SRA due to changes in Federal law. It moves up the time when the next SRA can be negotiated, to be effective for the 2011 reinsurance year. It also requires the RMA to consider certain alternative mechanisms for compensating companies for delivery expenses, when negotiating the SRA. (Section 12017)

(f) Time for Reimbursement (Section 508(k) of the Federal Crop Insurance Act)

Section 11001(e) of the House bill requires that beginning with the 2012 reinsurance year, the Corporation make administrative and operating expense payments during October 2012, and every October thereafter.

Paragraph (2) of section 1906 of the Senate amendment establishes the date when the Federal Crop Insurance Corporation makes payments to crop insurance companies to reimburse them for administrative and operating expenses, beginning in the 2012 reinsurance year, allowing payments to be made as soon as practicable after October 1 of the year following the reinsurance year, but not later than October 30.

The Conference substitute adopts the Senate provision. (Section 12015)

(g) Premium Reduction Authority (Section 508(e) of the Federal Crop Insurance Act)

Paragraph (1) of Section 11001(f) of the House bill strikes the authority for the Premium Reduction Plan (PRP) and the Premium Rate Reduction Pilot. The Senate amendment repeals the authority for the Premium Reduction Plan (PRP) and requires RMA to commission an independent study of the feasibility of offering a discount to farmers in the Federal crop insurance program. This study is to be completed within 18 months of enactment of the farm bill. (Section 1908)

The Conference substitute adopts the House provision, but drops the elimination of the Premium Rate Reduction Pilot language. (Section 12010)

The Managers repeal the authority for the Premium Reduction Plan. The Managers believe it would serve a useful purpose for the Risk Management Agency to evaluate the process that led to the promulgation of the regulations under which PRP has been operated, to try to determine where mistakes might have been made, in either concept or execution.

(2) Catastrophic risk protection administrative fee

The House bill amends section 508(b)(5)(A) of the Federal Crop Insurance Act to provide for a $200 catastrophic risk protection administrative fee. (Section 11002)

The Senate amendment increases the fee for catastrophic risk protection coverage from its current $100 per crop per county to $200 per crop per county, and strikes language allowing a higher fee to be charged as a function of imputed premium. (Section 1905(a))

The Conference substitute adopts the Senate provision, with modifications—it increases the fee to $300 per crop per county, and repeals an annual appropriations rider barring charges fees based on imputed premium levels. (Section 12006)

(3) Funding for reimbursement, contracting, risk management education, and information technology

The House bill amends section 516 of the Federal Crop Insurance Act to provide that the Corporation use not more than $30 million in each fiscal year for costs associated with: research and development and partnerships for risk management in section 522 of such Act; education and information programs in section 524 of such Act; and information technology. Further, it provides that the Corporation use no more than $5 million to carry out contracting for research and development for underserved states, pursuant to section 522(c)(1)(A) of such Act. It also prohibits the Corporation from conducting research and development for any new policy for a commodity under this title. (Section 11003)

The Senate amendment reduces mandatory funding available to reimburse research and development of new crop insurance products from its current $15 million annually to $7.5 million annually in paragraph (1). Paragraph (2) reduces mandatory funding availability for contracting and partnerships from its current $25 million annually to $12.5 million annually. Paragraph (3) permits the Corporation to use up to $5 million of otherwise unused funds available for reimbursement, contracting, or partnership payments to strengthen crop insurance compliance oversight activities, including information technology and data mining. (Section 1919)

The Conference substitute adopts the Senate provision. (Section 12024)

(4) Reimbursement of research and development costs related to new crop insurance products

The House bill authorizes the Corporation to reimburse an applicant for research and development costs related to a policy that is submitted pursuant to a Federal Crop Insurance Corporation (FCIC) Reimbursement Grant or is submitted to the FCIC Board and approved in section 11004(a).

Section 11004(b) authorizes the Corporation to provide FCIC Reimbursement Grants to persons proposing to prepare crop insurance policies for submission to the Board, and who have applied and been approved for such grants. The provision stipulates the required materials for a grant application, including: a concept paper; an explanation of the need for the product, including the product's marketability, the projected impact of the product, and that no similar product is offered by the private sector; and an identification of the risks the product will cover and that the risks are insurable under the Federal Crop Insurance Act. Approval of a grant is by majority vote of the Board, and the Board shall approve an ap-

plication only if: the proposal establishes the need for the policy; the applicant has the qualifications to successfully complete the project; the proposal can reasonably be expected to be actuarially appropriate; the Board has sufficient funding; and the proposed budget and timeline are reasonable.

The provision requires payment for work performed under this section to be based on rates determined by the Corporation. Either the Corporation or applicant may terminate any grant for just cause. (Section 11004)

The Senate amendment authorizes the reimbursement of development costs related to a policy through a Federal Crop Insurance Reimbursement Grant or is submitted to the FCIC Board and is approved in subsection (a). Subsection (b) provides an alternative process for policy development, by establishing a grant-making mechanism (called FCIC Reimbursement Grants). This mechanism permits eligible applicants to submit a concept proposal, to be reviewed by crop insurance experts, for consideration by the Board of the Federal Crop Insurance Corporation. If the grant request is approved, the development work is ensured of funding and when completed, submitted to the Board for approval. The Board can require an interim feasibility study before allowing development work to proceed. Rates for work performed shall be based on rates determined by the Corporation for products submitted under section 508(h) or research contracted for under section 522(c). The grant can be terminated at any time for just cause. Subsection (c) eliminates language in section 523(b)(10) of the FCIA that provides an exception for research and development costs in livestock program funding caps. (Section 1918)

The Conference substitute adopts the House provision, with significant modifications. The provision as adopted provides an opportunity for applicants with approved concept papers to receive up to 50 percent of their estimated expenses in advance. If their proposed crop insurance product is subsequently approved by the Board, they then are reimbursed for the remainder of their expenses. If they submit a proposed product to the Board and it is rejected, they receive no additional funds but are not required to repay the advance. Only if they fail to submit a completed submission without just cause would they be required to repay the advance. Applicants with poor track records on submissions may be prohibited from receiving advance payments, but would still be eligible to develop crop insurance products under 508(h) procedures in current law. (Section 12022)

The Managers intend for the Corporation to develop the procedures to implement this section as soon as practicable so that the Corporation may start accepting applications for advanced reimbursement of research and development costs 180 days after this section's enactment. Since under current law, crop insurance products approved under 508(h) procedures are eligible, at the Corporation's discretion under appropriate circumstances, for reimbursement at U.S. General Services Administration competitive rates, the Managers intend for reimbursements made under this section to be equally eligible for such rates, still subject to the Corporation's discretion.

(5) Research and development contract for organic production coverage improvements

The House bill mandates that the Corporation enter into one or more contracts for the development of improvements in Federal crop insurance policies for organically raised crops. Any such contracts must review the underwriting, risk, and loss experience of organic crops in order for the Corporation to determine variation in loss history between organic and non-organic production. The Corporation shall eliminate or reduce the premium surcharge for coverage of organic crops, unless the Corporation's review documents significant, consistent, and systemic variations in loss history between organic and non-organic crops. The House provision provides that a contract include the development of a procedure to offer producers of organic crops an additional price election reflecting actual retail or wholesale prices received by organic producers, and requires that the Corporation submit an annual report to Congress on the progress made in developing and improving Federal crop insurance for organic crops. (Section 11005)

The Senate amendment adds a new paragraph (12) which requires the Federal Crop Insurance Corporation to offer to enter into one or more contracts to improve crop insurance coverage for organic crops. New paragraph (10) requires the Federal Crop Insurance Corporation to offer to enter into one or more contracts to develop policies to insure dedicated energy crops such as switchgrass. New paragraph (11) requires the Federal Crop Insurance Corporation to offer to enter into one or more contracts to develop policies to insure aquaculture operations. New paragraph (13) requires the Federal Crop Insurance Corporation to offer to enter into a contract to study how to incorporate the use of skiprow cropping practices to grow corn and sorghum in the Central Great Plains into existing policies and plans of insurance offered in the Federal crop insurance program. (Section 1917)

Section 1907 prohibits the Federal Crop Insurance Corporation from charging a surcharge on premiums paid to insure organic crops. It allows surcharges to be required only when consistent evidence of greater loss variability is validated on a crop by crop basis. (Section 1907)

The Conference substitute adopts the House provision, with the inclusion of Senate provisions requiring contracts regarding dedicated energy crops, aquaculture, skiprow cropping practices, and the following additions: the Corporation is also required to offer to enter into contracts for developing a poultry policy, a policy for bee-keepers, and a study on what modifications might be need for Adjusted Gross Revenue policies to make them more useful for beginning farmers. In the subsection addressing development of aquaculture policies, more details are provided about what species should be considered. (Section 12023)

The Managers are concerned that producers in the Central Great Plains seeking to utilize skip row planting patterns are being offered crop insurance coverage for less than 100% of the planted fields despite ongoing research showing that skip row planting results in no loss in overall yields. In including this provision in paragraph (16), the Managers are seeking to have RMA review existing and soon-to-be completed skip row research and production

histories, develop crop insurance rules and policies that adequately reflect this research, and thus better capture the actual productive capability of skip row planting patterns.

The Managers are also concerned how recent natural disasters in the Southeastern United States have revealed that existing crop insurance products and programs are not well-tailored to the unique horticultural practices of the nursery industry across the country. The Managers urge the Risk Management Agency (RMA) to work with the nursery industry on crop insurance policies specifically designed for nursery growers and encourage the Administrator of RMA, under his existing authority, to consider initiating a pilot program or programs with nursery growers in affected regions to ensure that crop insurance programs avoid in the future the issues that arose in the aftermath of these natural disasters.

(6) Targeting risk management education for beginning farmers and ranchers and certain other farmers and ranchers

The House bill requires the Secretary to include a special emphasis on risk management strategies and education and outreach to beginning farmers and ranchers, immigrant farmers and ranchers attempting to become established producers in the United States, socially disadvantaged farmers and ranchers, farmers and ranchers who are preparing to retire and are trying to help new farmers and ranchers get started, and farmers and ranchers who are converting production and marketing systems to new markets. (Section 11006)

The Senate amendment requires the Secretary to place special emphasis in utilizing funds available to address the needs of farmers in underserved states to assist in risk management strategies of beginning farmers and ranchers, immigrant farmers and ranchers, socially disadvantaged farmers and ranchers, farmers and ranchers preparing to retire and engaged in transition strategies to help beginning farmers get established, and established farmers and ranchers seeking to shift practices and marketing to pursue new markets. (Section 1922)

The Conference substitute adopts the Senate provision, with one minor language change. (Section 12026)

(7) Crop insurance ineligibility related to crop production on noncropland

The House bill defines "noncropland" as native grassland and pasture the Secretary determines has never been used for crop production. It also provides that noncropland acreage planted with an agricultural commodity for which insurance is available under this title is not eligible for crop insurance under this title for the first four years of planting. In the fifth year of planting, the producer may purchase crop insurance for the commodity. The yield for such insurance shall be determined by using actual production history for the farm and, for years without actual production history, using the average actual production history for the commodity in the county. (Section 11007)

The Senate amendment denies crop insurance and noninsured crop disaster assistance program benefits (NAP) on lands converted from native sod after passage of this farm bill. In section

2608(a)(1), native sod is defined as land on which the plant cover is composed principally of native grasses, grasslike plants, forbs, or shrubs suitable for grazing and browsing, and which has never been used for production of an agricultural commodity. Section 2608(a)(2)(B) establishes de minimus exception of 5 acres. Section 2608(c) directs the Secretary to provide a report to Congress on the extent of conversion of noncropland to cropland since 1995 within 180 days of the passage of the Farm Bill, and to provide annual updates by January 1st of each year. (Section 2608)

The Conference substitute adopts the House bill with modification. At the election of the Governor of a State in the Prairie Pothole Region National Priority Area, native sod acreage that is tilled for the production of an annual crop will be ineligible for crop insurance and noninsured crop disaster assistance benefits during the first 5 crop years of planting. Native sod is defined as land on which the plant cover is composed principally of native grasses, grasslike plants, forbs, or shrubs suitable for grazing and browsing; and that has not been tilled for the production of an annual crop at the date of enactment. The Secretary may exempt conversions of 5 acres or less from the terms of the provision. (Section 12020).

The Managers adopted this modification in recognition of the significant interest in conserving native tall-, mixed-, and shortgrass prairie in the Prairie Pothole Region (PPR). Several recent reports have analyzed grassland conversion and potential drivers in certain areas of the PPR over the past two decades. The analysis by the Government Accountability Office (GAO) found that crop insurance program payments may serve as an incentive for conversion, but that many other factors such as crop prices and new farming technologies also play a role in producer decisions. GAO also identified a general lack of current and comprehensive data on land conversions, precluding reliable trend analysis. Correspondingly, GAO's final recommendations were that USDA should: 1) track annual conversion and provide current data to policymakers, and 2) conduct a study of the relationship between farm program payments and land conversion and report findings to Congress.

The Managers determined that existing information is insufficient to apply a broad-sweeping national policy to address what may be a localized concern. However, where states determine that grassland conversion is a present threat and want to create disincentives for conversion, the Managers are making a "sodsaver" program option available at the request of the State. The Managers further expect USDA to address the GAO recommendations in order to inform future policy decisions on this issue. In addition, the Managers reauthorized a number of conservation programs, such as the grassland reserve program and the environmental quality incentives program, which provide incentives for grassland protection and conservation. The Managers encourage States to leverage these programs to provide further incentives to their grassland protection objectives.

The Managers intend for the Secretary to undertake a study on the influence of the crop insurance program on the conversion of native sod to crop production. The study should consider as part of the review, added land provisions, yield plugs, written agreements, and county T yields. The study should also consider the suf-

ficiency of grazing coverage available through crop insurance or the non-insurance assistance program as compared to the economics of crops planted on converted grazing land. The managers expect the Secretary to address specific actions that may be taken by the Department or recommended to Congress to mitigate any identified conversion influences of the crop insurance program. The managers expect the Secretary to present the results of the study to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture in early 2009.

(8) Funds for data mining

The House bill authorizes the Corporation to use not more than $11 million during fiscal year 2008, and not more than $7 million during fiscal year 2009 and each subsequent fiscal year, for crop insurance program compliance and integrity, including data mining, for a total of $73 million in outlays over ten years. (Section 11008)

The Senate amendment allows RMA to charge a fee to crop insurance companies for access to company-relevant results of data-mining analysis, and would require that these funds are used for improvements in the crop insurance data mining system. If RMA were to require companies to access the data-mining results for purposes of compliance, including quality assurance requirements under the terms of the SRA, they could not be charged a fee under those circumstances. (Section 1915)

The Conference substitute adopts the House provision, except it provides a total of $36 million over ten years for this purpose, and it requires periodic competition for these funds. A new subsection provides $60 million for upgrading computer technology at the Risk Management Agency. (Section 12021)

(9) Noninsured crop assistance program

The House bill amends the Agricultural Market Transition Act to provide that service fees producers must pay for the Noninsured Crop Insurance Program shall be $200 per crop per county; or $600 per producer per county, with a limit of $1,800 per producer. (Section 11009)

The Senate amendment doubles the service fee charged for participation in the NAP program from its current $100 to $200, or $600 per producer per county, with a limit of $1,500 per producer. (Section 1926)

The Senate amendment also clarifies that losses from aquacultural activities resulting from drought should be indemnified if the farmer has NAP coverage for that production. (Section 1925)

The conference substitute adopts the Senate language from Section 1925, changing the new fee to $250 per crop per county, or $750 per producer per county, with a limit of $1,875 per producer. (Section 12028)

The Conference substitute also adopts the Senate provision on eligibility for indemnification for drought losses for aquaculture. (Section 12027)

(10) Change in due date for corporation payments for underwriting gains

The House bill directs the Corporation to make payments for underwriting gains on October 1, 2012, and for each subsequent reinsurance year, on October 1 of the next calendar year, beginning with the 2011 reinsurance year. (Section 11010)

The Senate amendment establishes the date as October 1 that the Federal Crop Insurance Corporation makes payments for underwriting gains to crop insurance companies, beginning in the 2011 reinsurance year. (Section 1914)

The Conference substitute adopts the Senate provision. (Section 12018)

(11) Sesame Insurance Pilot Program

The House bill requires the Secretary to establish a pilot program under which sesame producers in the State of Texas may obtain crop insurance. Under the pilot program, producers obtaining the insurance shall pay premiums and administrative fees. (Section 11011)

The Senate amendment is the same as the House bill. (Section 1921)

The Conference substitute adopts the Senate provision with an amendment to strike the end date, and adds the camelina pilot program from Senate Section 1920 and adds a new pilot program for grass seed. (Section 12025)

(12) National Drought Council and drought preparedness plans

The House bill establishes a National Drought Council within the office of the Secretary of Agriculture that will develop a National Drought Policy Action Plan for integrating and coordinating drought activities of the Federal government and States, including drought preparedness, mitigation, risk management and emergency relief. Additional Council duties include reviewing and evaluating existing drought programs, making recommendations to the President and Congress, and developing public awareness activities on drought.

The House bill establishes the Drought Assistance Fund within the Department of Agriculture to, in part, pay the costs of providing technical and financial assistance to States, Indian Tribes, local governments and other groups for the development and implementation of drought preparedness plans, and for the cost of mitigating the risk and impact of droughts. The language provides requirements for the guidelines associated with the distribution of funds from the Drought Assistance Fund, including requiring that States and/or Indian tribes developing plans for interstate watersheds coordinate with other States and/or Indian tribes in the development of said plans.

The House bill requires the Secretary, with concurrence of the Council, to develop guidelines for administering a national program to provide assistance to States, Indian tribes, local governments and others for the development, maintenance, and implementation of drought preparedness plans. The provision requires the Secretary to develop Federal drought preparedness plans, which will integrate with drought plans of State, tribal, local government, and

others. The provision stipulates the elements for such drought preparedness plans.

The House bill authorizes appropriations of $2 million for fiscal year 2008 and each of the subsequent seven fiscal years for the Council; authorizes the appropriation of such sums as necessary to carry out the Drought Assistance Fund. (Section 11012)

The Senate amendment contains no comparable provision.

The Conference substitute drops the House provision.

(13) Payment of portion of premium for area revenue plans

The House bill establishes the premium subsidy amount for area revenue insurance plans, based on (1) the percentage of the recorded county yield indemnified, and (2) the sum of a percentage of the premium established for additional catastrophic risk protection and the amount determined to cover operating and administrative expenses for additional catastrophic risk protection.

The House bill establishes the premium subsidy amount for area yield insurance plans, based on (1) the percentage of the recorded country yield indemnified, and (2) the sum of a percentage of premium established for additional catastrophic risk protection and the amount determined to cover operating and administrative expenses for additional catastrophic risk protection. (Section 11013)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 12012)

(14) Share of risk

The House bill amends the Federal Crop Insurance Act to require that companies that are being reinsured by the Corporation share the risk of loss, such that the underwriting gain or loss and the associated premium and losses ceded to the Corporation under any reinsurance agreement be not less than 12.5 percent. The provision further requires the Corporation to pay a ceding commission to such companies of 2 percent of the premium used to define the loss ratio for the approved insurance provider's book of business. (Section 11014)

The Senate amendment contains no comparable provision.

The Conference substitute drops the House provision.

(15) Livestock assistance

The House bill stipulates that the purchase of a Non-insured Assistance Program policy is not a requirement to receive any Federal livestock disaster assistance. (Section 11015)

The Senate amendment contains no comparable provision.

The Conference substitute drops the House provision.

(16) Determination of certain sweet potato production

The House bill excludes Risk Management Agency Pilot Program data for determining the 2005–2006 Farm Service Agency Crop Disaster Program for sweet potatoes. (Section 11016)

The Senate amendment amends section 9001 of the U.S. Troop Readiness, Veterans Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 (P.L. 100–28, 121 Stat. 211). It prohibits the Farm Service Agency from utilizing yield data col-

lected from a sweet potato crop insurance pilot program to determine losses for the crop disaster assistance program recently enacted for the 2005 and 2006 crop years. If sign-up for that program is completed before the 2007 farm bill is enacted, then the sign-up period would have to be re-opened for producers of sweet potatoes. (Section 1927)

The Conference substitute adopts the Senate provision. (Section 12029)

(16A) Report on funds; rate of Federal crop insurance

The House bill gives the Secretary of the Interior the authority to further cut the expense reimbursement rate for crop insurance companies if the actual revenue from offshore oil leases fails to meet projections beginning in 2012. (Section 13011)

The Senate amendment contains no comparable provision.

The Conference substitute drops the House provision.

(17) Definition of organic crop

The Senate amendment defines organic crops for the purposes of the Federal crop insurance program. (Section 1901)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 12001)

(18) General powers

The Senate amendment clarifies in subsection (a)(1) that the provision added in the Agricultural Risk Protection Act of 2000 (section 508(j)(2)(A)), which allows farmers to sue the Corporation over a denied claim only in the U.S. District Court for the district where the insured farm is located, takes precedence over the more general provision in section 506(d).

Subsection (a)(2) of the Senate amendment strikes subsection (n) of the Federal Crop Insurance Act (7 U.S.C. 1506), in order to clarify that it is superseded by Section 515(h) added in the Agricultural Risk Protection Act which specifically establishes sanctions for producers, agents, and loss adjusters for program noncompliance and fraud. (Section 1902)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 12002)

(19) Reduction in loss ratio

The Senate amendment reduces the statutory national loss ratio for the Federal crop insurance program to 1.0. (Section 1903)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 12003)

(20) Controlled business insurance

The Senate amendment prohibits farmers from collecting commissions as crop insurance agents on policies in which they or members of their immediate family have a substantial beneficial interest if more than 30 percent of their total commissions are derived from policies sold on operations that they or their immediate

family have beneficial interest in. This prohibition is applied on a calendar year basis. (Section 1904)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, with modifications to the definitions of immediate family and compensation to clarify the intent of Congress. (Section 12005)

For individuals meeting the tests in clauses (B)(i) and (B)(ii), the Managers' intent is to prohibit compensation on policies or plans of insurance in which they or members of their immediate family have a substantial beneficial interest, rather than all policies or plans of insurance that they service.

The Managers expect the Risk Management Agency (RMA) to enforce this section through an effective system of statistical sampling and spot checks rather than through the imposition of blanket new reporting requirements on agents, subagents, or approved insurance providers. The Managers further expect that the RMA will enforce this section in a manner that does not affect bona fide customer service representatives or other such employees of an agent who work in a capacity other than as an agent or subagent and whose employment with an agent is not intended to merely circumvent the prohibitions under this section.

(21) Enterprise and whole farm unit pilot program

The Senate amendment establishes a pilot program to allow farmers to convert the value of their crop insurance coverage under optional and basic units to higher levels of coverage for enterprise or whole farm units. (Section 1909)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, with modifications, so as to allow any farmer to participate in this pilot, whether or not they had purchased coverage with optional or basic units in previous crop years. It also requires that the farmer-paid share of premium under this program be no less than 20 percent. (Section 12011)

(22) Denial of claims

The Senate amendment clarifies that approved insurance providers are only liable for lawsuits in Federal District courts for denial of claims if that claim is denied at the behest of the Federal Crop Insurance Corporation, not if they deny such claims themselves. (Section 1910)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 12013)

(23) Measurement of farm-stored commodities

The Senate amendment allows farmers the option to elect to have the Farm Service Agency measure the quantity of crops stored on farms for the purpose of providing evidence on their level of losses, at their own expense. (Section 1911)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, with modifications. It allows farmers basing their crop insurance loss claim on measurement of farm-stored commodities to defer settle-

ment of that claim for up to 4 months to allow stored grain to settle in the bin. (Section 12014)

(24) Malting barley

The Senate amendment allows RMA to modify the quality endorsement for malting barley to take into account changing market conditions. (Section 1929)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 12019)

(25) Producer eligibility

The Senate amendment makes producers who raise livestock under contract eligible to purchase coverage, as long as those livestock are not covered by other policies reinsured under the Federal crop insurance program. (Section 1916)

The House bill contains no comparable provision.

The Conference substitute drops the Senate provision, but includes a requirement that the Risk Management Agency offer to enter into a contract to develop an insurance policy for poultry production elsewhere in the title.

(26) Camelina pilot program

The Senate amendment requires the Federal Crop Insurance Corporation to develop a pilot program under which producers or processors of camelina (an oilseed suitable for use as a feedstock for biodiesel) may propose for approval by the Board policies or plans of insurance in accordance with existing procedures under Section 508(h). Camelina producers would be made eligible for the Noninsured Crop Assistance Program (NAP) until a crop insurance policy is made available. (Section 1920)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with slight modification to simply list camelina as a NAP eligible crop. (Section 12025)

(27) Agricultural management assistance

The Senate amendment permits the Secretary to utilize funds available for agricultural management assistance to provide matching funds to states providing additional discounts on farmer-paid premiums in underserved states. (Section 1923)

The House bill contains no comparable provision.

The Conference substitute drops the Senate provision.

(28) Crop insurance mediation

The Senate amendment allows producers involved in a dispute over a crop insurance claim to utilize both informal agency review and mediation to reach a resolution, so the producer would not necessarily have to choose between the two paths. (Section 1924)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 12032)

(29) Perennial crop report

The Senate amendment requires the Secretary to submit a report within 180 days of enactment to the Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Agriculture that addresses issues relating to declining yields in producers' actual production histories (APH), and declining and variable yields for perennial crops, including pecans. (Section 1928)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, with a title change. (Section 12030)

The Managers recognize risk management challenges faced by producers, especially with respect to declining yields in light of increases in premiums. The Managers also understand that there are unique issues with yield variability for perennial crops, such as pecans. The Managers are interested in the Department of Agriculture's activities to address these issues and options that the Department has to address these issues administratively.

(30) Definition of basic unit

The Senate amendment maintains definition of basic unit in crop insurance for producers of tobacco. (Section 1930)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 12031)

SUBTITLE B

(31) Short title and definitions (12051 and 12052)

(32) Disaster loans to nonprofits

The Senate amendment provides the Small Business Administration (SBA) Administrator with the discretion to make loans to non-profit organizations located or operating in a declared disaster area, and to provide services to persons evacuated from any disaster area. (Section 11121)

The House bill contains no comparable provision.

The Conference substitute amends the Senate provision and renames the provision "Economic Injury Disaster Loans to Nonprofits", with alternate language that will permit private nonprofit organizations to qualify for disaster assistance within the disaster area. (Section 12061)

The Managers do not, however, intend for this amendment to extend SBA disaster assistance to private nonprofit organizations located outside designated disaster areas.

The Conference substitute also adds a section titled "Applicants That Have Become a Major Source of Employment Due to Changed Economic Circumstances". This provision permits small businesses that were not a major source of employment prior to the disaster, but which subsequently are a major source of employment following the disaster, to qualify for disaster loans beyond the current statutory limit. (Section 12077)

The Managers intend for this provision to authorize the SBA to administer the disaster loan program with reference to the borrower's circumstances relative to the local area's economic condi-

tions when the loan application is made and not rely solely upon the loan applicant's status as a major source of employment prior to the disaster.

(33) Disaster loan amounts

The Senate amendment raises the maximum outstanding loan amounts available to borrowers from the current level of $1,500,000, capping it at $2,000,000 subject to the discretion of the SBA based upon the economic conditions in the affected disaster region. (Section 11122)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 12078)

The Conference substitute adds a provision titled, "Increased Deferment Period", which will provide disaster victims with an option of receiving a four year deferment period for disaster loans. (Section 12068)

The Managers intend for this provision to provide the SBA with authority to provide disaster victims with a deferment beyond the current two-year deferment authority so that they may rebuild homes and businesses and reestablish income streams before beginning repayment of their SBA disaster loan. The Managers intend for extended deferment periods to be implemented at the discretion of the Administrator. Additionally, while the Managers do not intend for loan repayments to occur during deferments, interest should continue to accrue on loans during the deferment period.

The Conference substitute also adds a provision titled, "Net Earnings Clauses Prohibited", which will preclude the imposition of loan terms that require supplemental repayment amounts on disaster assistance loans during the first five years of repayment. (Section 12070)

The Managers believe that this provision will benefit capital-intensive businesses that receive SBA disaster assistance loans and require earnings for reinvestment in the business to remain profitable. The Managers do not, however, intend for this provision to completely prohibit the SBA from imposing a net earnings clause, it simply precludes imposing these terms within the first five years of loan repayment.

And the Conference substitute adds a provision called, "Gulf Coast Disaster Loan Refinancing Program", which enables the SBA, at their discretion, to institute a program to refinance Gulf Coast disaster loans resulting from Hurricanes Katrina, Rita, or Wilma up to an amount no greater than the original loan. (Section 12086)

(34) Small Business Development Center portability grants

The Senate amendment grants the SBA the ability to make an award to a Small Business Development Center (SBDC) greater than $100,000 due to extraordinary circumstances after a catastrophic disaster. (Section 11123)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision.

(35) Assistance to out-of-state businesses

The Senate amendment authorizes SBDCs outside of the geographic region of a disaster area to provide assistance to small businesses located within a declared disaster area at the discretion of the Administrator. (Section 11124)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision.

(36) Outreach programs

The Senate amendment establishes a procurement outreach and technical assistance program at the discretion of the Administrator following a disaster declaration. (Section 11125)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision.

(37) Small business bonding threshold

The Senate permits the Administrator to guarantee any surety against loss on a bid bond, payment bond, or performance bond that does not exceed $5,000,000.

Additionally, the provision would authorize the Administrator to guarantee bonds related to reconstruction efforts following a major disaster in amounts of up to $10,000,000 upon the request by the head of any Federal Agency involved in reconstruction efforts (Section 11126)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment but requires that these initiatives only be carried out with amounts appropriated in advance specifically for their purpose. (Section 12079)

(38) Termination of program

The Senate amendment terminates the Small Business Competitive Demonstration Program Act of 1988. (Section 11127)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision.

(39) Increasing collateral requirements

The Senate amendment increases the loan amount under which collateral is not required from $10,000 to $14,000 (or higher as deemed appropriate by the Administrator). (Section 11128)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 12065)

(40) Public awareness of disaster declaration and application periods

The Senate amendment enhances coordination between the SBA and Federal Emergency Management Agency (FEMA) disaster assistance application periods, and outlines a Congressional reporting requirement on information relating to SBA and FEMA disaster assistance applications. The provision also requires that the SBA communicate information on disaster assistance availability to the public through all available channels of communication. The section also requires that the SBA create a marketing and outreach

plan to convey disaster assistance eligibility and application requirements. (Section 11129)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 12063)

The Conference substitute adds a provision titled, "Coordination of Disaster Assistance Programs with FEMA" that will require the SBA to establish uniform guidelines in consultation with the director of the FEMA to provide for the coordination of their assistance programs. Specifically, the provision requires the SBA to establish regulations to ensure that applications for disaster assistance are submitted to the appropriate agency as quickly as is practicable.

The Managers intend for these regulations to remedy problems that arise when the SBA's disaster loan program is used as a screening mechanism for FEMA's disaster assistance grants. Additionally, the Managers intend for these regulations to limit the need for the SBA to first consider disaster loan applications from victims who are patently ineligible for SBA assistance as a precondition to consideration for FEMA assistance. (Section 12062)

The Conference substitute also adds a provision titled, "Information Tracking and Follow-up System", which will require the SBA to develop, implement, or maintain a centralized information system to track all communications (written, e-mail and phone) between disaster victims and SBA personnel concerning the status of their application. At a minimum, this system must record the method and date of communication and the identity of the SBA employee involved and a summary of the communication. It also requires the SBA to provide follow-up communications to disaster victims as their disaster loan proceeds through critical stages of the origination, approval and disbursement process.

The Managers intend for this section to address deficiencies in the SBA's current systems for tracking and organizing information that result in lost documentation, repeated status updates from applicants, and misinformed SBA personnel. (Section 12067)

The Conference substitute also adds a provision titled, "Economic Injury Disaster Loans in Cases of Ice Storms and Blizzards", which will add ice storms and blizzards to the list of enumerated disasters for which a small business disaster may be declared. (Section 12071)

(41) Consistency between administration regulations and standard operating procedures

The Senate amendment contains a provision requiring the SBA to conduct a study of whether the standard operating procedures for administering disaster loan assistance are consistent with the Administration's regulations for administering the disaster loan program. (Section 11130)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 12064)

(42) Processing disaster loans

The Senate amendment authorizes the SBA to enter into agreements to pay qualified private contractors a fee for processing SBA disaster loan applications during any major disaster declaration. This provision would also authorize the Administrator to enter into agreements to pay qualified lenders or loss verification professionals a fee for performing loan loss verification services. Additionally, this section would require the SBA Administrator and the Internal Revenue Service Commissioner to ensure that all relevant and allowable tax records for loan approval are shared with loan processors in an expedited manner upon request by the Administrator.

The Managers do not intend for this provision to authorize the SBA to delegate all their disaster loan disbursement or servicing functions with private contractors. Nor do the Managers intend for this provision to abrogate the SBA's authority to approve or disapprove disaster loan applications. (Section 11131)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 12066)

The Conference substitute adds a provision titled, "Disaster Processing Redundancy", which will require the SBA to maintain a backup disaster processing operation in a separate geographic location from the primary processing operation. The backup facility must be capable of taking over all disaster loan processing from the SBA's primary facility within two days following a disaster, which renders the primary facility inoperable. (Section 12069)

The Managers intend for this provision to mitigate the risk associated with the practice of maintaining a single primary disaster processing facility.

The Conference substitute also adds a provision titled, "Plans to Secure Additional Office Space", which requires the SBA to develop long-term plans to secure sufficient space to accommodate an expanded workforce in times of disaster. (Section 12076)

(43) Development and implementation of major disaster response plan

The Senate amendment contains a provision that would require the SBA to amend the 2006 Atlantic Hurricane Season Disaster Response Plan to apply to all major disasters, and report to Congress on its progress. Additionally, this provision would require the SBA to develop and execute simulation exercises within six months of submitting its report to Congress to demonstrate the effectiveness of the updated response plan. (Section 11132)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment and requires the SBA to conduct a disaster simulation exercise at least once every two fiscal years that includes, at a minimum, the participation of not less than half of the agency's disaster reserve corps. Additionally, the biennial disaster simulation exercise should include stress-testing of the agency's vital information technology and telecommunications system, including various aspects of the SBA's current loan processing and call support systems, the DCMS system, the core application functions, and additional components

such as loss verification and scanning systems. This stress-testing should simulate an increased number of concurrent users to determine whether the complete system, operating at maximum capacity will meet the agency's needs for effective and accurate operations in a major disaster. Additionally, the biennial disaster simulation exercise should be based upon the most serious disaster scenarios that the agency has identified in the comprehensive disaster response plan and the agency should change the disaster scenario and the geographic region upon which each disaster simulation is predicated. (Section 12072)

The Conference substitute adds a provision titled "Comprehensive Disaster Response Plan", which requires the SBA to develop, implement, or maintain a comprehensive written disaster response plan. The plan should include a risk-based assessment of the various types of disasters likely to occur in each of the agency's 10 districts. Each assessment should include an analysis of the SBA's needs for an effective response to each disaster scenario, with emphasis on strategies to meet rapidly expanding demand for information technology, telecommunications, human resources, and office space needs. Additionally, the comprehensive plan should include appropriate guidelines for coordination with other federal agencies as well as with State and local authorities to effectively respond to each disaster and best utilize agency resources. In developing the comprehensive plan, the SBA should integrate the results of disaster simulation exercises and catastrophe modeling programs to generate its disaster risk assessments and estimate the demand on agency resources. Additionally, the agency must include a report on the status of the disaster plan, highlighting any changes and developments from previous years, in its annual report to Congress as required by this Act. (Section 12075)

(44) Disaster planning responsibilities

The Senate amendment requires the SBA to assign disaster planning responsibilities to a qualified employee who is not an employee of the Office of Disaster Assistance. (Section 11133)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment with changes. The SBA must create a new position within the agency that is solely and exclusively dedicated to the function of disaster planning and readiness. The individual appointed to this position will be appointed by the Administrator and will report directly and solely to the Administrator. The individual must have substantial expertise in the field of disaster readiness and emergency response and should have proven management ability. (Section 12073)

The Managers intend for this individual to serve as a high-level administration official who operates independently from all of the agency's existing offices and who has exclusive authority over the disaster planning function. Additionally, this provision mandates that the Administrator ensure that the individual assigned the disaster planning function has adequate resources to carry out their enumerated duties.

(45) Additional authority for the district offices of the administration

The Senate amendment gives the SBA the ability to grant district offices permission to process disaster loans and requires the SBA to designate an employee in each district office to act as a disaster loan liaison between the processing center and the applicants. (Section 11134)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision.

(46) Assignment of employees of the Office of Disaster Assistance and Disaster Cadre

The Senate amendment requires that the Administrator may, where practicable, ensure that the number of full-time equivalent employees be maintained at 800 for the Office of Disaster Assistance and at 750 for the SBA's Disaster Cadre. If the staffing level for either of those offices falls below the statutorily mandated limit, the Administrator is required to submit a report to Congress and request additional funds if necessary. (Section 11135)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision, but raises the minimum staffing levels for the Disaster Cadre to 1,000. (Section 12074)

(47) Small Business Act Catastrophic National Disaster Declaration

The Senate amendment establishes a new Presidential disaster declaration that would have existed solely within the Small Business Act known as a "Small Business Act Catastrophic National Disaster Declaration." The Senate amendment would also give the Administrator the authority to make economic injury disaster to loans to businesses located outside the designated disaster area. (Section 11141)

The House bill contains no comparable provision.

The Conference substitute amends the Catastrophic Disaster Declaration and entitles it "Eligibility for Additional Disaster Assistance," which authorizes the Administrator to declare eligibility for additional disaster assistance following a Presidential major disaster declaration that rises to the level of a catastrophic incident. The Managers do not intend for every major disaster to give rise to a declaration of eligibility for additional disaster assistance, but intend that the SBA authorize this additional disaster assistance only in the most extraordinary and devastating of catastrophic incidents that render the SBA's conventional disaster assistance programs inadequate or ineffective. The Managers intend that, when determining whether additional disaster assistance is to be made available, the SBA should ensure that the eligible disaster must be similar in size or scope to the terrorist attacks that occurred on September 11, 2001 or hurricanes "Katrina" or "Rita" that struck the U.S. Gulf Coast in 2005. (Section 12081)

The Conference substitute adopts a portion of this Senate provision and adds a section titled, "Additional Economic Injury Disaster Loan Assistance," which authorizes the Administrator to make economic injury disaster loans to small businesses located outside the disaster area that have suffered identifiable economic

injury as a direct result of a major disaster for which the Administrator has declared eligibility for additional disaster assistance.

The Managers intend that businesses receiving assistance under this provision have suffered damage that was proximately caused by the disaster. Additionally, the Managers do not intend for this provision to displace the timely processing and disbursement of disaster assistance applications for businesses that are actually located within the designated disaster area. This provision further details eligibility requirements for affected businesses and provides for the suspension of the program if it has a significant negative impact on normal SBA loan processing times. (Section 12082)

(48) Private disaster loans

The Senate amendment provides definitions of key terms and defines the parameters for authorization and use of Private Disaster Loans. The provision allows the SBA to guarantee timely payment of principal and interest on private loans issued to eligible small businesses and homeowners within an eligible disaster area, and the provision establishes an online application. The SBA may guarantee no more than 85 percent of a loan, worth a maximum amount of $2 million. Within one year the SBA must issue permanent regulations and criteria. The SBA is also given the authority to reduce the interest rate on any loan. (Section 11142)

The House bill contains no comparable provision.

The Conference substitute adopts a portion of the Senate provision and further requires the SBA to implement a Private Disaster Assistance program, whereby the SBA may guarantee timely payment of principal and interest of up to 85 percent of disaster loans made to eligible small businesses and homeowners within an eligible disaster area following a major disaster for which the Administrator declares eligibility for additional assistance. The SBA is also given authority to establish an online application process for private disaster loans and may permit lenders to use their own documentation. Loans administered under the program, however, must carry the same interest rate and be made on the same terms and conditions as SBA disaster loans made under the existing 7(b) disaster assistance program, and the SBA may use funds appropriated to the 7(b) program to fulfill this requirement. Private disaster loans for homeowners, however, may only be made by lenders who participate in the SBA's Preferred Lender Program. By contrast, loans for small businesses may be made by any lender who meets the agency's qualification requirements, or by a Preferred Lender who also makes loans to homeowners. (Section 12083)

(49) Technical and conforming amendments

(Section 11143)

(50) Expedited Disaster Assistance Loan Program

The Senate amendment requires the Administrator to set up an Expedited Disaster Assistance Loan program in consultation with Congress, appropriate lenders and creditors, SBDC's, and appropriate offices within the Small Business Administration. The loans, made to borrowers otherwise eligible for loans under the

Small Business Act, shall not exceed $150,000, exceed 180 days in length, and be more then one percent over the prime rate. (Section 11144)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment and requires that the loans only be made by private institutions and the Administrator may guarantee timely payments of principal and interest. (Section 12085)

The Conference substitute also adds a provision titled "Immediate Disaster Assistance Program," which will establish an SBA disaster loan program to provide small businesses with immediate, small-dollar loans administered through private sector lenders after any disaster. Loans made under the program would carry an 85 percent guarantee on amounts up to $25,000. Loans made under this program would also be contingent upon the business applying for and meeting basic criteria for a subsequent SBA disaster loan, and the outstanding loan balance must be repaid with the proceeds of the conventional SBA loan. (Section 12084)

The Managers intend for both the Immediate Disaster Assistance Program and the Expedited Disaster program to function as bridge financing programs for businesses that are awaiting approval or disbursement of funds under the SBA's conventional disaster loan program. The Immediate Disaster assistance program is intended to provide eligible small business concerns with emergency, small-dollar financing within 36 hours following a disaster pending the victim's receipt of a conventional disaster loan. This contrasts the SBA's current loan program which has a target approval timeframe of 21 days and is intended to provide the disaster victim with long-term, low-interest assistance. The Expedited Disaster program is intended to provide bridge loans to disaster victims eligible for the 7(b) program who need a greater amount of funding. The loans are also intended to be disbursed more quickly then a standard SBA disaster loan.

(51) HUBZones

The Senate amendment makes any area designated as a Catastrophic National Disaster Area a HUBZone, as well as all disaster areas designated as a result of Hurricane Katrina or Rita. This designation shall persist for the two- year period beginning on the date of the designation of the area as a Small Business catastrophic national disaster area, or longer at the discretion of the SBA. (Section 11145)

The House bill contains no comparable provision.

The Conference substitute adopts the House provision.

(52) Congressional oversight

The Senate amendment requires the submission of monthly reports on disaster loan programs to Congress detailing lending volume and activity, as well as a daily updates during a Presidential disaster declaration. The SBA would also be required to submit a report to Congress every six months (for up to 18 months after the President declares a major disaster), detailing the numbers of contracts awarded to various types of small businesses in the area, as well as a report that details how the SBA can improve the proc-

essing of applications under the Disaster Loan Program. (Section 11161)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment and requires the SBA to submit to Congress a report on the Disaster Assistance Program performance during the previous fiscal year. This report will cover changes in staffing, technology, and a review of challenges encountered and overall results. Additionally, during any period for which the Administrator has declared eligibility for additional assistance, the SBA is required to make monthly reports to Congress with basic information on their disaster response. During a Presidential disaster declaration period, the SBA must submit weekly updates to Congress, as opposed to daily updates in the original Senate amendment. The Conference substitute changes the name to "Reports on Disaster Assistance". (Section 12091)

TITLE XIII—AMENDMENTS TO COMMODITY EXCHANGE ACT

(1) Short title

The Senate amendment cites this title as the "CFTC Reauthorization Act of 2008". (Section 13001)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 13001)

(2) Commission authority over off-exchange retail foreign currency transactions

The Senate amendment amends section 2(c)(2) of the Commodity Exchange Act (CEA) (7 U.S.C. 2(c)(2)) by clarifying that the Commodity Futures Trading Commission's (Commission) anti-fraud authority applies to retail off-exchange foreign currency (forex) transactions that are: (i) offered to, or entered into with, a person that is not an eligible contract participant (i.e., a retail customer); and (ii) offered or entered into on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty, on a similar basis.

If the test in new section 2(c)(2)(C) is met, courts will no longer have to decide whether forex transactions that meet these requirements are futures contracts in order to permit the Commission to pursue an action for fraud. But since CEA section 4b remains limited by its terms to futures, a new provision (section 2(c)(2)(C)(iv)) is added to ensure that section 4b applies to all covered forex transactions (e.g., "rolling spot" or other futures look-like products) "as if" they were futures contracts. Under this provision, the Commission need not prove that such transactions are futures in order to establish a fraud violation. However, this provision is not intended to suggest, nor does it create a negative inference, that such contracts are not futures contracts.

The phrase "leveraged or margined basis" is not limited to the same type of leverage or margin that exists for trading in on-exchange markets. The fact that off-exchange transactions are at issue means that they are likely to operate differently from exchange-traded instruments in this regard.

Excluded from new section 2(c)(2)(C) are: (i) transactions offered or entered into by certain otherwise-regulated entities, such as financial institutions, broker-dealers, and insurance companies; (ii) securities that are not security futures products; and (iii) transactions that create an enforceable obligation to deliver between a seller and buyer that have the ability to deliver and accept delivery, respectively, in connection with their line of business. The term "line of business" in new section 2(c)(2)(C)(i)(II)(bb)(BB) refers to any legitimate line of business, not just a foreign exchange business. The reference to "an enforceable obligation to deliver" in connection with a "line of business" emphasizes the commercial nature of this exclusion.

The Senate amendment explicitly reserves CEA sections 2(a)(1)(B) (principal-agent liability); 4(b) (foreign markets); 4o (fraud by commodity pool operators and commodity trading advisors); 13(a) (aiding and abetting liability); and 13(b) (controlling person liability) with respect to fraudulent forex activities.

While the secondary liability provisions of principal-agent, aiding-abetting, and controlling-person liability were implied in the Commodity Futures Modernization Act of 2000 (CFMA), these amendments make that reservation of Commission anti-fraud authority explicit. The amendments are not intended to suggest, nor do they create a negative inference, that these secondary liability provisions are not available in actions brought under other sections of the CEA where Commission anti-fraud or anti-manipulation authority is reserved, such as CEA sections 2(h)(2), 2(h)(4), and 5d(c).

The Senate amendment also provides authority to the Commission to issue rules proscribing fraud in connection with any agreement, contract or transaction in an exempt or agricultural commodity that is (i) offered to, or entered into with, a person that is not an eligible contract participant (i.e., a retail customer); and (ii) offered or entered into on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty, on a similar basis. (Section 13101)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendment.

With the amendment, the managers intend to address several additional problems currently resulting in consumers being the victims of fraud related to off-exchange foreign currency transactions. The CFMA permitted registered Futures Commission Merchants (FCM) to offer foreign currency trading to the public without requiring that they be substantially or primarily engaged in the business of exchange-traded futures.

Since passage of the CFMA, the Managers note that an inordinate number of fraudulent schemes are currently implemented through shell FCMs and their unregistered affiliates. These shell FCMs meet minimal requirements for FCMs and typically conduct little, if any, traditional on-exchange business of an FCM. Their purpose instead is to serve as the parent company for their unregistered affiliates. It is the unregistered affiliates that will typically conduct the retail sale of foreign currency contracts. Unregistered

affiliates of a shell FCM are subject to little if any regulatory oversight, making them harbors for fraudulent schemes.

The amendment addresses the problem of shell FCMs and unregistered affiliates by providing that only FCMs that are primarily or substantially or primarily engaged in the buying and/or selling of futures contracts on a Designated Contract Market or Derivatives Transaction Execution Facility, or a material affiliate of such an FCM are lawful FCM or FCM-affiliate counterparties for a retail transaction in foreign currency.

The Managers intend that the Commission will utilize the rulemaking authority provided in this section to define when a registered futures commission merchant is primarily or substantially engaged in the buying and/or selling of futures contracts as described in CEA section 1a(20) for the purposes of new provisions 2(c)(2)(B)(i)(II)(cc)(AA) and (BB).

A material affiliate is an affiliate for which an FCM is required to keep records relating to an affiliate's futures and financial activities under CEA section 4f(c)(2)(B). The amendment provides that FCMs and FCM-affiliates must maintain minimum net capital of $20 million to be a lawful counterparty. This capital requirement is phased in over a period of one year.

The amendment provides for a new category of dealer known as a "retail foreign exchange dealer" (RFED). The amendment provides that RFEDs also must maintain a minimum of $20 million in net capital to be a lawful counter party for a retail off-exchange foreign transaction. This capital requirement is phased in over a period of one year.

The purpose of imposing a $20 million minimum capital requirement on FCMs, FCM-affiliates, and RFEDs is to ensure that forex dealers utilizing these classifications to conduct retail foreign currency business are sufficiently capitalized to ensure their financial soundness—especially given that many entities in this area run what are essentially off-exchange, retail forex markets.

In addition, to maintaining a minimum of $20 million in adjusted net capital, the managers expect the Commission to use the rulemaking authority provided under this section to promulgate any other requirements necessary to ensure the financial soundness of RFEDs.

The rules and regulations issued under this section should appropriately address the level of financial risk posed by RFEDs and their operations. To the extent their risk profiles are similar, the managers intend for FCMs and RFEDs to be regulated substantially equivalently in terms of their off-exchange retail foreign currency business. The managers do not intend for the Commission to provide either FCMs or RFEDs with a more favorable regulatory environment over the other or create two significantly different regulatory regimes for similar business models—to the extent the financial risks posed by such operations are similar.

In addition to regulatory authority over FCMs and RFEDs, the amendment provides the Commission with greater authority over participants in the off-exchange foreign currency trading industry who are not the actual counterparty to the transaction to ensure that the Commission has authority needed over these industry par-

ticipants to take action to address fraudulent or deceptive practices.

The amendment strikes the Senate provision to provide authority to the Commission to issue rules proscribing fraud in connection with any agreement, contract or transaction in an exempt or agricultural commodity that is (i) offered to, or entered into with, a person that is not an eligible contract participant (i.e., a retail customer); and (ii) offered or entered into on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty, on a similar basis. (Section 13101)

(3) Liaison with Department of Justice

The Senate amendment requires the Attorney General to designate a liaison between the Department of Justice and the Commission to coordinate civil and criminal investigations and prosecutions of violations of the CEA. (Section 13102)

The House bill contains no comparable provision.

The Senate recedes.

(4) Anti-fraud authority over principal-to-principal transactions

The Senate amendment amends section 4b of the CEA (7 U.S.C. section 6b) to clarify that the CEA gives the Commission the authority to bring fraud actions in off-exchange "principal-to-principal" futures transactions. Subsection 4b(a)(2) is amended by adding the words "or with" to address principal-to-principal transactions on the new markets and trading venues permitted under the CFMA. This new language clarifies that the Commission has the authority to bring anti-fraud actions in off-exchange principal-to-principal futures transactions, including exempt commodity transactions in energy under section 2(h), as well as transactions conducted on derivatives transaction execution facilities. The prohibitions in subparagraphs (A) through (D) of the new section 4b(a) would apply to all transactions covered by paragraphs (1) and (2).

Derivatives clearing organizations are not subject to fraud actions under section 4b in connection with their clearing activities.

The amendments to CEA section 4b(a) regarding transactions currently prohibited under subparagraph (iv) (found in new subparagraph (D)) are not intended to affect in any way the Commission's historical ability to prosecute cases of indirect bucketing of orders executed on designated contract markets. (See, e.g., Reddy v. CFTC, 191 F.3d 109 (2nd Cir. 1999); In re DeFrancesco, et al., CFTC Docket No. 02–09 (CFTC May 22, 2003) (Order Making Findings and Imposing Remedial Sanctions as to Respondent Brian Thornton)).

These amendments should not be interpreted or understood as calling into question the Commission's historical use of section 4b to address principal-to-principal trading in the retail context on regulated futures exchanges. (Section 13103)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 13102)

(5) Criminal and civil penalties

The Senate amendment amends the CEA to double the civil and criminal penalties available for certain violations of the CEA such as manipulation, attempted manipulation, and false reporting. The increased civil monetary penalties in the Reauthorization Act are intended to render the CEA's penalty provisions comparable to the penalty provisions that Congress enacted in the Energy Policy Act of 2005 for manipulation cases brought by the Federal Energy Regulatory Commission with respect to physical energy markets. (Section 13104)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendment. The amendment addresses technical drafting issues. (Section 103103)

(6) Authorization of appropriations

The Senate amendment authorizes such sums as may be necessary to carry out the Act for fiscal years 2008 through 2013. (Section 13105)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. (Section 13104)

(7) Technical and conforming amendments

The Senate amendment contains various amendments to correct statutory errors and other conforming changes. (Section 13106)

The House bill contains no comparable provision.

The Conference substitute Adopts the Senate provision with amendment. The amendment makes additional technical and conforming changes to the CEA.

The amendment amends section 1(a)(33) of the CEA (7 U.S.C. 1). The definition of "trading facility" under the CEA is a key criterion for defining a number of categories of regulated markets (e.g., designated contract markets, derivatives transaction execution facilities), exempt markets (e.g., exempt commercial markets, exempt boards of trade) and excluded markets (e.g., CEA section 2(d)(2)). By amending the definition of trading facility, the Managers address a concern where the Commission's jurisdiction could be compromised if novel auction systems which aggregate the market sentiments of multiple participants to derive a market price according to a pre-determined algorithm were to fall outside the agency's regulatory ambit. The definition of "trading facility" has been amended to anticipate and include, prospectively, markets which utilize automated trade matching and execution algorithms.

Section 4a(e) of the CEA provides, among other things, that it is a violation of the CEA, for any person to violate a speculative limit rule of a designated contract market, derivatives transaction execution facility, or other board of trade if that rule has been approved by the Commission. Section 5c(c) of the CEA, though, permits exchanges to certify such rules rather than submit them for prior Commission approval. The Managers amend section 4a(e) to bring it into harmony with the CEA provisions regarding certification of exchange rules. Specifically, the Managers amend section 4a(e) to provide that it is a violation of the CEA, for which the

Commission may bring an enforcement action, for any person to violate a speculative limit rule that has been certified by a registered entity.

The Managers are concerned that complainants seeking to enforce an award received through the Commission's reparations process are facing difficulties in obtaining relief from Federal District courts. Accordingly, the Managers include language in this amendment amending section 14(d) of the Commodity Exchange Act (7 U.S.C. 18) to provide that Commission reparations awards are directly enforceable in Federal District courts as if they were local judgments pursuant to 29 U.S.C. 1963. The Managers also provide that the amendment shall operate retroactively. (Section 13105)

(8) Portfolio margining and security index issues

Following enactment of the CFMA, the Commission and Securities and Exchange Commission (SEC) jointly promulgated rules relating to the margining of security futures products (SFP). Under those rules, SFPs have been subject to the same fixed-rate strategy-based margining scheme applicable to security options customer accounts, rather than the risk-based portfolio margining system typical in the futures industry. Many have argued that this has contributed to the low volume of trading in SFPs which, by contrast, have been successful in Europe. The Senate amendment directs the Commission and SEC to use their existing authorities by September 30, 2008, to allow customers to benefit from the use of a risk-based portfolio margining system for both security options and SFPs.

The detailed statutory test of a narrow-based security index was tailored to fit the U.S. equity markets, which are by far the largest, deepest and most liquid securities markets in the world. The amendment provides clarity in this area by requiring the Commission and the SEC to take action under their existing authorities to promulgate, by June 30, 2008, final rules providing criteria that will exclude broad-based indexes on foreign equities from the definition of narrow-based security index as appropriate. (Section 13107)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to extend the deadlines to September 30, 2009 for implementing portfolio margining and June 30, 2009 for promulgating criteria for excluding broad-based indexes on foreign equities from the definition of narrow-based security index as appropriate. (Section 13106)

(9) Significant price discovery contracts

The Senate amendment provided for greater regulation of contracts traded on exempt commercial markets (ECM) that fulfill a price discovery function. It sets forth criteria for the Commission to consider in determining whether an ECM contract qualifies as a significant price discovery contract (SPDC). These criteria include: (i) price linkage; (ii) arbitrage; (iii) material price reference; and (iv) material liquidity and other such material factors as the Commission specifies by rule.

The amendment applies core principles to ECM contracts that are determined to perform a significant price discovery function by the Commission. These Core Principles are derived from selected DCM core principles and designation criteria set forth in CEA section 5. These core principles include those relating to: contracts not being readily susceptible to manipulation, monitoring of trading, the ability of the Commission to obtain information, position limitations or accountability limitations, emergency authority, daily publication of trading information, compliance with rules, and conflict of interest.

The amendment gives the electronic trading facility the explicit discretion to take into account differences between cleared and uncleared SPDCs only in applying the emergency authority and the position limits or accountability core principles and directs the Commission to take such differences into consideration when reviewing implementation of such principles by the electronic trading facility in (7)(D);

The amendment requires an electronic trading facility to notify the Commission whenever it has reason to believe that an agreement, contract or transaction conducted in reliance on the exemption provided in 2(h)(3) displays any of the factors relating to a significant price discovery function described in subparagraph (7)(B); and directs the Commission to conduct an evaluation at least once a year to determine whether any agreement, contract or transaction conducted on an electronic trading facility in reliance on the exemption in 2(h)(3) performs a significant price discovery function in (7)(E). (Section 13201)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendment. With the amendment the Managers make several changes to the Senate provision.

The Managers provide that the Commission shall promulgate rules and regulations to implement the authorities provided by this Act regarding significant price discovery contracts. The Senate provision had originally made such promulgation discretionary. The Managers also allow the Commission to consider the potential for arbitrage between a potential SPDC and an existing SPDC in making a determination whether a contract is a SPDC.

The Managers amend the Senate provision to make clear that an electronic trading facility shall have reasonable discretion to account for differences between cleared and uncleared contracts in complying with all the core principles applicable under this Act to SPDCs.

The Managers amend the Senate provision to make clear that in determining appropriate position limits or position accountability limits under this Act, an electronic trading facility shall consider cleared swaps transactions that are treated by a derivatives clearing organization as fungible with significant price discovery contracts. The Managers also amend the Senate language to apply the conflict of interest and antitrust considerations core principles to electronic trading facilities only with respect to SPDCs traded on such facilities.

Not all the listed factors must be present to make a determination that a contract performs a significant price discovery function.

However, the Managers intend that the Commission should not make a determination that an agreement, contract or transaction performs a significant price discovery function on the basis of the price linkage factor unless the agreement, contract or transaction has sufficient volume to impact other regulated contracts or to become an independent price reference or benchmark that is regularly utilized by the public.

The core principles that apply to SPDCs are derived from selected DCM core principles and designation criteria set forth in CEA section 5, and the Managers intend that they will be construed in like manner as the DCM core principles.

The Managers do not intend that the Commission conduct an exhaustive annual examination of every contract traded on an electronic trading facility pursuant to the section 2(h)(3) exemption, but instead to concentrate on those contracts that are most likely to meet the criteria for performing a significant price discovery function.

The Managers further intend that the Commission should conduct such examinations in the course of its normal monitoring of ECM contracts and surveillance of designated contract market and derivatives transaction execution facility contracts when considering the potential for arbitrage or price linkage as the basis for an SPDC determination. (Section 13201)

(10) Large trader reporting

The Senate amendment amends CEA section 4g to require reporting and recordkeeping of every person registered with the Commission regarding the transactions and positions of such person in any SPDC traded or executed on an electronic trading facility. It also amends CEA section 4i to make any person buying or selling SPDCs on an electronic trading facility subject to reporting requirements set by the Commission and to require such person to report and keep records on transactions or positions equal to or in excess of any reporting threshold the Commission has set. (Section 13202)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate Provision with amendment. The amendment provides that large trader reporting requirements imposed by this Act for SPDCs shall include contracts, transactions, or agreements that are treated by a derivatives clearing organization as fungible with SPDCs. (Section 13202)

(11) Conforming amendments

The Senate amendment provides various amendments to conform other areas of current law based on changes made in sections 13201 and 13202. The amendment provides that an electronic trading facility shall be considered as a registered entity for the purposes of the CEA and provides that the Commission shall have exclusive jurisdiction over significant price discovery contracts. (Section 13203)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendment.

The amendment included by the managers clarifies that the CEA's grant of exclusive jurisdiction to the Commission in CEA

section 2(a)(1)(A) applies to significant price discovery contracts traded on ECMs. The amendment further clarifies that the provisions of the CEA made applicable to SPDCs traded on ECMs by this Act are not precluded by CEA section 2(h)(3).

The Managers note that in creating the new authorities contained in this Act, it is the intent of the Managers to enhance the Commission's authority over (2)(h)(3) markets under the CEA. It is the Managers' intent that this provision not affect FERC authority over the activities of regional transmission organizations or independent system operators because such activities are not conducted in reliance on section 2(h)(3). (Section 13203)

(12) Effective date

The Senate amendment: (1) provides that this subtitle shall become effective on the date of enactment of this Act, (2) requires the Commission to issue a proposed rule regarding the significant price discovery standards in section 13201(b) within 180 days of the date of enactment of this Act and a final rule within 270 days, and (3) requires the Commission to complete a review of the agreements, contracts and transactions of any electronic trading facility operating on the effective date of the final rule described in 13204(b) within 180 days after that effective date to determine whether such agreement, contract or transaction performs a significant price discovery function. (Section 13204)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendment.

The amendment directs the Commission to conduct a rulemaking to implement a process for determining whether ECM contracts are SPDCs.

The managers note that although status as a registered entity would attach to an ECM upon the Commission's determination that a particular ECM contract serves a significant price discovery function, the managers intend that the Commission rulemaking include a grace period after a significant price discovery determination to enable the ECM to come into compliance with its newly-applicable core principles. Such a grace period, which need only be made available to ECMs that have been determined to have a SPDC for the first time, should ensure that such ECMs have sufficient time to implement the necessary regulatory requirements and operations. (Section 13204)

TITLE XIV—MISCELLANEOUS

* For items 1 through 52 of the House bill and Senate amendment, see title XII—Crop Insurance.

* For items 53 through 79 and item 120 of the House bill and Senate amendment, see title XI—Livestock.

(1) Prohibition on use of live animals for marketing of medical devices; fines under the Animal Welfare Act

The House bill amends the Animal Welfare Act to prohibit using a live animal to demonstrate a medical device or product for marketing purposes or to train a sales representative to use such product. The prohibition does not apply to the training of medical

personnel for a purpose other than marketing. The House language amends the Animal Welfare Act to set a cap for violations at not more than $10,000 for each violation. It specifies that each violation, each day that a violation continues, and each animal that is subject to each violation, shall be a separate offense. The House language also amends the Animal Welfare Act to require that the report to Congress also identify all research facilities, intermediate handlers, carriers, and exhibitors registered under section 6 of the Act. It strikes the provision requiring information and recommendations related to the Horse Protection Act. (Section 11316)

The Senate amendment contains no comparable provision.

The Conference substitute provides that fines under the Animal Welfare Act are increased from $2500 to $10,000. (Section 14214)

(2) Protection of pets

The House bill amends the Animal Welfare Act by replacing section 7. The new section provides a definition for person to be used only in this section. Person includes any individual, partnership, firm, joint stock company, corporation, association, trust, estate, pound, shelter, or other legal entity. This section prohibits research facilities or Federal research facilities from using a cat or dog for educational or research purposes if it was obtained from a permissible source. Also, no person may donate, sell, or offer a dog or cat to any research facility or Federal research facility unless it came from a permissible source. A permissible source is defined to mean a dealer licensed under AWA; a publicly owned pound registered with the Secretary and in compliance with the protection of pet standards outlines in the Act and has obtained the cat or dog from a legal owner, other than a pound or shelter; or a person that is donating the dog or cat that bred and raised it and owned it for not less than one year preceding donation; a research facility or Federal research facility licensed by the Secretary. In addition to existing penalties for violating the Animal Welfare Act this provision establishes an additional fine of $1,000 for each violation of this section. Nothing in this section requires a pound or shelter to donate, sell, or offer a dog or cat to a research facility. (Section 11317)

The Senate amendment is the same as the House bill. It adds a provision that would phase out the use of random source dogs and cats from class B dealers within five years after enactment of this act. (Section 11079)

The Conference substitute adopts the House provision with an amendment that defines Class B dogs and cats and requires the Secretary to review any independent reviews and recommendations by a nationally recognized panel on the use of Class B dogs and cats in federal research.

The Managers are aware of the concerns relating to the use of random source animals from Class-B dealers for medical research. As part of the Consolidated Appropriations Act, 2008 (P.L. 110–161), Congress requested an independent review by a nationally recognized panel of experts of the use of Class B dogs and cats in federally supported research. The National Academy of Science is in the process of conducting this review. Results from the review

are expected to be finalized in the spring of 2009. The results of this study will help provide Congress information regarding the value of Class B dogs and cats in medical research. It is the Managers view upon completion of the review the House Committee on Agriculture and United States Senate Committee on Agriculture, Nutrition and Forestry should address whether to continue Class B dealers as a legitimate vendor of random source animals for medical research.

The Managers are also aware of concerns relating to how Class B dealers acquire random source animals. Under 9 CFR 2.132(d) dealers are prohibited from obtaining a dog or cat from any person who is not licensed (other than a pound or shelter), unless they obtain a certification (source record) that the animals were born and raised on that person's premises and, if the animals are for research purposes, that the person has sold fewer than 25 dogs and/or cats that year. The Animal and Plant Health Inspection Service (APHIS) conducts four unannounced inspections of each Class B dealer on an annual basis. During these inspections, APHIS conducts random trace back of source records. In addition, every 2 to 3 years APHIS does 100 percent trace back of every source record of all Class B dealers. APHIS data indicates a 95 percent trace back of these records. Understanding concerns raised about the validity of these source records, the Managers intend to ask the Government Accountability Office to review APHIS regulations to ensure they are sufficiently assuring the source of random source animals.

The Managers are also concerned with the humane handling and treatment of all animals. In section 14114, fines for violating the Animal Welfare Act are increased for the first time since 1985. (Section 14216)

(3) Sense of the Senate on the U.S. Department of Agriculture's wildlife services competing against private industry for nuisance bird control work

The Senate amendment contains a Sense of the Senate that USDA Wildlife Services should not compete nor condone competition with the private sector for business regarding the management of nuisance wildlife problems in urban areas where private sector services are available. Wildlife Services should inform cooperators of the availability of and their right to acquire services from private service providers prior to entering into any cooperative agreement for wildlife damage management activities. The Secretary of Agriculture should ensure that Wildlife Services does not aggressively compete with private pest management industry for European starling, house sparrow, and pigeon control work in urban areas where private sector services are available. The Secretary of Agriculture should rely on the scientific and widely excepted definitions to define the term urban rodent in order to clarify the express restrictions in law on Wildlife Services activities. Finally, the Secretary should direct Wildlife Service to work with private industry, through a Memorandum of Understanding, to delineate common areas of cooperation so that issue of competition are addresses, taking into account the interests of the wildlife resources and the need to manage damage caused by that resource. (Section 11085)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers expect the Secretary to continue and strictly enforce the current Wildlife Service Directive 3.101, "Interfacing with Business and Establishing Cooperatives Programs," dated May 25, 2005. The Managers intend that the Secretary, consistent with this Directive, shall inform service requesters of the availability of other private service providers and their right to choose. The Managers strongly encourage the Secretary to ensure that Wildlife Services does not compete with professional pest management companies which manage nuisance birds such as European starlings, house sparrows, and pigeons in urban areas. The Managers strongly encourage the Secretary to enter into a Memorandum of Understanding with industry to address issues of competition for service, taking into account the ability of private entities to respond to requests for wildlife damage management and the common goal of both the Department and the private sector to meet the increasing need of managing damages caused by pests in urban areas.

(4) Prohibitions on dog fighting ventures

The Senate amendment amends section 26 of the Animal Welfare Act to strengthen penalties for dog fighting. Section 26(a)(1) of the AWA is amended to make it unlawful to knowingly sponsor or exhibit an animal in a dog fighting venture as defined later in this section. Section 26(b) of the AWA is amended to add it is illegal to knowingly sell, buy, posses, train, transport, deliver or receive any dog, other animal or offspring of the dog or other animal for the purpose of having them participate in a dog fighting venture. Section 26(f) of the AWA is amended to allow costs incurred for the care of animals seized or forfeited under this section to be recoverable from the owner. Subsection (g) is amended to include a definition for a dog fighting venture to mean any event that involves a fight between at least two animals, one being a dog, which is conducted for purposes of sport, wagering, or entertainment. An exclusion for hunting is also added. Section 49 of title 18, United States Code, is also amended to increase the penalty for violations of section 26 of the Animal Welfare Act to not more than five years imprisonment. (Section 11076)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with a minor amendment. (Section 14207)

(5) Domestic pet turtle market access; review, report and action on the sale of baby turtles

The Senate amendment requires the Secretary of Health and Human Services, acting though the Commissioner of Food and Drugs, to determine the prevalence of salmonella in each species of reptile and amphibian sold legally in the United States to determine whether or not the prevalence of salmonella in these animals is not more than 10 percent less than the percentage of salmonella in pet turtles. If the prevalence is not more than 10 percent less than the percentage of salmonella in pet turtles the Secretary of Agriculture shall conduct a study of how pet turtles can be sold safely as pets in the United States. In conducting the study the

Secretary shall consult with all relevant stakeholders. (Sections 11101, 11102, and 11103)

If the prevalence of salmonella in other amphibians and reptiles is greater than that of salmonella in pet turtles the Secretary shall prohibit the sale of those amphibians and reptiles.

The House bill contains no comparable provision.

The Conference substitute strikes this provision.

(6) Importation of live dogs

The Senate amendment adds a new section to the Animal Welfare Act (7 U.S.C. 2147) to restrict the importation of certain dogs for resale. This provision defines "importer" as any person who, for purposes of resale, transports into the United States puppies from a foreign country. Resale is defined to mean any transfer of ownership or control of an imported dog of less than 6 months of age to another person, for more than de minimis consideration. No dog shall be imported into the United States for purposes of resale unless the Secretary of Agriculture determines the dog is in good health; has received all necessary vaccinations; and is at least 6 months of age, if imported for resale. Exemptions are provided for dogs imported for research purposes or veterinary treatment. The Secretaries of Agriculture, Health and Human Services, Commerce, and Homeland Security will promulgate regulations necessary to implement this section. Failure to comply by an importer will result in the importer being subject to fines under section 19 of the Animal Welfare Act and providing for the care, forfeiture, and adoption of each applicable dog at the expense of the importer. (Section 3205)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendment. The Managers recognizes that Hawaii may have a unique situation arising out of Hawaii's current quarantine regulations. In the case of Hawaii, so long as the state continues to quarantine dogs imported from the mainland United States, the Secretary may permit an exception to allow the import of dogs under the age of 6 months from jurisdictions currently exempt from the Hawaii quarantine (i.e. Guam, Australia, New Zealand, and the British Isles) for resale in Hawaii, provided all other regulations of the Secretary, and of the State of Hawaii, are complied with. Any dogs imported into Hawaii pursuant to this exception shall not be shipped to any other jurisdiction within the United States for resale at less than 6 months of age.

The Managers do not intend for the exception for veterinary treatment to be used for routine veterinary care. This exemption is in place for emergency situations where the dogs in question are in need of immediate veterinary treatment and may not have the required vaccinations. Congress expects that such dogs would also be properly quarantined until the dogs are determined to be in good health as defined by regulations promulgated by the Secretary. Further, it is not the intent of Managers to prevent organizations from importing dogs under the age of 6 months in the event of an emergency, and transferring ownership or control of such dogs under the age of 6 months, provided such organization does

not receive more than de minimus consideration for such adopted or transferred dogs. (Section 14210)

(7) Outreach and technical assistance for socially disadvantaged farmers and ranchers and limited resource farmers and ranchers

The House bill amends section 2501 of the Food, Agriculture, Conservation, and Trade Act (FACT Act) to specify that the 2501 Technical and Outreach Assistance Program is to be used to enhance the coordination, outreach, technical assistance, and education efforts authorized under USDA programs.

The House bill authorizes agencies within USDA to make grants and enter into contracts and cooperative agreements with a community-based organization in order to utilize the community-based organization to provide outreach and technical assistance. It requires the Secretary to submit to the House and Senate Agriculture Committees an annual report that includes the following: the recipients of funds made available under the 2501 Outreach and Technical Assistance Program; the activities undertaken and services provided; the number of producers served and the outcomes of such service; and the problems and barriers identified by entities in trying to increase participation by socially disadvantaged farmers and ranchers.

Section 11201(1)(C) provides mandatory funding in the amount of $15 million for each of the fiscal years 2008 through 2012. No more than 5 percent of the funds made available in each fiscal year are to be used for administrative expenses related to administering the 2501 Program.

Eligible entities are defined as any community-based organizations, networks, or coalition of community based organizations that have demonstrated experience in providing agricultural education or other agriculturally related services to and on behalf of socially disadvantaged farmers and ranchers and have provided to the Secretary documentary evidence of work with socially disadvantaged farmers and ranchers. (Section 11201)

The Senate amendment amends section 2501 of the Food, Agriculture, Conservation, and Trade Act (FACT Act) to specify that the 2501 Technical and Outreach Assistance Program is to be used to enhance the coordination, outreach, technical assistance, and education efforts authorized under USDA programs. The 2501 Program is to assist the Secretary in reaching socially disadvantaged farmers and ranchers and prospective socially disadvantaged farmers and ranchers, and improving the participation of those farmers and ranchers in USDA programs. The Secretary is required to submit and make publicly available a report that describes: (A) the accomplishments of the 2501 program, and (B) any gaps or problems in program service delivery, as reported by program grantees. Appropriations of up to $50,000,000 annually are authorized for fiscal years 2008–2012. No more than 5 percent of the funds made available in each fiscal year are to be used for administrative expenses related to administering The 2501 Outreach and Technical Assistance Program. The provision changes eligibility guidelines for potential grantees by extending from 2 to 3 years the period of time for which documentary evidence of work with socially disadvan-

taged farmers must be provided. The Secretary is authorized to provide for the renewal of a grant, contract, or other agreement under this section to an entity that: (A) has previously received 2501 funding; (B) has demonstrated an ability to reach socially disadvantaged farmers and increase the participation of such farmers in USDA programs; and (C) demonstrates to the satisfaction of the Secretary that an entity will continue to fulfill the purposes of the 2501 Program. This section requires the Secretary to promulgate regulations establishing criteria for grants under this program. This section requires the Secretary, following consultation with entities eligible for the 2501 Program to co-locate the 2501 Program and the Office of Outreach within 18 months of enactment. (Section 11052)

The Conference substitute adopts the Senate amendment with modifications to delete language from the Senate amendment pertaining to renewal of contracts, review of proposals, and coordination with the Office of Outreach of the Department of Agriculture, which is now addressed in Section 14013, Office of Advocacy and Outreach. The Conference substitute also provides $75 million in mandatory funding for the 2501 Program. (Section 14004)

(8) Improved program delivery by Department of Agriculture on Indian reservations

The House bill amends section 2501(g) of the FACT Act by authorizing the Secretary to require the Agricultural Stabilization and Conservation Service, the Soil Conservation Service, the Farmers Home Administration offices, and any such offices and functions that the Secretary chooses to include, establish a consolidated suboffice at tribal headquarters on Indian reservations, where there is a demonstrated need. (Section 11202)

The Senate amendment is the same as the House bill, with technical differences. (Section 11054)

The Conference substitute adopts the House provision with a technical change to correct the agency names in the statute. (Section 14001)

(9) Transparency and accountability for socially disadvantaged farmers and ranchers

The House bill amends section 2501A of the FACT Act by requiring the Secretary to annually compile, for each county and State in the United States, program application and participation rate data regarding socially disadvantaged farmers or ranchers by computing for each USDA program that serves agricultural producers and landowners: (A) raw numbers of applicants and participants by race, ethnicity, and gender; and (B) the application and participation rate by race, ethnicity, and gender, as a percentage of the total participation rate of all agricultural producers and landowners.

The Secretary, using the technologies and systems of the National Agricultural Statistics Service, is authorized to compile and present application and participation rate data regarding socially disadvantaged farmers or ranchers in a manner that includes the raw numbers and participation rates for: the entire United States; each State; and, each county in each State. The Secretary is re-

quired to make the data (i.e., report) available to the public, via a website and otherwise in electronic and paper form. (Section 11203)

The Senate amendment amends section 2501A of the FACT Act by requiring the Secretary to annually compile, for each county and State in the United States, program application and participation rate data regarding socially disadvantaged farmers and ranchers by computing for each USDA program that serves agricultural producers and landowners: (A) raw numbers of applicants and participants by race, ethnicity, and gender; and (B) the application and participation rate by race, ethnicity, and gender, as a percentage of the total participation rate of all agricultural producers and landowners.

The Secretary, using the technologies and systems of the National Agricultural Statistics Service, is authorized to compile and present application and participation rate data regarding socially disadvantaged farmers or ranchers in a manner that includes the raw numbers and participation rates for: the entire United States; each State; and, each county in each State. (Section 11056)

The Conference substitute adopts the House provision. (Section 14006)

(10) Beginning farmer and rancher development program

The House bill provides that mandatory funding in the amount of $15 million is to be provided for each of the fiscal years 2008 through 2012 to carry out the program. (Section 11204)

The Senate amendment incorporates energy conservation efficiency and transition to organic farming into the programs and services eligible to receive competitive grants under this program. It limits grants under this program to $250,000. The provision adds a set of evaluation criteria the Secretary shall consider when awarding grants under this program. The Secretary is also required to ensure, to the maximum extent practicable, geographic diversity of grantees under this program. Organizations that work with refugee or immigrant beginning farmers or ranchers are added to be eligible to receive grants. This provision authorizes $30,000,000 in annual appropriations for the BFRDP. (Section 7309)

The Conference substitute adopts the Senate provision with an amendment to move the program into the research title of this Act, to delete the incorporation of energy conservation efficiency and transition to organic farming into the program, to delete the clarification on organizations that work with refugee or immigrant beginning farmers, and to add $15,000,000 in mandatory funding for each fiscal year from 2009 and $20 million for each of fiscal years 2010 through 2012.

The Managers encourage the Secretary to include asset- based farming opportunity strategies in the grant categories of the Beginning Farmer and Rancher Development Program (BFRDP) in order to aid with the overall purposes of the program, which include financial management training, the acquisition and management of agricultural credit, and innovative farm and ranch transfer strategies.

The Managers expect the panels that will review the grant applications through the BFRDP to include a broad range of individ-

uals with appropriate expertise and experience in delivering beginning farmer and rancher programs.

The Managers intend for the BFRDP to include immigrant beginning farmers and ranchers in the funding set-aside for socially disadvantaged and limited resource farmers and ranchers.

The Managers are aware of and fully support the goals of the National Young Farmers Education Association National Forum on Identifying Issues and Enhancing Success for America's Young and Beginning Agricultural Producers. To the extent practicable, the Managers encourage the Secretary to provide support to this important forum. (Section 7410)

(11) Provision of receipt for service or denial of service

The House bill authorizes the Secretary to provide a receipt for service to a producer or landowner, or prospective producer or landowner, in any case where the producer or landowner, or prospective producer or landowner, requests any benefit or service offered by USDA to agricultural producers or landowners. The receipt for service is to be issued on the date the request is made and must contain the date, place, and subject of the request, as well as the action taken, not taken, or recommendations made in response to the request. (Section 11205)

The Senate amendment differs from the House version in that it: (1) specifies that Farm Service Agency and Natural Resources Conservation Service are the agencies subject to this provision, and (2) requires the receipt upon request. Section 11057 amends Section 2501A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C.2279–1)(as amended by section 11056). This section requires the Secretary of Agriculture to issue to farmers and ranchers seeking a benefit or service offered by the Farm Service Agency or the Natural Resources Conservation Services of USDA, a receipt upon request that contains the date, place, and subject of the request as well as the action taken, not taken, or recommended to the farmer or rancher. (Section 11057)

The Conference substitute adopts the Senate amendment but modifies the language to include "current or prospective producer or landowner" and adds Rural Development to the agencies that are subject to the provision. (Section 14003)

(12) Tracking of socially disadvantaged farmers or ranchers and limited resource farmers or ranchers in Census of Agriculture and certain studies

The House bill requires the Secretary to ensure, to the maximum extent possible, that the Census of Agriculture accurately documents the number, location, and economic contributions of socially disadvantaged and limited resource farmers or ranchers. (Section 11206)

The Senate amendment amends section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279). The Secretary is required to ensure, to the maximum extent possible, that the Census of Agriculture accurately documents the number, location, and economic contributions of socially disadvantaged and limited resource farmers or ranchers. (Section 11055)

The Conference substitute adopts the Senate amendment. (Section 14005)

(13) Farmworker coordinator

The House bill authorizes the Secretary to establish the position of Farmworker Coordinator, to be located in USDA's Office of Outreach. The Farmworker Coordinator is to have a number of duties, including: serving as a liaison to community-based, non-profit organizations that represent low-income migrant and seasonal farmworkers; coordinating with USDA and State and local governments to assure that farmworker needs are met during declared disasters and emergencies; and assuring that farmworkers have access to services and support that will assist them in entering agriculture as producers. An appropriation of such sums as necessary is authorized for fiscal years 2008 through 2012. (Section 11207)

The Senate amendment is the same as the House bill, with technical differences. The Senate provision amends section 296(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7014(b)). (Section 11059)

The Conference substitute adopts the Senate provision with an amendment to specify that the Farmworker Coordinator shall have responsibility for assisting farmworkers in becoming agricultural producers or landowners, and to make other technical changes. The Farmworker Coordinator has been relocated into the Office of Advocacy and Outreach as described in (93) of this document. (Section 14013)

(14) Office of Outreach relocation

The House bill authorizes the Secretary to develop a proposal to relocate USDA's Office of Outreach. The Office of Outreach is to be responsible for the 2501 Outreach and Technical Assistance Program and the Beginning Farmer and Rancher Development Program. (Section 11208)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House amendment with modification. The substitute establishes a new Office of Advocacy and Outreach, the purpose of which is to improve the viability and profitability of small farms and ranches, beginning farmers or ranchers, and socially disadvantaged farmers or ranchers, as well as to improve access to programs of the Department of Agriculture.

The Office of Advocacy and Outreach is to be overseen by a director appointed by the Secretary from among the competitive service and to have two distinct groups, a Socially Disadvantaged Farmer Group and a Small Farms and Beginning Farmers and Ranchers Group. The Socially Disadvantaged Farmers Group is to carry out the 2501 Program, oversee the Minority Farmer Advisory Committee, oversee the Farmworker Coordinator, and carry out the functions of the Office of Outreach and Diversity previously carried out by the Office of the Assistant Secretary for Civil Rights. The Small Farms and Beginning Farmers and Ranchers Group is to oversee the Office of Small Farms Coordination, consult with the National Institute for Food and Agriculture on the administration of the Beginning Farmer and Rancher Development Program, coordinate with the Advisory Committee for Beginning Farmers and

Ranchers, and carry out other such duties as determined appropriate by the Secretary of Agriculture. (Section 14013)

(15) Minority farmer advisory committee

The House bill authorizes the Secretary to establish a minority advisory committee, to be overseen by USDA's Office of Outreach. The committee is to have a number of duties, including: reviewing civil rights cases to ensure that they are processed in a timely manner; reporting quarterly to the Secretary on civil rights enforcement and outreach; recommending to the Secretary corrective actions to prevent civil rights violations; and reviewing the operations of the 2501 Outreach and Technical Assistance Program.

The Committee is to be composed of the following:

(A) 3 members appointed by the Secretary;

(B) 2 members appointed by the chairman of the Committee on Agriculture, Nutrition, and Forestry, of the Senate—in consultation with the ranking member;

(C) 2 members appointed by the chairman of the House Agriculture Committee—in consultation with the Ranking member;

(D) a civil rights professional;

(E) a socially disadvantaged farmer or rancher; and

(F) such other persons or professionals that the Secretary determines to be appropriate. (Section 11209)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with amendment. The substitute specifies that the duty of the committee is to provide advice to the Secretary on implementation of the 2501 Program, methods of maximizing the participation of minority farmers and ranchers in Department of Agriculture programs, and civil rights activities at the Department of Agriculture. The substitute deletes components of the House bill pertaining to review of civil rights cases, the processing of civil rights cases, quarterly reporting to the Secretary on civil rights enforcement, annual reporting to the Secretary on civil rights compliance, recommendations to the Secretary regarding corrective actions to prevent civil rights violations, review of operations of the 2501 Program, and review of outreach efforts in the agencies and programs of the Department.

The substitute also revises the membership of the committee, specifying not less than four socially disadvantaged farmers and ranchers, not less than two representatives of nonprofit organizations, not less than two civil rights professionals, not less than two representatives of higher education, and other such persons as deemed appropriate by the Secretary. The substitute also provides the Secretary of Agriculture with authority to appoint employees of the Department of Agriculture as ex-officio members. (Section 14008)

(16) Coordinator for chronically underserved rural areas

The House bill authorizes the Secretary to establish a Coordinator for Chronically Underserved Rural Areas, to be located in USDA's Office of Outreach. The mission of the Coordinator is to direct USDA's resources to high need, high poverty rural areas. The

Coordinator's duties are to include consulting with other USDA offices in directing technical assistance, strategic planning, at the State and local level, for developing rural economic development that leverages the resources of State and local governments and non-profit and community development organizations. An appropriation of such sums as necessary is authorized for each of the fiscal years 2008 through 2012. (Section 11210)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to locate the Coordinator in Rural Development instead of the Office of Outreach. (Section 14118)

(17) Foreclosure

The Senate amendment states that currently there is a USDA guidance that prohibits loan foreclosures when there is a pending claim of racial discrimination against the Department. This provision amends section 307 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927) to put into law what is already in place in a guidance at USDA.

Subsection (a) *Moratorium.* This section mandates a moratorium on all loan acceleration and foreclosure proceedings where there is a pending claim of discrimination against the Department related to a loan acceleration or foreclosure. This section also waives any interest and offsets that might accrue on all loans under this title for which loan and foreclosure proceedings have been instituted for the period of the moratorium. If a farmer or rancher does not prevail on his claim of discrimination, then the farmer or rancher will be liable for any interest and offsets that accrued during the period that the loan was in abeyance. The moratorium will terminate on either the date the Secretary resolves the discrimination claim or the court renders a final decision on the claim, whichever is earlier.

Subsection (b) *Report.* This section requires the Inspector General of USDA to determine whether loan foreclosure proceedings of socially disadvantaged farmers have been implemented according to applicable laws and regulations. The Inspector General shall submit a report of its determination to the Senate and House Committees on Agriculture not later than a year after this legislation's enactment. (Section 11051)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment with an amendment that the farmer or rancher is required to have a program discrimination claim and that the Department makes a procedural determination to accept the claim as a valid one. The determination to accept the claim by the Department is intended to be procedural and not a statement as to the merits of the claim. The Conference substitute amends Section 331A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981a) and specifies that the provision applies to farmer program loans made under subtitle A, B, or C. (Section 14002)

(18) Additional contracting authority

The Senate amendment amends section 2501(a)(3) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C.

2279(a)(3)). This section clarifies that the agencies and programs of the Department of Agriculture are authorized to enter into contracts and cooperative agreements with community-based organizations to provide service to socially-disadvantaged farmers and ranchers, clarifies that the Secretary is not required to require matching funds for such agreements, and allows federal agencies to contribute to grants or cooperative agreements made under the 2501 Program as the agency determines that contributing funds for such purpose will further the authorized programs of the contributing agency. (Section 11053)

The House bill contains a similar provision in section 11201.

The Conference substitute deletes both House and Senate provisions.

(19) Emergency grants to assist low-income migrant and seasonal farmworkers

The Senate amendment amends Section 2281 of the Food, Agriculture, Conservation and Trade Act of 1990 (42 U.S.C. 5177a). This section requires the Secretary to maintain a disaster fund of $2,000,000, and authorizes discretionary funding to maintain it. This section further requires that public or private entities eligible to receive funding under this section must have at least five years demonstrated experience in representing and providing emergency services to low-income migrant or seasonal farmworkers. Types of allowable assistance are specified, in addition to such other priorities that the Secretary determines to be appropriate. (Section 11061)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate amendment.

(20) National appeals division

The Senate amendment amends section 280 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7000). This section establishes a reporting requirement that states the head of each agency shall report to the House and Senate Agriculture Committees, and post on the Department's website information that includes a description of all cases returned to the agency by the National Appeals Division, the status of implementation of each final determination and if the final determination has not been implemented then the reason and the projected date of implementation. The reporting requirement to Congress should be every 180 days and the website should be updated not less than monthly. (Section 11058)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 14009)

(21) Oversight and compliance

The Senate amendment requires the Secretary of Agriculture to use the reports required under section 2501 of the FACT Act in the conduct of program oversight regarding the participation of socially disadvantaged farmers in USDA programs as well as in the evaluation of civil rights performance. (Section 11064)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment. (Section 14007)

(22) Report of civil rights complaints, resolutions, and actions

The Senate amendment requires the Secretary of Agriculture to issue an annual report on program and employment civil rights complaints, including the number of complaints filed, the length of time required to process complaints, the number of complaints resolved with a finding of discrimination, and the personnel actions taken by the agency following resolution of civil rights complaints. (Section 11065)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment. The Managers intend that if the Secretary, in compiling determines the aggregate data does not accurately reflect the scope of complaints, then the Secretary may note in the report that multiple complaints came from a single individual, in order to provide clear picture of the scope of the complaints. (Section 14010)

(23) Grants to improve supply, stability, safety, and training of agricultural labor force

The Senate amendment directs the Secretary to make grants to nonprofit organizations to assist agricultural employers and farmworkers with services that help improve the quality of the agricultural labor force through job training, short-term housing, workplace literacy and ESL training, and health and safety instruction, among other purposes. Discretionary funding is authorized to carry out this section. (Section 11066)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with amendments to clarify the eligible services that may be provided with grant funds through the program; to specify that assistance may be provided to farmworkers who are citizens or otherwise legally present in the United States; and to establish a 15 percent limit on administrative expenses for the program. (Section 14204)

(24) Office of small farms and beginning farmers and ranchers

The Senate amendment establishes an office at USDA to be known as the Office of Small Farms and Beginning Farmers and Ranchers. Section (b) outlines the purposes of the office including enduring coordination across all agencies; ensure small, beginning, and socially disadvantaged farmers and ranchers access to all USDA programs; unsure the number and economic contributions of small, limited resource, beginning and socially disadvantaged farmers and ranchers are accurately reflected in the Census of Agriculture; and to assess and enhance the effectiveness of outreach programs the department. Subsection (c) establishes the office should be headed by a director. Subsection (d) outlines the duties of the office including to establish cross cutting and strategic departmental goals and objectives for small, beginning, and socially disadvantaged farmer and rancher programs. Subsection (e) requires the office to maintain a website to share information with interested producers and to collect and respond to comments from small and beginning farmers and ranchers. Subsection (f) requires

the Secretary to provide the office human and capital resources sufficient to allow the office to carry out its duties using funds made available to the Secretary through appropriations acts. Subsection (g) requires and annual report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry in the Senate. (Section 11088)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment that Section 14013 subsumes this office into the Office of Advocacy and Outreach. (Section 14013)

(25) Designation of separate cotton-producing States under Cotton Research and Promotion Act

The House bill amends the definition of "cotton-producing State" in the Cotton Research and Promotion Act to include Kansas, Virginia, and Florida as each being considered separate cotton producing States under the Act, beginning with the 2008 crop of cotton. (Section 11301)

The Senate amendment designates Kansas, Virginia, and Florida as each being considered separate cotton-producing States effective beginning with the 2008 crop of cotton for purposes of the Cotton Research and Promotion Act. (Section 1713)

The Conference substitute adopts the Senate provision. (Section 14202)

(26) Cotton classification services

The House bill extends the authority of the Secretary to make cotton classification services available to producers of cotton and to collect classification fees from participating producers through FY 2012. The provision authorizes the Secretary to enter into long-term lease agreements that exceed five years or take title to property in order to obtain offices used for the classification of cotton. (Section 11302)

The Senate amendment authorizes cotton classing services without any fiscal year restrictions. Similar to the House bill, the Senate amendment authorizes the Secretary to enter into long-term lease agreements that exceed five years or take title to property in order to obtain offices used for the classification of cotton. The provision requires the Secretary to consult with the cotton industry in establishing the fees. It ensures that the Federal Advisory Committee Act requirements do not apply to consultations with the US Cotton industry. It also provides greater discretion to the Secretary in establishing the fees. (Section 1712)

The Conference substitute adopts the Senate provision with an amendment to ensure that the Secretary announces the classification fee and any applicable surcharge for classification services not later than June 1 of the year in which the fee applies.

The Managers expect the cotton classification fee to be established in the same manner as was applied during the 1992 through 2007 fiscal years. The classification fee should continue to be a basic, uniform per bale fee as determined necessary to maintain cost-effective cotton classification service. In consulting with the cotton industry, the Secretary should demonstrate the level of fees necessary to maintain effective cotton classification services and

provide the Department of Agriculture with an adequate operating reserve, while also working to limit adjustments in the year-to-year fee. (Section 14201).

(27) Availability of excess and surplus computers in rural areas

The House bill provides that the Secretary may make surplus USDA computers or technical equipment available to any city or town in a rural area. (Section 11303)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to ensure that the activities authorized under this section are in addition to, and would not replace, activities conducted under other existing authorities of the Secretary with regard to property disposal.

The Managers expect the Secretary to use this authority to continue to make available excess or surplus computers to city or towns located in rural areas through organizations that are able to refurbish such equipment and supply it to rural schools, libraries, and city halls in need.

The intent of the conferees is that local governments include independent school districts. (Section 14220)

(28) Permanent debarment from participation in Department of Agriculture programs for fraud

The House bill authorizes the Secretary to permanently debar an individual or entity convicted of knowingly defrauding the United States in connection with any program administered by the Department of Agriculture from any subsequent participation in such programs. (Section 11304)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment. The amendment provides the Secretary the authority to limit the debarment to not less than ten years. The amendment further provides that debarment shall not have any effect on the receipt of domestic food assistance. (Section 14211)

(29) No discrimination against use of registered pesticide products or classes of pesticide products

The House bill prohibits the Secretary from discriminating against the use of specified registered pesticide products or classes of pesticide products in establishing priorities and evaluation criteria for approval of plants, contracts and agreements under the conservation title of this Act. (Section 11305)

The Senate amendment contains no comparable provision.

The Conference substitute strikes this provision. Insomuch as the underlying House provision was a restatement of long-standing policy of the Natural Resources Conservation Service (NRCS), the managers recognize that statutory language is unnecessary.

The House provision referred to pesticides registered by the Environmental Protection Agency (EPA) in accordance with the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and the Food Quality Protection Act (FQPA). A FIFRA registration implies that uses of pesticides have been deemed by EPA to have met

established standards of safety to human health and the environment when used in accordance with the label.

Under various conservation programs authorized in Title II, the managers have directed the Secretary to establish priorities and evaluation criteria to ensure the efficient and effective use of resources.

However, it is not the intent of the managers to undermine the regulatory framework for the legal use of registered pesticides while implementing various conservation programs in this Title.

Therefore, in establishing priorities and evaluation criteria for the approval of plans, contracts and agreements under Title II of this Act, it is the expectation of the managers that the NRCS shall neither prohibit the use of specific registered pesticides or classes of pesticides, nor advocate for the use of alternatives to registered pesticides or classes of pesticides.

The managers intend for NRCS to assist farmers wishing to adopt new technologies and specific pest management strategies that contribute to agricultural production and environmental quality. For example, programs that assist farmers in developing risk mitigation measures regarding pesticide use are entirely consistent with the current regulatory program administered by EPA and would not be in conflict with Congressional intent.

(30) Prohibition on closure or relocation of county offices for the Farm Service Agency, Rural Development Agency, and Natural Resources Conservation Service

The House bill prohibits the Secretary from closing or relocating a county or field office of the Farm Service Agency, Rural Development Agency, or Natural Resources Conservation Service for one year following the date of enactment of this Act. (Section 11306)

The Senate amendment defines "critical access county FSA office" in subsection (a) as an office of the Farm Service Agency proposed to be closed during the period beginning on November 10, 2005 and ending on December 31, 2007; proposed to be closed with the closing delayed until after January 1, 2008; or included on a list of critical access county FSA offices. FSA offices that are located not more than 20 miles from another FSA office or that employ no full-time equivalent employees are excepted from the definition of critical access county FSA office. Subsection (b) prohibits the Secretary from using any funds to pay the salaries or expenses of any USDA officer or employee to close any critical access county FSA office during the period from the date of enactment through September 30, 2012. The Secretary is required to maintain a staff of not less than 3 full-time equivalent employees in each critical access county FSA office although the staff may be located in any other county office of the FSA in that State. However, a critical access county FSA office must have at least 1 full-time equivalent employee.

Subsection (c) allows the Secretary to close a critical access county FSA office only on concurrence by Congress and the applicable State Farm Service Agency committee. (Section 11071)

The Conference substitute adopts the House provision with an amendment.

The Managers have provided the exception paragraph to allow the Secretary to review offices meeting the criteria and close those offices if justified; the language in the exception paragraph does not require the Secretary to close offices meeting the criteria. The Managers expect that the Department will communicate with Congressional delegations about proposed closures and respond to concerns about such closures. (Section 14212)

(31) Regulation of exports of plants, plant products, biological control organisms, and noxious weeds

The House bill amends the Agricultural Risk Protection Act of 2000 to require the Secretary to coordinate fruit and vegetable market analyses with the private sector and Foreign Agricultural Service. Further requires the Secretary to list on an Internet website the status of export petitions, an explanation of associated sanitary or phytosanitary issues, and information on the import requirements of foreign countries for fruits and vegetables. (Section 11307)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to strike the original language and insert a provision in the Technical Assistance for Specialty Crops program requiring the Secretary to submit an annual report on sanitary and phytosanitary trade barriers. (Section 3203)

(32) Grants to reduce production of methamphetamines from anhydrous ammonia

The House bill authorizes the Secretary to make grants to eligible entities to enable such entities to obtain and add to an anhydrous ammonia fertilizer nurse tank a substance that will reduce the amount of methamphetamine that can be produced from such tank. It provides that the grant amount be between $40 and $60, multiplied by the number of nurse tanks for each eligible entity. The provision also authorizes appropriations of not more than $15 million for each of fiscal years 2008 through 2012. (Section 11308)

The Senate amendment is the same as the House bill, except it provides that a grant can be used either for a physical lock or a chemical substance. (Section 11062)

The Conference substitute adopts the Senate amendment. (Section 14203)

(33) USDA Graduate School

The House bill amends the Federal Agriculture Improvement and Reform Act of 1996 to prohibit the Department of Agriculture from establishing, maintaining, or operating a non-appropriated fund instrumentality of the United States to develop, administer, or provide educational training and professional development activities, including educational activities for Federal agencies, Federal employees and other entities, effective October 1, 2008. (Section 11309)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment. The modification keeps the House language but extends the deadline for the General Administrative Board of the

Graduate School to transition the Graduate School into a non-governmental nonappropriated fund instrumentality to October 1, 2009. It further authorizes the Secretary to use available appropriated funds and other resources to assist in the Graduate School's transition. Effective immediately, the Graduate School shall be subject to Federal procurement procedures in the same manner and subject to the same requirements as a commercial entity. (Section 14213)

(34) Prevention and investigation of payment and fraud and error

The House bill amends the Right to Financial Privacy Act of 1978 to allow financial institutions to disclosure an individual's financial records to any Government entity that certifies, disburses or collects payments, when such disclosure is necessary for the proper administration of programs. The provision expands the permitted use of the disclosed financial information to include the verification of the identity of any person in connection with Federal payment or collection of funds, or the investigation or recovery of improper Federal payments, improperly collected funds, or an improperly negotiated Treasury check. (Section 11310)

The Senate amendment is the same as the House bill except:

(1) The provision does not change paragraph (k)(1) of the existing exception in the Right to Financial Privacy Act of 1978, which allows disclosure of the name and address of any financial institution customer if the disclosure is necessary for the proper administration of section 1441 of Title 26, title II of the Social Security Act, or the Railroad Retirement Act.

(2) New paragraph (2) allows disclosure of a customer's financial records, rather than just a customer's name and address as permitted under paragraph (1), to reflect the fact that electronic payments are not directed to customers by means of a name and address, in contrast to paper checks.

(3) Information may be disclosed under the new paragraph (2)(A) not only to the extent that the information is necessary to verify the identity of any person making or receiving a Federal payment, but also to verify the proper routing and delivery of funds.

(4) New paragraph (3) applies to a request authorized by paragraph (k)(1) or (2). Similar to the House version, the provision does not allow for the disclosure by a financial institution of the customer's financial records in their entirety, but only the information contained in the records that are relevant to the purpose of the request. (Section 11068)

The Conference substitute adopts the Senate provision. (Section 14205)

(35) Sense of Congress regarding food deserts, geographically isolated neighborhoods and communities with limited or no access to major chain grocery stores

The House bill expresses the sense of Congress that the Secretary of Agriculture, in conjunction with the National Institutes of Health, Centers for Disease Control and Prevention, Institute of Medicine, and faith-based organizations, should assess "food deserts" in the United States (geographically isolated neighbor-

hoods and communities with limited or no access to major-chain grocery stores), and develop recommendations for eliminating them. (Section 11311)

The Senate amendment requires the Secretary to study and report on areas in the United States with limited access to affordable and nutritious food, with a focus on predominantly lower-income neighborhoods and communities. (Section 7504)

The Conference substitute adopts the Senate provision with an amendment to move this provision to the Research Title of this Act, to include and define the term "food desert," and to include an authorization of appropriations for the study. (Section 7527)

(36) Pigford claims

The House bill provides that Pigford claimants who have not had their cases determined on the merits may, in a civil action, obtain such a determination. Payments or debt relief are to be exclusively made from mandatory funds provided to carry out this section. The total amount of payments and debt relief are prohibited from exceeding $100 million; additionally, payments and debt relief provided under this section are not to be made from Judgment Fund established by 31 U.S.C. 1304. The intent of Congress is to have this section liberally construed. Not later than 60 days after the Secretary receives notice that a Pigford claimant desires to have a determination made on the merits of a claim, the Secretary is to provide the claimant with a report on farm credit loans made within the claimant's county, or adjacent county, by USDA for a period beginning on Jan. 1 of the year or years covered by the complaint and ending on Dec. 31 of the following year or years.

The report is to contain information on all person whose loans were accepted, including:

(a) the race of the applicant;
(b) the date of the application;
(c) the date of the loan decision;
(d) the location of the office making the loan decision; and
(e) all data relevant to the process of deciding the loan.

The reports provided by USDA are not to contain identifying information regarding the person that applied for a USDA loan. Claimants who allege discrimination in the application for, or making or servicing of, a farm loan are permitted to seek liquidated damages of $50,000, or a discharge of the debt that was incurred under, or affected by, the alleged discrimination that is the subject of the complaint, and a tax payment in an amount of the liquidated damages and loan principal discharged only if:

(1) the claimant is able to prove his or her case by substantial evidence; and

(2) the court decides the case based on documents, submitted by the claimant, that are relevant to the issue of liability and damages.

The Secretary is prohibited from beginning acceleration on or foreclosure of a loan if the borrower is a Pigford claimant and, during an administrative proceeding, the claimant makes a prima facie case that the foreclosure is related to a Pigford claim. A "Pigford claimant" is defined as an individual who previously submitted a late-filing request under section 5(f) of the Pigford consent decree,

in the case of Pigford v. Glickman, approved by the U.S. District Court for DC on April 14, 1999. A "Pigford claim" is defined as a discrimination complaint, as defined by section 1(h) of the Pigford consent decree and documented under section 5(b) of the decree.

Mandatory funding of $100 million is to be made for fiscal year 2008. The funding is to remain available until it has been expended for payments and debt relief in satisfaction of claims against the U.S, with respect to a Pigford claimants who have their claims determined on the merits, and for any actions made related to the prohibition regarding foreclosures related to Pigford claims. (Section 11312)

The Senate amendment is the same as the House bill except:

(1) Subsection (a)(1) requires all claimants to file in United States District Court for the District of Columbia.

(2) Subsection (a)(2) connects the definition of "substantial evidence to the one used in the original consent decree.

(3) Authorizes appropriate funds as necessary beyond the $100 million in mandatory funding. (Section 5402)

The Conference substitute adopts the Senate amendment with modifications. The Secretary will have 120 days to provide the claimant a report, or may petition the court for an extension. The modification requires the Secretary to retrieve data from within the claimant's county, or, if no documents are found then within an adjacent county as determined by the claimant.

The modification provides for those who are filing a claim for discrimination involving a noncredit benefit to be able to obtain a report from the Secretary. It also provides for those claimants to receive a maximum of $3,000 irrespective of the number of noncredit claims on which the claimant prevails.

The modification provides for those filers who chose not to go through the expedited resolutions process, to be entitled to actual damages if the claimant prevails.

The modification also provides a requirement for the Secretary to report once every six months to both the House and Senate Committees on the Judiciary the status of available funds and the number of pending claims under the expedited resolutions process. It further requires the Secretary to notify those Committees once 75% of the funds have been depleted. It further provides for a 2-year statute of limitations to file a claim under this section. (Section 14012)

(37) Sense of Congress relating to claims brought by socially disadvantaged farmers or ranchers

The Senate amendment contains a sense of Congress that the Secretary should resolve all claims and class actions brought against the United States Department of Agriculture by socially disadvantaged farmers or ranchers including Native Americans, Hispanics, and female farmers regarding discrimination in farm loan program participation. (Section 5403)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate amendment with a modification that all pending claims should be resolved expeditiously. (Section 14011)

(38) Comptroller General study of wastewater infrastructure near United States-Mexico border

The House bill mandates that the Comptroller General study wastewater infrastructure in rural communities within 150 miles of the United States-Mexico border to determine how the Government can assist these communities in updating the wastewater infrastructure. (Section 11313)

The Senate amendment contains no comparable provision.

The Conference substitute deletes this provision.

(39) Elimination of statute of limitations applicable to collection of debt by administrative offset

The House bill amends 31 U.S.C. 3716(e) to eliminate the statute of limitations within which a government agency can initiate the collection of an outstanding claim by administrative offset. (Section 11314)

The Senate amendment is the same as the House bill. (Section 11069)

The Conference substitute adopts the House provision. (Section 14219)

(40) Pollinator protection

The House bill cites this section as the "Pollinator Protection Act of 2007". It states Congress' findings regarding the importance of bee pollination to agriculture and the concerns related to colony collapse disorder in the bee population. The provision authorizes appropriations, as follows:

• For the Agricultural Research Service at USDA—$3 million for each of fiscal years 2008 through 2012 for new personnel, facilities improvement, and additional research at the USDA Bee Research Laboratories; $2.5 million for each of fiscal years 2008 and 2009 for research on honey and native bee physiology, and other research; and $1.75 million for each of fiscal years 2008 through 2010 for an area-wide research program to identify causes and solutions for colony collapse disorder.

• For the Cooperative State Research, Education, and Extension Service—$10 million to fund grants to investigate honey bee biology, immunology, ecology, genomics, bioinformatics, crop pollination and habitat conservation, the effects of insecticides, herbicides and fungicides, and other research.

• For the Animal and Plant Health Inspection Service—$2.25 million for each of fiscal years 2008 through 2012 to conduct a honey bee pest and pathogen surveillance program.

The House bill requires the Secretary to submit a report to Congress on the status and progress of bee research projects. It amends the Food Security Act of 1985 to require the Secretary, when carrying out a conservation program other than the farmland protection program, to establish a priority and provide incentives for increasing habitat for pollinators and to establish practices to protect native and managed pollinators. (Section 11315)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to move the research-related items of this provision to the research title of this Act to amend section 1672 of the Food, Ag-

riculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925), and to move the conservation-related item of this provision to the conservation title of this Act.. (Section 7204)

(41) Exemption from AQI user fees

The Senate amendment exempts commercial trucks from payment of agricultural quarantine and inspection user fees if it originates in Alaska and reenters the United States directly from Canada or if it originates in the United States and transits through Canada before entering Alaska. Commercial trucks exempt from user fees are required to remain sealed during transit through Canada. (Section 11080)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(42) Regulations to improve management and oversight of certain regulated articles

The Senate amendment requires the Secretary to promulgate regulations for improved management and oversight of articles regulated under the Plant Protection Act. (Section 11077)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to change the timeframe for the promulgation of regulations and to make technical changes. This provision can be found in the horticulture and organic agriculture title. (Section 10204)

(43) Invasive pest and disease emergency response funding clarification

The Senate amendment clarifies that the Secretary may provide emergency funding to States to combat invasive pest and disease outbreaks for any appropriate period after initial detection of the pest or disease, as determined by the Secretary. (Section 11078)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(44) Invasive species management, Hawaii

The Senate amendment requires cooperation among the federal agencies involved in preventing the introduction of and controlling invasive species in the State of Hawaii; requires the development of collaborative federal and state procedures to minimize the introduction of invasive species into Hawaii, and requires a report to Congress on the development of those procedures; establishes a process for Hawaii to seek approval from the federal government to impose restrictions on the introduction or movement of invasive species or disease into the State that are in addition to federal restrictions; in the event of an emergency or imminent invasive species threat, allows Hawaii to impose restrictions of up to 2 years to prevent introduction of the threat upon approval by the federal government. (Section 11063)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision. The Managers remain concerned about the serious and growing invasive species problem in the State of Hawaii. The Managers are aware of the threats that invasive species present to Hawaii's

unique ecosystem, which is highly susceptible to invasive species because of the combination of isolation of the Hawaiian islands and high passenger, baggage and cargo traffic to the islands. The Managers encourage the Secretaries of the Department of Agriculture, Interior and Homeland Security to work together in close cooperation with the State of Hawaii to effectively reduce the number of invasive species in Hawaii. The Managers emphasize this collaboration is critical at Hawaiian ports of entry.

(45) Invasive species revolving loan fund

The Senate amendment establishes an invasive species revolving loan fund. This loan fund allows eligible units of local government to finance purchases of authorized equipment to monitor, remove, dispose of, and replace infested trees on land under the jurisdiction of the eligible local government and within the borders of a quarantine area infested by an invasive pest. These loans can be no more than $5,000,000 and shall have an interest rate of two percent. An eligible unit of local government shall work with the Secretary to establish a loan repayment schedule. This schedule requires that not later than one year after the eligible unit of local government received a loan they must repay the loan. The payments can be scheduled semiannually after. (Section 11090)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to move this provision to the horticulture and organic title of this Act, to replace all references to "invasive species" with the term "pest and disease," and to strike the provision allowing the unit of local government to use the financing of contracts with individuals and entities as part of the matching requirement in this program. (Section 10205)

(46) Cooperative agreements relating to invasive species prevention activities

The Senate amendment allows States to provide cost-sharing assistance or financing mechanism to a unit of local of the State through any cooperative agreement entered into between the Secretary and a State relating to the prevention of invasive species infestation. (Section 11091)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to move this section to the horticulture and organic title of this Act, to amend section 431 of the Plant Protection Act (7 U.S.C. 7751), and to make technical changes. (Section 10206)

(47) Report relating to the ending of childhood hunger in the United States

The Senate amendment includes a sense of Congress regarding childhood hunger in the United States. This section specifies that, not later than one year after the date of enactment of the Act, the Secretary shall submit to Congress a report that describes the best and most cost-effective manner by which the federal government could allocate funds to achieve the goal of abolishing childhood hunger and food insecurity by 2013. (Section 11082)

The House bill contains no comparable provision.

The Conference substitute deletes this provision.

(48) GAO report on access to health care for farmers

The Senate amendment provides that the GAO shall provide a report on rural Americans access to health care with a focus on farmers by November 30, 2008. (Section 11074)

The House bill contains no comparable provision.

The Conference substitute deletes this provision.

(49) Conveyance of land to Chihuahuan Desert Natural Park

The Senate amendment conveys 935.62 acres of land in Dona Ana County, New Mexico to the Chihuahuan Desert Nature Park, Inc., a non-profit organization in New Mexico. The land is to be conveyed within one year after enactment of this Act. Subsection (c) outlines the conditions for the land conveyance. The United States reserves all mineral and subsurface rights of the land. The Chihuahuan Desert Nature Board must pay any costs associated relating to the conveyance. Also this subsection requires the land to be used for only educational or scientific purposes. Subsection (d) states if the land is not used for educational or scientific purposes the land may revert to the United States. If the land is environmentally contaminated, the Chihuahuan Desert Nature Park, Inc. or successor is responsible for the contamination and shall be required to remediate the contamination. (Section 11075)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to authorize the conveyance, without consideration, of certain lands in the George Washington National Forest. (Section 8302)

(50) Department of Agriculture conference transparency

The Senate amendment requires the Secretary to quarterly report to the Inspector General costs and contracting procedures relating to conferences held by USDA for which the cost to the Federal Government was over $10,000. Subsection (c) requires the Secretary to annually report to the Senate and House Agriculture Committees a detailed report about each conference where the USDA paid travel expenses. (Section 11081)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment. The modification provides reporting guidelines for conferences that are held by the Department or attended by employees of the Department. For conferences held by the Department, the Secretary will have to include a description of the contracting procedures related to the conference. The provision is not intended to apply to any training program for employees of the Department, or to conferences held outside the United States and attended by the Secretary or a designee as an official representative of the U.S. government. Travel under (c)(1)(d) does not apply to local travel for conferences. (Section 14208)

(51) National emergency grant to address effects of Greensburg, Kansas tornado

The Senate amendment states the Department of Labor awarded Greensburg, KS a $20 million grant to assist with cleanup from a F5 tornado that hit the town in May of 2007. The language allows the planning process to begin and allow federal funds that have already been awarded to flow more smoothly and efficiently. (Section 11083)

The House bill contains no comparable provision.

The Conference substitute deletes this provision.

(52) Report on program results

The Senate amendment requires the Secretary to report information regarding programs that have received a Program Assessment Rating Tool score of "results not demonstrated" and for each program provide reasons that the program has not been able to demonstrate results, steps taken to demonstrate results and what might be necessary to facilitate the demonstration of results. (Section 11084)

The House bill contains no comparable provision.

The Conference substitute deletes this section. The Managers recognize that the reporting requirements in the Senate amendment may duplicate actions already taken by the Secretary in regards to the Program Assessment Rating Tool and that information on Program Assessment Rating Tool scores is publicly available. However, in order to raise greater awareness about such evaluation, the Managers encourage the Secretary to provide progress reports to Congress on the programs that have received a Program Assessment Rating Tool of "results not demonstrated."

(53) Study of impacts of local food systems and commerce

The Senate amendment requires the Secretary of Agriculture to evaluate the potential community, economic, health and nutrition, environmental, food safety, and food security impacts of advancing local food systems and commerce, the challenges that prevent local foods from comprising a larger share of the per capita food consumption in the United States, and existing and potential strategies, policies, and programs to address those challenges. (Section 11089)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate amendment.

USDA's Economic Research Service (ERS) has indicated that the Agency is in the process of conducting a study of local food systems, thereby mitigating the need for a statutory mandate in this conference agreement. The ERS study will address issues raised in the Senate amendment including an evaluation of the effects of local food systems on economic activity, nutrition, and environmental resources. ERS has likewise indicated that the study will consider possible reasons for government policies to support local food markets and reduce barriers to growth of that sector.

The Managers are aware of the budgetary constraints ERS is operating under. In order to minimize costs and maximize the utility of the study being undertaken, the Managers encourage ERS to leverage available resources through collaboration with other ap-

propriate Federal agencies, farm operators serving local markets, institutions of higher education, non-governmental organizations, and state and local agencies. To the extent resources and data are available, the Managers also encourage ERS to examine regional market trends and production, processing and distribution needs and evaluate the role and successes of relevant Federal, State, and local policies in areas where the production, processing and consumption of locally grown produce, meat, dairy, and other agricultural products is above normative levels.

(54) Disclosure of country of harvest for ginseng

The Senate amendment amends the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.). It requires persons that sell ginseng at retail to provide the country of harvest by means of a label, stamp, mark, placard, or other easily legible and visible sign on the ginseng or on the package, display, holding unit, or bin containing the ginseng. The Secretary may levy fines for not more than $1,000 for willful violations of this provision. (Section 10004)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The Managers have included ginseng in section 11002 of the Livestock Title.

(55) Definitions

The Senate amendment defines the following terms used in the subtitle: agent; agricultural biosecurity; agricultural countermeasure; agricultural disease; agriculture; agroterrorist act; animal; department; development; plant; and qualified agricultural countermeasure. (Section 11011)

The House has no comparable provision.

The Conference substitute adopts the Senate provision with technical amendments to the definitions and incorporates this provision into the Agricultural Security Improvement Act of 2008. (Section 14102)

The Managers have serious concerns regarding the efforts of the Department of Homeland Security (DHS) to absorb the critical agricultural security functions of the USDA, and DHS' ability to successfully incorporate and manage functions previously housed within the USDA. The USDA is best equipped to handle routine agricultural disease emergencies and emergency response activities in the agricultural sector. While the Managers fully appreciate the vital importance of the broad DHS mandate, DHS has ignored critical expertise within USDA and of the agriculture sector in managing agricultural disease response activities. In doing so, DHS has ignored and failed to incorporate the concerns of the agriculture sector. For example, independent investigations carried out by the House Committee on Agriculture and the Government Accountability Office, as well as a joint audit by the Inspector's General of USDA and DHS, have revealed numerous deficiencies in the agricultural port inspection program. Under DHS leadership, this program has suffered a marked decline in its capability to prevent and detect the movement of agricultural pests and diseases into the United States. This decline in mission capabilities is primarily due to an exodus of experienced staff after the transfer of agricultural

inspections from USDA to DHS, declining morale and resources, and the lack of importance placed on the program's mission by DHS management. The Managers believe if this trend continues unabated, the security of the U.S. agriculture sector will be seriously, perhaps irreversibly, jeopardized. In addition, DHS is currently increasing their role in routine agricultural disease response activities and has claimed Federal jurisdiction as the lead agency for these activities traditionally managed by the USDA. Rather than attempt to duplicate the existing functions and capacities of USDA in this critical area, DHS would be better served, and scarce financial resources could be better allocated, if USDA and DHS effectively partnered in securing the Nation's agriculture sector. The Department of Agriculture has over 146 years of valuable experience in preventing the introduction of agricultural pests and diseases and effectively managing agricultural disease outbreaks when they occur. To ignore this history is to do a disservice to the agriculture sector, and the Nation at large.

The Managers are concerned about efforts to reorganize USDA in an attempt to heighten the Department's response and management capabilities regarding threats to agricultural biosecurity. The Managers recognize that the existing structure at USDA to address such threats is adequate, and will continue to successfully prevent, control, and eradicate agricultural diseases. However, the Managers have codified the Office of Homeland Security at USDA in this Act in response to the concerns of other Committees. All homeland security-related activities at USDA will be coordinated by this office, ensuring that USDA will maintain its long tradition of protecting the U.S. agriculture sector from foreign and domestic agricultural pests and diseases. In addition, the Director of the Office of Homeland Security will serve as the primary liaison with other Federal agencies on homeland security coordination efforts, providing USDA with a unified voice on agricultural security matters of Federal concern.

The Managers expect the Secretary, in establishing the Agricultural Biosecurity Communications Center, to use, to the maximum extent practicable, the existing resources and infrastructure of the Emergency Operations Center of the Animal and Plant Health Inspection Service located in Riverdale, Maryland. In addition, the Managers expect the Secretary to share and coordinate the dissemination of information with the National Operations Center, the National Biosurveillance Integration Center, the National Response Coordination Center, and the National Infrastructure Coordination Center of DHS, as appropriate. The Managers recognize that existing communication activities at DHS will not be hampered by the creation of the Agricultural Biosecurity Communications Center. However, the Managers also recognize the critical need for USDA to maintain and govern its own communication system given the subject matter expertise of USDA officials and their close ties to the domestic agriculture sector and international trading partners who trust their guidance and input.

The Managers understand that any successful agricultural disease interdiction, prevention, or mitigation effort is largely dependent on local response capabilities. State and regional entities play a critical role in any agricultural disease emergency; however, the

Federal government must provide them with the necessary expertise and information to establish successful local programs. The Managers recognize that no Federal agency is better equipped to assist in this endeavor than the Department of Agriculture. USDA enjoys an established network of local veterinarians, plant health professionals, producers, farmers and ranchers who view the Department as a partner in agricultural disease response activities. These long-established relationships will be buttressed by the Agricultural Biosecurity Task Force and will strengthen the Nation's disease response capabilities at the local and regional level. The Managers encourage the Secretary to collaborate with DHS in the provision of agricultural biosecurity best practices to State and tribal regulatory authorities. In doing so, DHS will be afforded the opportunity to benefit from the expertise of USDA in this area of national security.

The Managers are especially concerned with the degradation of the AQI program following its transfer from USDA to DHS in 2002, and are aware that the agriculture sector continues to raise serious concerns about the ability and willingness of DHS to prioritize agricultural quarantine and inspection activities at ports of entry. In light of the broad mandate given to DHS, the Managers understand that limiting the introduction of agricultural pests and diseases into the United States is not a top priority for DHS. While some observers have concluded that the scientific nature of the AQI program does not fit well with the police function of the Customs and Border Protection Program, the Managers have nevertheless chosen to maintain the program within the Department of Homeland Security. As such, the Managers encourage the Secretary to increase USDA's oversight regarding this vitally important program to ensure that the concerns of the agricultural sector are given a priority status commensurate with the threat that these diseases pose to the U.S. economy. To do so, the Managers encourage the Secretary to establish a comprehensive activity reporting mechanism detailing how DHS uses funds transferred by USDA to carry out the AQI program. In order to keep Congress and the public informed about the use of these funds, the Managers encourage the Secretary to provide a detailed accounting to the Senate and House Agriculture Committees on how DHS uses these funds. The Managers strongly encourage the Secretary of Agriculture and the Secretary of Homeland Security to revise the transfer agreement mandated under section 421(e) of the Homeland Security Act of 2002 so that the financial information requested is provided in a timely manner. The Managers intend that any information provided to the Secretary on the use of funds by DHS be scrutinized not only by Congress, but also by the senior leadership of the USDA and DHS to ensure expedient and comprehensive improvements in this program.

The Managers also encourage the Secretary to seek detailed information to track the promotion of CBP field officers, import specialists, and agricultural specialists into supervisorial and managerial grades since the transfer of function in 2003. The information provided should break out, by fiscal year and by series, the number of employees who have been permanently promoted into supervisor, chief, program manager, assistant port director, and port director

positions at ports of entry throughout the country. The information provided should also cite whether the affected employees were legacy customs, immigration, or agriculture personnel.

(56) National plant disease recovery system and national veterinary stockpile

The Senate amendment establishes the National Plant Disease Recovery System (NPDRS) in subsection (a). The NPDRS will include agricultural countermeasures, available within a single growing season, to respond to an outbreak of plant disease that poses a significant biosecurity threat. Subsection (b) establishes the National Veterinary Stockpile (NVS). The NVS will include agricultural countermeasures, available to any State veterinarian not later than 24 hours after an official request, to leverage the infrastructure of the strategic national stockpile. (Section 11012)

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(57) Research and development of agricultural countermeasures

The Senate amendment establishes a competitive grant program at USDA to stimulate research and development activity for qualified agricultural countermeasures. It provides for a waiver of the competitive grant process in the case of emergencies and permits the use of foreign animal and plant diseases in research and development activities. USDA will provide information to DHS on each grant funded through this authorization. The provision authorizes appropriations of $50,000,000 for each fiscal year from 2008 through 2012. (Section 11013)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to make technical changes. (Section 14121)

(58) Veterinary workforce grant program

The Senate amendment establishes a veterinary workforce grant program at USDA to increase the number of veterinarians trained in biosecurity. It authorizes such sums as necessary for each fiscal year from 2008 through 2012. (Section 11014)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to establish a program of competitive grants to veterinarians and food science professionals to increase agricultural biosecurity capacity. (Section 14122)

(59) Assistance to build local capacity in biosecurity planning, preparedness, and response

The Senate amendment requires USDA to provide grants to support the development and expansion of advanced training programs in agricultural biosecurity planning and response for food science professionals and veterinarians. The Section also requires USDA to provide grant and low-interest loan assistance to States for use in assessing agricultural disease response capability for food science and veterinary biosecurity planning. (Section 11015)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision and incorporates this section into the Agricultural Security Improvement Act of 2008 (Section 14113).

(60) Plant protection

The Senate amendment modifies penalties in the Plant Protection Act (PPA) as follows: $500,000 for each violation adjudicated in a single proceeding; $1,000,000 for each violation adjudicated in a single proceeding involving a genetically modified organism. The provision requires an action, suit or proceeding regarding a violation of the PPA to be considered no later than 5 years after the date the violation is initially discovered by the Secretary. (Section 11017)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to strike the change to the statute of limitations, to expand the penalties to cover any willful violation of the PPA, and to clarify subpoena authorities of the Department under the PPA. The Conference substitute also modifies the ability of the executive branch to delay the provision of compensation for economic losses under this section. This provision can be found in the horticulture and organic agriculture title of this Act. (Section 10203) Identical amendments were made to the Animal Health Protection Act, and this provision can be found in the livestock title of this Act. (Section 11012)

The Managers intend for the Secretary or the Secretary's designee to continue to possess the ability to review actions of officers, employees, and agents of the Secretary with regards to the payment of compensation under the Plant Protection Act.

Further, the Managers expect the additional subpoena authority provided in this section to be used to assist the Secretary in compiling such information, assembling such evidence, and conducting such investigations as the Secretary determines is necessary and proper for the administration and enforcement of this Title.

(61) Report on stored quantities of propane

The Senate amendment requires the Secretary of Homeland Security to submit to Congress a report of the effects of DHS interim or final regulations regarding possession of quantities of propane that exceed the screening threshold set by the DHS rules. The provision includes number of agricultural facilities and total number of facilities affected, numbers of facilities filing security assessments, alternative security programs, and appeals, as well as costs of compliance. (Section 11070)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment to limit the report to the Committees on Agriculture of the House and Senate, and to strike the subparagraph on the use of the Food and Agricultural Sector Coordinating Council. (Section 14206)

TITLE XV—HEARTLAND, HABITAT, HARVEST, AND HORTICULTURE ACT OF 2008

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I. DISASTER ASSISTANCE TRUST FUND [1]

(Sec. 12101 of the Senate amendment, sec. 901 of the Trade Act of 1974 and sec. 15101 of the conference agreement)

PRESENT LAW

The Farm Service Agency ("FSA") of the United States Department of Agriculture ("USDA") offers various ongoing programs for agricultural producers to facilitate recovery from losses caused by natural events. Ongoing programs include the Emergency Conservation Program ("ECP"), the Noninsured Crop Disaster Assistance Program ("NAP"), the Disaster Debt Set-Aside Program ("DSA"), and the Emergency Loan Program ("EM").

ECP is a discretionary program funded through annual appropriations that provides funding for farmers and ranchers to rehabilitate farmland damaged by natural disaster and for carrying out emergency water conservation measures during severe drought. The natural disaster must create new conservation problems that if untreated would 1) impair or endanger the land; 2) materially affect the productive capacity of the land; 3) represent unusual damage which, except for wind erosion, is not the type likely to recur frequently in the same area; and 4) be so costly to repair that federal assistance is, or will be required, to return the land to productive agricultural use.

NAP provides a low level of insurance to producers who grow otherwise noninsurable crops. NAP provides coverage for crop losses and planting prevented by disasters. Landowners, tenants, or sharecroppers who share in the risk of producing an eligible crop may qualify for this program. Before payments can be issued, applications must first be received and approved, generally before the crop is planted, and the crop must have suffered a minimum of 50 percent loss in yield. Payments are 55 percent of the commodities' average market price on crop losses beyond 50 percent. Eligible crops include commercial crops and other agricultural commodities produced for food, including livestock feed or fiber for which the catastrophic level of crop insurance is unavailable. Also eligible for NAP coverage are controlled-environment crops (mushroom and floriculture), specialty crops (honey and maple sap), and value loss crops (aquaculture, Christmas trees, ginseng, ornamental nursery, and turfgrass sod).

DSA is available to those producers who are borrowers from the Farm Service Agency in primary or contiguous counties that have been declared by the President or designated by the Secretary of Agriculture ("Secretary") as a disaster area. When borrowers affected by natural disasters are unable to make their scheduled payments on any debt, FSA is authorized to consider the set-aside of some payments to allow the farming operation to continue. After a disaster designation is made, FSA will notify borrowers of the availability of the DSA. Borrowers who are notified have eight months from the date of designation to apply. FSA borrowers may also request a release of income proceeds to meet current operating

[1] The statement of managers does not contain descriptions of the provisions in the House bill and Senate amendment that were not agreed to by the conferees.

and family living expenses or may request special servicing provisions from their local FSA county offices to explore other options.

EM provides emergency loans to help producers recover from production and physical losses due to drought, flooding, other natural disasters, or quarantine. Emergency loans may be made to farmers and ranchers who own or operate land located in a county declared by the President as a disaster area or designated by the Secretary as a disaster area or quarantine area (for physical losses only, the FSA administrator may authorize emergency loan assistance). EM funds may be used to: 1) restore or replace essential property; 2) pay all or part of production costs associated with the disaster year; 3) pay essential family expenses; 4) reorganize the farming operation; and 5) refinance certain debts.

HOUSE BILL

No provision.

SENATE AMENDMENT

In general

The provision amends the Trade Act of 1974 to create a permanent Agriculture Disaster Relief Trust Fund ("PADTF") that would provide payments to farmers and ranchers who suffer losses in areas that are declared disaster areas by the USDA. The trust fund will be funded by an amount equal to 3.34 percent of the amounts received in the general fund of the Treasury that are attributable to the duties collected on articles entered, or withdrawn from warehouse, for consumption under the Harmonized Tariff Schedule. The PADTF could make payments under four new disaster assistance programs: the permanent crop disaster assistance program, the permanent livestock indemnity program, the tree assistance program, and the emergency assistance program for livestock, honey bees, and farm raised fish. In addition, the PADTF will also fund a new pest and disease management and disaster prevention program. Amounts not required to meet current withdrawals may be invested in U.S. Treasury obligations with interest credited to the PADTF. The PADTF may also borrow, with interest, as repayable advances sums necessary to carry out the purposes of the fund.

Permanent Crop Disaster Assistance Program ("PCDP")

Generally, PCDP payments will be paid to producers located in disaster counties on 52 percent of the difference between the disaster program guarantee and the sum of total farm revenue. Disaster counties include counties receiving disaster declarations by the Secretary due to production losses resulting directly or indirectly from adverse weather, counties contiguous to such counties, and any farm whose production due to weather was less than 50 percent of normal production. To be eligible for PCDP payments, the producer must have purchased or enrolled in both crop insurance for insurable crops at a minimum of 50 percent of yield at 55 percent of price and NAP for uninsurable crops. The Secretary may waive this requirement under certain conditions.

The disaster program guarantee for insurable crops is equal to the product of a measure of crop yield, the percentage of crop insur-

ance yield guarantee, the percentage of crop insurance 2 price elected by the producer, the crop insurance price, and 115 percent. The disaster program guarantee for noninsured crops is equal to the product of the yield as determined by NAP for each crop, 100 percent of the NAP established price, and 115 percent. The disaster program guarantee is the sum of the disaster program guarantee for insurable and noninsured crops.

Total farm revenue includes the sum of the estimated value of crops and grazing, crop insurance and NAP indemnities accruing to the farm, the value of prevented planting payments, the amount of other natural disaster assistance payments provided by the federal government to a farm for the same loss, and an amount equal to 20 percent of any direct payments made to the producer under section 1103 of the Farm Security and Rural Investment Act of 2002. The estimated value of crops is generally the product of actual crop acreage grazed or harvested, estimated actual yields of grazing land or crop production, and the average market price during the first five months of the marketing year in which a farm or portion of a farm is located.

Permanent Livestock Indemnity Program

The PADTF may also make payments under the permanent livestock indemnity program to eligible producers on farms that have incurred livestock death losses in excess of normal mortality rates during the calendar year due to adverse weather, as determined by the Secretary. Indemnity payments are made at a rate of 75 percent of the fair market value of the livestock on the day before the date of death of the livestock as determined by the Secretary.

Tree Assistance Program

The Secretary shall make payments to eligible orchardists as follows. Assistance is in the form of 1) 75 percent reimbursement for the cost of replanting trees lost due to a natural disaster if tree mortality is in excess of 15 percent, adjusted for normal mortality, or sufficient seedlings to reestablish a stand; and 2) 50 percent reimbursement of the cost of pruning, removal, and other costs incurred to salvage existing trees or to prepare land to replant trees lost due to a natural disaster in excess of 15 percent damage and/or mortality adjusted for normal tree damage and/or mortality.

Buy-up NAP coverage

Under NAP, FSA compensates eligible producers for losses of noninsurable crops exceeding 50 percent of the expected yield based on 55 percent of the average market price of the commodity. This provision permits producers to buy additional NAP coverage. Producers could purchase additional coverage guarantee up to 60 or 65 percent, as elected by the producers, of expected yield, and up to 100 percent of the average market price of the commodity. Fees would be established and collected by the Secretary to fully offset the cost of supplemental NAP coverage.

Emergency Assistance for livestock, honey bees, and farm-raised fish

The Secretary shall use up to $35,000,000 annually from the trust fund to provide emergency relief to producers of livestock (including horses), honey bees, and farm-raised fish due to losses from adverse weather or other environmental conditions, such as blizzards and wildfires, as determined by the Secretary, that are not covered under the authority of the Secretary to make qualifying natural disaster declarations. For purposes of the provision, farm-raised fish includes the propagation and rearing of aquatic species (including any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant) in controlled or semi-controlled environments.

Limitations

No eligible producer may receive more than $100,000 annually in total disaster assistance under this Act. A producer is not eligible for benefits under the provision if, as determined by the Secretary, such producer's adjusted gross income (as defined in section 1001D(a) of the Food Security Act of 1985 or any successor provision) exceeds $2.5 million, unless not less than 75 percent of the average adjusted gross income of such producer is derived from farming, ranching or forestry operations.

Pest and disease management and disaster prevention

The provision also establishes a new program under which USDA will conduct early pest detection and surveillance activities in coordination with State departments of agriculture, will prioritize and create action plans to address pest and disease threats to specialty crops, and will create an audit-based certification approach to protect against the spread of plant pests.

Sunset of provision

The authority provided by the provision expires at the same time as the 2007 Farm Bill.

CONFERENCE AGREEMENT

Supplemental Agricultural Disaster Assistance Program description and provisions (For crop years 2008–2011)

The provision amends the Trade Act of 1974 to create a Supplemental Agricultural Disaster Assistance trust fund ("Trust Fund") that would provide payments to farmers and ranchers who suffer losses in areas that are designated disaster areas by the USDA. The Trust Fund could make payments under five new disaster assistance programs: the Supplemental Revenue Program ("SURE"), the Livestock Forage Disaster Program ("LFP"), the Livestock Indemnity Program ("LIP"), the Tree Assistance Program ("TAP"), and the Emergency Assistance Program for Livestock, Honey bees, and Farm raised fish.

Supplemental revenue assistance payments (SURE)

Section 901(b) SURE Assistance will be available to eligible producers on farms in disaster determined and contiguous counties

that have incurred crop production losses and/or crop quality losses.

901(a)(5) For purposes of the supplemental revenue assistance program, disaster counties are counties that received Secretarial Disaster declarations due to production losses resulting directly or indirectly from adverse weather. However, Secretarial designations are waived for farms with greater than 50% production losses.

901(b)(2)(A) SURE Assistance payments will be issued on 60% of the difference between the disaster assistance program guarantee AND total farm revenue (as defined).

The conferees expect that when payments are calculated, USDA will not discount any final payments for any activity that has already been deducted as an adjustment to a crop insurance indemnity or noninsured assistance payment such as harvest costs, packing, or transportation.

901(b)(3) The SURE Assistance Program Guarantee is the sum obtained by adding:

For each insurable commodity, the product obtained by multiplying: the higher of the Adjusted APH yield, or the counter-cyclical program payment yield the percentage of crop insurance yield guarantee, the crop insurance price election, the acres planted or prevented from being planted, and 115%, AND for each non-insurable commodity on the farm, the product obtained by multiplying: the higher of the adjusted noninsured assistance program yield guarantee or the counter-cyclical program payment yield, 100% of the NAP established price, the acres planted or prevented from being planted, and 120%.

The conferees intend the price election for revenue products to be the price the crop insurance indemnity would be calculated for the plan of insurance obtained by the producer.

901(a)(2) The Adjusted APH Yield and Section 901(a)(3) the Adjusted Noninsured Crop Disaster Assistance Yield are determined by dropping replacement yields for producers with at least four years of actual production history. For producers with four years or less, one replacement yield may be dropped from the calculation.

The SURE Assistance guarantee will be adjusted in the following manners. 901(b)(2)(B) The guarantee may not exceed 90% of the expected revenue for the whole farm. 901(b)(3)(B)&(C) Where crop insurance or the NAP makes adjustments for prevented planting or un-harvested production, the adjusted guarantee will be the basis for calculating the SURE Assistance guarantee.

901(b)(3)(D) The Secretary is also charged with the responsibility to establish equitable treatment for non-standard crop insurance products like AgriLite.

901(b)(4) The total Farm Revenue for the farm shall be equal to the sum obtained by adding: the estimated actual value of the production for each crop produced by multiplying the actual crop acreage harvested; the estimated actual yield; the national average market price for the marketing year for each commodity, as determined by the Secretary; the crop insurance or NAP indemnities accruing to the farm; the value of any other natural disaster assistance payments provided by the federal government on a farm for the same loss; 15% of direct payments accruing to the farm; all

marketing loan proceeds (including certificate gains); and all counter-cyclical or average crop revenue payments.

The conferees encourage the Secretary to accept Loss Adjustment yields to determine estimated actual yield when available with the understanding that all of the units for the crop on the farm would need to be adjusted to arrive at total farm production.

When loss adjusted yields are not available, the conferees expect the Secretary to obtain APH certified yields submitted to the Risk Management Agency through participating crop insurance companies.

901(b)(4)(B) The Secretary shall adjust the average market price received to reflect average quality discounts applied to the local or regional market price of the crop during the year of production. The Secretary shall also account for crop value reduced due to excess moisture resulting from a disaster related condition.

The conferees expect the Secretary, assisted by Farm Service Agency State and County committees, will determine local or regional discounts for the marketing year in a manner similar to what has been used to administer recent ad hoc quality loss programs.

The conferees encourage the Secretary to consider salvage values when quality factors prevent the commodity from being marketed for its originally intended purpose.

901(b)(5) Expected crop revenue is used to calculate the 90% limit of the SURE Assistance Guarantee and is equal to the sum obtained by adding:

For each insured commodity, the product obtained by multiplying: the higher of the Actual Production History (APH) yield, the Adjusted APH yield, or the counter-cyclical program payment yield; the acreage planted or prevented from being planted; and the insurance price guarantee, AND for each noninsured crop, the product obtained by multiplying: the adjusted non-insurable assistance program (NAP) yield, the adjusted Actual Production History (APH) NAP yield; the acreage planted or prevented from being planted; and 100% of the NAP protection price.

The entire farm constitutes unit structure for this program including all crops in all counties in the farming operation and shared production.

Livestock Indemnity Program (LIP)

901(c)(1) The Trust Fund may also make payments under the Livestock Indemnity program (LIP) to eligible producers on farms that have incurred livestock death losses in excess of normal mortality rates during the calendar year due to adverse weather, as determined by the Secretary.

901(c)(2) Indemnity payments are made at a rate of 75 percent of the fair market value of the livestock on the day before the date of death of the livestock as determined by the Secretary.

It is the intent of the conferees that the Secretary shall make LIP payments based upon individual producers' eligible losses. No state, county, or other trigger shall be used by the Secretary to define an eligible LIP area.

It is expected that the Secretary, through the State Farm Service Agency Committee will obtain recommendations from applicable

state livestock organizations, state Cooperative Extension Service, and other knowledgeable and credible sources to establish the normal mortality rate for each type of livestock on a state-by-state basis.

When determining the market value of applicable livestock in order to determine payment rates for LIP, the Secretary shall establish market values for each type of livestock from credible livestock markets. Credible livestock markets include sale barns, local sales as well as terminal market centers or slaughtering facilities.

Livestock Forage Disaster Program (LFP)

901(d) The Livestock Forage Program provides ranchers assistance for forage losses due to drought. Ranchers in counties with droughts designated by the Drought Monitor as severe, extreme or exceptional qualify for assistance. Producers in a severe drought will receive one month's payment. Producers experiencing extreme drought will get two month's payment and producers in a county with an exceptional drought will receive three month's payment. The payment is 60 percent of either 1) the monthly feed cost for the total number of livestock covered or, 2) the monthly feed cost calculated by using the normal carrying capacity of the eligible grazing land, whichever is smaller.

901(d)(4) LFP also covers losses to ranchers whose livestock utilize federal grazing permits. Payments are available to eligible livestock producers whose livestock are prohibited by a Federal agency from grazing due to fire. Payments will be made for the time period beginning on the date the Federal Agency excludes the eligible livestock producer and ending on the last day of the eligible producer's the Federal lease. The payment rate is 50 percent of the monthly feed costs for the total number of livestock covered by the Federal lease.

The conferees intend this section to also apply to trust property and range units managed under the authority of the Department of Interior through the Bureau of Indian Affairs.

901(d)(1)(D) In order to disallow excessive payments to livestock producers who overgraze pasture and grazing lands the Secretary shall calculate the normal carrying capacity of the eligible livestock producer's grazing and pasture land and issue payments based on the lesser of the actual number of the livestock producer's eligible livestock or the maximum carrying capacity of the eligible livestock producer's pasture and grazing land for the type and weight of the eligible producer's livestock.

901(d)(5) One of the eligibility requirements for the LFP is that a livestock producer shall have timely applied for and obtained, if available, either crop insurance, including pilot programs implemented by the Risk Management Agency such as the Pastureland Rangeland Forage Program; or coverage under the NAP on the pasture or grazing land which suffered an eligible loss. Producers are not required to purchase any pilot program if they purchase NAP.

901(d)(5)(C) For the 2008 crop year only, if a livestock producer had not timely obtained either crop insurance or NAP coverage, if it was available, the Secretary shall waive this requirement if the livestock producer pays any fee that would have been required to enroll in either crop insurance or NAP.

901(d)(5)(D) For any year after 2008, the Secretary may on a case-by-case basis provide equitable relief for producers who the county Farm Service Agency Committee determines unintentionally failed to obtain crop insurance or NAP coverage on applicable grazing and pasture land.

The conferees recommend that for LFP applications for which payment would be less than $25,000, the State Farm Service Agency Committee may provide equitable relief; and that for LFP applications for which payments exceed $25,000 the Secretary or designee shall review a recommendation from the county and state Farm Service Agency committees and determine whether equitable relief applies.

Emergency assistance for livestock, honey bees, and farm-raised fish

901(e)(1) The Secretary shall use up to $50,000,000 annually from the Trust Fund to provide emergency relief to producers of livestock (including horses), honey bees, and farm-raised fish due to losses from adverse weather or other conditions, such as blizzards and wildfires, as determined by the Secretary.

The conferees wish to clarify that program is intended to cover disasters that are not adequately covered by any other disaster program.

Tree Assistance Program (TAP)

901(f) The Secretary shall make payments to eligible orchardists and nursery tree growers as follows. Assistance is in the form of (1) 70 percent reimbursement for the cost of replanting trees lost due to a natural disaster if tree mortality is in excess of 15 percent, adjusted for normal mortality, or sufficient seedlings to reestablish a stand; and (2) 50 percent reimbursement of the cost of pruning, removal, and other costs incurred to salvage existing trees or to prepare land to replant trees lost due to a natural disaster in excess of 15 percent damage and/or mortality adjusted for normal tree damage and/or mortality.

The conferees wish to clarify that the insurance requirement for TAP eligibility refers to insurance on the crop and not on the underlying vines or trees.

Rick management purchase requirements

901(g) To be eligible for SURE Assistance, the producer must have purchased or be enrolled in (at a minimum) the Catastrophic crop insurance (CAT) for insurable crops and the Noninsured Assistance Program (NAP) for uninsurable crops.

901(g)(4) For the 2008 crop year, the Secretary will waive the purchase requirement if producers pay a fee equal to the administrative fees for CAT and NAP on crops for which no coverage has been purchased within 90 days after the enactment of this subtitle.

The conferees intend that participation in pilot crop insurance programs may establish linkage, but pilot participation would not be necessary to establish linkage if CAT or NAP coverage is secured.

901(g)(5) The Secretary may provide equitable relief to producers who unintentionally fail to meet the crop insurance or NAP purchase requirements for one or more crops on a farm on a case-

by-case basis. For 2008, the Secretary will have additional authority for producers who failed purchase requirements of this subtitle.

The conferees that the Secretary will use equitable relief provisions in circumstances where severe weather events result in revised planting intentions for crops for which the producer had not obtained a minimum CAT or NAP coverage.

901(g)(3) The Secretary may waive the crop insurance purchase requirement for limited resource, minority and/or beginning farmers and provide disaster assistance benefits at a level deemed appropriate by the Secretary.

The conferees do not expect the Secretary to conduct an annual signup to participate in the SURE Assistance program. The conferees anticipate an effective public information effort will be conducted by USDA with the cooperation of the Farm Service Agency, the Natural Resources Conservation Service, the Risk Management Agency (including crop insurance companies), the Cooperative State Research, Education, and Extension Service, and State Departments of Agriculture.

Limitations

901(h) No eligible producer may receive more than $100,000 annually in total disaster assistance under this section, excluding subsection 901(f). A producer is not eligible for benefits under the provision if, as determined by the Secretary, such producer's adjusted gross income (as defined in section 1001D(a) of the Food Security Act of 1985 or any successor provision). Direct attribution of benefits as described in subsection (e) and (f) of Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) or any successor provision shall apply.

The conferees anticipate that the AGI limit would be consistent with limitations for the noninsured assistance program.

The conferees note that the Tree Assistance Program (TAP) has a separate $100,000 annual limitation.

Period of effectiveness

Section 901(i) states that the Supplemental Agricultural Disaster Assistance program shall cover disaster related losses occurring on or before September 30, 2011.

The conferees expect the Secretary to cover all losses for which disaster conditions were evident on or before September 30, 2011.

Duplicate payments

Section 901(j) instructs the Secretary to prevent duplicative payments.

The conferees expect Emergency Conservation Programs (ECP), or any other similar program not directed to production or revenue losses of the farm, are not intended to be covered by this section.

Agricultural Disaster Relief Trust Fund (Trust Fund)

902(b) The Trust Fund will be funded by an amount equal to 3.08 percent of the amounts received in the general fund of the Treasury that are attributable to the duties collected on articles entered, or withdrawn from warehouse, for consumption under the

Harmonized Tariff Schedule. Amounts not required to meet current withdrawals may be invested in U.S. Treasury obligations with interest credited to the trust fund. The Trust Fund may also borrow, with interest, as repayable advances sums necessary to carry out the purposes of the fund.

902(b)(3) Funds will not be appropriated to the Trust Fund if any changes are made to the operation of the programs within the Trust Fund that are not permitted by the Trust Fund.

Jurisdiction

Section 903 requires legislation in the Senate of the United States that amends section 901 or section 902 be referred to the Committee on Finance of the Senate.

II. REVENUE PROVISIONS FOR AGRICULTURE PROGRAMS

A. Extension of Custom User Fees

(Sec. 15201 of the conference agreement)

PRESENT LAW

Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) ("COBRA") authorizes the Secretary of the Treasury to collect certain customs services fees. Section 412 of the Homeland Security Act of 2002 authorizes the Secretary of the Treasury to delegate such authority to the Secretary of Homeland Security. Customs user fees include passenger and conveyance processing fees (e.g., fees for processing air and sea passengers, commercial trucks, rail cars, private aircraft and vessels, commercial vessels, dutiable mail packages, barges and bulk carriers, cargo, and Customs broker permits) and merchandise processing fees. Congress has authorized collection of the passenger and conveyance processing fees through December 27, 2014. The current authorization for the collection of the merchandise processing fees is through December 27, 2014.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement amends Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 to extend the passenger and conveyance processing fees through September 30, 2017, and extend the merchandise processing fees through November 14, 2017. The conference agreement would require remittance, by no later than September 25, 2017, of passenger and conveyance fees for the period July 1, 2017 though September 20, 2017. It would also require an estimated prepayment of the merchandise processing fees no later than September 25, 2017 for merchandise entered on or after October 1, 2017 and before November 15, 2017.

The estimated prepayment will be based on the amount paid in the equivalent period of the previous year, as determined by the Secretary of the Treasury. The conference agreement also holds service users harmless for overpayments or underpayments of merchandise processing fees by requiring the Secretary of Treasury to reconcile the fees paid with the actual fees incurred for services rendered. The Secretary of Treasury must then refund any overpayments with interest, and make adjustments for any underpayments of such merchandise processing fees.

EFFECTIVE DATE

The provision is effective on the date of enactment.

B. MODIFICATIONS TO CORPORATE ESTIMATED TAX PAYMENTS

(Sec. 15202 of the conference agreement)

PRESENT LAW

In general

In general, corporations are required to make quarterly estimated tax payments of their income tax liability. For a corporation whose taxable year is a calendar year, these estimated tax payments must be made by April 15, June 15, September 15, and December 15.

Tax Increase Prevention and Reconciliation Act of 2005 ("TIPRA")

TIPRA provided the following special rules:

In case of a corporation with assets of at least $1 billion, the payments due in July, August, and September, 2012, shall be increased to 106.25 percent of the payment otherwise due and the next required payment shall be reduced accordingly.

In case of a corporation with assets of at least $1 billion, the payments due in July, August, and September, 2013, shall be increased to 100.75 percent of the payment otherwise due and the next required payment shall be reduced accordingly.

Subsequent legislation

Several public laws have been enacted since TIPRA which further increase the percentage of payments due under each of the two special rules enacted by TIPRA described above.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The provision makes a modification to the corporate estimated tax payment rules.

In case of a corporation with assets of at least $1 billion, the payments due in July, August, and September, 2012, are increased

by 7¾ percentage points of the payment otherwise due and the next required payment shall be reduced accordingly.

EFFECTIVE DATE

The provision is effective on the date of enactment.

III. TAX PROVISIONS

A. CONSERVATION

1. Exclusion of Conservation Reserve Program Payments from SECA tax for individuals receiving Social Security retirement or disability payments. (Sec. 12202 of the Senate amendment, sec. 15301 of the conference agreement and sec. 1402(a) of the Code)

PRESENT LAW

Generally, the Self-Employment Contributions Act ("SECA") tax is imposed on an individual's net earnings from self-employment income within the Social Security wage base. Net earnings from self-employment generally mean gross income (including the individual's net distributive share of partnership income) derived by an individual from any trade or business carried on by the individual less applicable deductions.[2]

HOUSE BILL

No provision.

SENATE AMENDMENT

The provision excludes conservation reserve program payments from self-employment income for purposes of the SECA tax in the case of individuals who are receiving Social Security retirement or disability benefits. The treatment of conservation reserve program payments received by other taxpayers is not changed.

Effective date.—The provision is effective for payments made after December 31, 2007.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

2. Make permanent the special rule encouraging contributions of capital gain real property for conservation purposes (Sec. 12203 of the Senate amendment, sec. 15302 of the conference agreement and sec. 170 of the Code)

PRESENT LAW

Charitable contributions generally

In general, a deduction is permitted for charitable contributions, subject to certain limitations that depend on the type of taxpayer, the property contributed, and the donee organization. The amount of deduction generally equals the fair market value of the

[2] Sec. 1402.

contributed property on the date of the contribution. Charitable deductions are provided for income, estate, and gift tax purposes.[3]

In general, in any taxable year, charitable contributions by a corporation are not deductible to the extent the aggregate contributions exceed 10 percent of the corporation's taxable income computed without regard to net operating or capital loss carrybacks. For individuals, the amount deductible is a percentage of the taxpayer's contribution base, (i.e., taxpayer's adjusted gross income computed without regard to any net operating loss carryback). The applicable percentage of the contribution base varies depending on the type of donee organization and property contributed. Cash contributions of an individual taxpayer to public charities, private operating foundations, and certain types of private nonoperating foundations may not exceed 50 percent of the taxpayer's contribution base. Cash contributions to private foundations and certain other organizations generally may be deducted up to 30 percent of the taxpayer's contribution base.

In general, a charitable deduction is not allowed for income, estate, or gift tax purposes if the donor transfers an interest in property to a charity while also either retaining an interest in that property or transferring an interest in that property to a noncharity for less than full and adequate consideration. Exceptions to this general rule are provided for, among other interests, remainder interests in charitable remainder annuity trusts, charitable remainder unitrusts, and pooled income funds, present interests in the form of a guaranteed annuity or a fixed percentage of the annual value of the property, and qualified conservation contributions.

Capital gain property

Capital gain property means any capital asset or property used in the taxpayer's trade or business the sale of which at its fair market value, at the time of contribution, would have resulted in gain that would have been long-term capital gain. Contributions of capital gain property to a qualified charity are deductible at fair market value within certain limitations. Contributions of capital gain property to charitable organizations described in section 170(b)(1)(A) (e.g., public charities, private foundations other than private non-operating foundations, and certain governmental units) generally are deductible up to 30 percent of the taxpayer's contribution base. An individual may elect, however, to bring all these contributions of capital gain property for a taxable year within the 50-percent limitation category by reducing the amount of the contribution deduction by the amount of the appreciation in the capital gain property. Contributions of capital gain property to charitable organizations described in section 170(b)(1)(B) (e.g., private nonoperating foundations) are deductible up to 20 percent of the taxpayer's contribution base.

For purposes of determining whether a taxpayer's aggregate charitable contributions in a taxable year exceed the applicable percentage limitation, contributions of capital gain property are

[3] Secs. 170, 2055, and 2522, respectively. Unless otherwise provided, all section references are to the Internal Revenue Code of 1986, as amended (the "Code").

taken into account after other charitable contributions. Contributions of capital gain property that exceed the percentage limitation may be carried forward for five years.

Qualified conservation contributions

Qualified conservation contributions are not subject to the "partial interest" rule, which generally bars deductions for charitable contributions of partial interests in property. A qualified conservation contribution is a contribution of a qualified real property interest to a qualified organization exclusively for conservation purposes. A qualified real property interest is defined as: (1) the entire interest of the donor other than a qualified mineral interest; (2) a remainder interest; or (3) a restriction (granted in perpetuity) on the use that may be made of the real property. Qualified organizations include certain governmental units, public charities that meet certain public support tests, and certain supporting organizations. Conservation purposes include: (1) the preservation of land areas for outdoor recreation by, or for the education of, the general public; (2) the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem; (3) the preservation of open space (including farmland and forest land) where such preservation will yield a significant public benefit and is either for the scenic enjoyment of the general public or pursuant to a clearly delineated Federal, State, or local governmental conservation policy; and (4) the preservation of an historically important land area or a certified historic structure.

Qualified conservation contributions of capital gain property are subject to the same limitations and carryover rules of other charitable contributions of capital gain property.

Special rule regarding contributions of capital gain real property for conservation purposes

In general

Under a temporary provision that is effective for contributions made in taxable years beginning after December 31, 2005,[4] the 30-percent contribution base limitation on contributions of capital gain property by individuals does not apply to qualified conservation contributions (as defined under present law). Instead, individuals may deduct the fair market value of any qualified conservation contribution to an organization described in section 170(b)(1)(A) to the extent of the excess of 50 percent of the contribution base over the amount of all other allowable charitable contributions. These contributions are not taken into account in determining the amount of other allowable charitable contributions.

Individuals are allowed to carry over any qualified conservation contributions that exceed the 50-percent limitation for up to 15 years.

For example, assume an individual with a contribution base of $100 makes a qualified conservation contribution of property with a fair market value of $80 and makes other charitable contributions subject to the 50-percent limitation of $60. The individual is allowed a deduction of $50 in the current taxable year for the non-

[4] Sec. 170(b)(1)(E).

conservation contributions (50 percent of the $100 contribution base) and is allowed to carry over the excess $10 for up to 5 years. No current deduction is allowed for the qualified conservation contribution, but the entire $80 qualified conservation contribution may be carried forward for up to 15 years.

Farmers and ranchers

In the case of an individual who is a qualified farmer or rancher for the taxable year in which the contribution is made, a qualified conservation contribution is allowable up to 100 percent of the excess of the taxpayer's contribution base over the amount of all other allowable charitable contributions.

In the above example, if the individual is a qualified farmer or rancher, in addition to the $50 deduction for non-conservation contributions, an additional $50 for the qualified conservation contribution is allowed and $30 may be carried forward for up to 15 years as a contribution subject to the 100-percent limitation.

In the case of a corporation (other than a publicly traded corporation) that is a qualified farmer or rancher for the taxable year in which the contribution is made, any qualified conservation contribution is allowable up to 100 percent of the excess of the corporation's taxable income (as computed under section 170(b)(2)) over the amount of all other allowable charitable contributions. Any excess may be carried forward for up to 15 years as a contribution subject to the 100-percent limitation.[5]

As an additional condition of eligibility for the 100 percent limitation, with respect to any contribution of property in agriculture or livestock production, or that is available for such production, by a qualified farmer or rancher, the qualified real property interest must include a restriction that the property remain generally available for such production. (There is no requirement as to any specific use in agriculture or farming, or necessarily that the property be used for such purposes, merely that the property remain available for such purposes.) Such additional condition does not apply to contributions made on or before August 17, 2006.

A qualified farmer or rancher means a taxpayer whose gross income from the trade or business of farming (within the meaning of section 2032A(e)(5)) is greater than 50 percent of the taxpayer's gross income for the taxable year.

Termination

The special rule regarding contributions of capital gain real property for conservation purposes does not apply to contributions made in taxable years beginning after December 31, 2007.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment makes permanent the special rule regarding contributions of capital gain real property for conservation purposes.

[5] Sec. 170(b)(2)(B).

Effective date.—The provision is effective for contributions made in taxable years beginning after December 31, 2007.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment by extending the special rule regarding contributions of capital gain real property for conservation purposes. However, under the conference agreement, the special rule does not apply for contributions made in taxable years beginning after December 31, 2009.

3. Deduction for endangered species recovery expenditures (Sec. 12205 of the Senate amendment, sec. 15303 of the conference agreement and sec. 175 of the Code)

PRESENT LAW

Under present law, a taxpayer engaged in the business of farming may treat expenditures that are paid or incurred by him during the taxable year for the purpose of soil or water conservation in respect of land used in farming, or for the prevention of erosion loss of land used in farming, as expenses that are not chargeable to capital account. Such expenditures are allowed as a deduction, not to exceed 25 percent of the gross income derived from farming during the taxable year.[6] Any excess above such percentage is deductible for succeeding taxable years, not to exceed 25 percent of the gross income derived from farming during such succeeding taxable year.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that expenditures paid or incurred by a taxpayer engaged in the business of farming for the purpose of achieving site-specific management actions pursuant to the Endangered Species Act of 1973[7] are to be treated the same as expenditures for the purpose of soil or water conservation in respect of land used in farming, or for the prevention of erosion of land used in farming, i.e., such expenditures are treated as not chargeable to capital account and are deductible subject to the limitation that the deduction may not exceed 25 percent of the farmer's gross income derived from farming during the taxable year.

Effective date.—The provision is effective for expenditures paid or incurred after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, except that the conference agreement provision is effective for expenditures paid or incurred after December 31, 2008.

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[6] Sec. 175.
[7] 16 U.S.C. 1533(f)(B).

4. Temporary reduction in corporate tax rate for qualified timber gain; timber REIT provisions (Secs. 12212–12217 of the Senate amendment, secs. 15311–15315 of the conference agreement and secs. 856, 857, and 1201 of the Code)

PRESENT LAW

Treatment of certain timber gain

Under present law, if a taxpayer cuts standing timber, the taxpayer may elect to treat the cutting as a sale or exchange eligible for capital gains treatment (sec. 631(a)). The fair market value of the timber on the first day of the taxable year in which the timber is cut is used to determine the gain attributable to such cutting. Such fair market value is also considered the taxpayer's cost of the cut timber for all purposes, such as to determine the taxpayer's income from later sales of the timber or timber products. Also, if a taxpayer disposes of the timber with a retained economic interest or makes an outright sale of the timber, the gain is eligible for capital gain treatment (sec. 631(b)). This treatment under either section 631(a) or (b) requires that the taxpayer has owned the timber or held the contract right for a period of more than one year.

Under present law, for taxable years beginning before January 1, 2011, the maximum rate of tax on long term capital gain ("net capital gain")[8] of an individual, estate, or trust is 15 percent. Any net capital gain that otherwise would be taxed at a 10- or 15-percent rate is taxed at a zero-percent rate. These rates apply for purposes of both the regular tax and the alternative minimum tax.[9]

For taxable years beginning after December 31, 2010, the maximum rate of tax on the net capital gain of an individual is 20 percent. Any net capital gain that otherwise would be taxed at a 10- or 15-percent rate is taxed at a 10-percent rate. In addition, any gain from the sale or exchange of property held more than five years that would otherwise have been taxed at the 10-percent rate is taxed at an 8-percent rate. Any gain from the sale or exchange of property held more than five years and the holding period for which began after December 31, 2000, which would otherwise have been taxed at a 20-percent rate, is taxed at an 18-percent rate.

The net capital gain of a corporation is taxed at the same rates as ordinary income, up to a maximum rate of 35 percent.[10]

Real estate investment trusts ("REITs") are subject to a special taxation regime. Under this regime, a REIT is allowed a deduction for dividends paid to its shareholders.[11] As a result, REITs gen-

[8] Net capital gain is defined as the excess of net long-term capital gain over net short-term capital gain for the taxable year. Sec. 1222(11).

[9] Because the entire amount of the capital gain is included in alternative minimum taxable income ("AMTI"), for taxpayers subject to the alternative minimum tax with AMTI in excess of $112,500 ($150,000 in the case of a joint return), the gain may cause a reduction in the minimum tax exemption amount and thus effectively tax the gain at rates of 21.5 or 22 percent. Also the gain may cause the phase-out of certain benefits in computing the regular tax.

[10] Secs. 11 and 1201.

[11] A distribution to a corporate shareholder out of current or accumulated earnings and profits of the corporation is a dividend, unless the distribution is a redemption that terminates the shareholder's stock interest or reduces the shareholder's interest in the distributing corporation to an extent considered to result in treatment as a sale or exchange of the shareholder's stock. Secs. 301 and 302. A distribution in excess of corporate earnings and profits is treated by shareholders as first a recovery of their stock basis and then, to the extent the distribution exceeds

Continued

erally do not pay tax on distributed income, but the income is taxed to the REIT shareholders. A REIT that has long-term capital gain can declare a dividend that shareholders are entitled to treat as long-term capital gain.

REITs generally are required to distribute 90 percent of their taxable income (other than net capital gain). A REIT generally must pay tax at regular corporate rates on any undistributed income. However, a REIT that has net capital gain can retain that gain without distributing it, and the shareholders can report the net capital gain as if it were distributed to them. In that case the REIT pays a C corporation tax on the retained gain, but the shareholders who report the income are entitled to a credit or refund for the difference between the tax that would be due if the income had been distributed and the 35-percent rate paid by the REIT.[12] In effect, net capital gain of a REIT (including but not limited to timber gain) can be taxed as net capital gain of the shareholders, whether or not the gain is distributed.

Other REIT provisions

A REIT is also subject to a 4-percent excise tax to the extent it does not distribute specified percentages of its income within any calendar year. The required distributed percentage is 85 percent in the case of the REIT ordinary income, and 95 percent in the case of the REIT capital gain net income (as defined).[13] The amount of the excess of the required distribution over the actual distribution is subject to the 4-percent tax.

A REIT generally is restricted to earning certain types of passive income. Among other requirements, at least 75 percent of the gross income of a REIT in a taxable year must consist of certain types of real estate related income, including rents from real property, income from the sale or exchange of real property (including interests in real property) that is not stock in trade, inventory, or held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business, and interest on mortgages secured by real property or interests in real property.[14] Interests in real property are specifically defined to exclude mineral, oil, or gas royalty interests.[15] A REIT will not qualify as a REIT, and will be taxable as a C corporation, for any taxable year if it does not meet this income test.

Some REITs have been formed to hold land on which trees are grown. Upon maturity of the trees, the standing trees are sold by the REIT. The Internal Revenue Service has issued private letter rulings in particular instances stating that the income from the sale of the trees under section 631(b) can qualify as REIT real

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a shareholder's stock basis, as a sale or exchange of the stock. Sec. 301. These rules generally apply to REITs.

[12] Sec. 857(b)(3)(D). The shareholders also obtain a basis increase in their REIT stock for the gross amount of the deemed distribution that is included in their income less the amount of corporate tax deemed paid by them that was paid by the REIT on the retained gain. Sec. 857(b)(3)(D)(iii).

[13] Section 4981. The definition is the excess of gains from sales or exchanges of capital assets over losses from such sales or exchanges for the calendar year, reduced by any net ordinary loss.

[14] Section 856(c) and section 1221(a). Income from sales that are not prohibited transactions solely by virtue of section 857(b)(6) is also qualified REIT income.

[15] Section 856(c)(5)(C).

property income because the uncut timber and the timberland on which the timber grew is considered real property and the sale of uncut trees can qualify as capital gain derived from the sale of real property.[16]

A REIT is subject to a 100-percent excise tax on gain from any sale that is a "prohibited transaction," defined as a sale of property that is stock in trade, inventory, or property held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business.[17] This determination is based on facts and circumstances. However, a safe-harbor provides that no excise tax is imposed if certain requirements are met. In the case of timber property, the safe harbor is met, regardless of the number of sales that occur during the taxable year, if (i) the REIT has held the property for not less than four years in connection with the trade or business of producing timber; (ii) the aggregate adjusted bases of the property sold (other than foreclosure property) during the taxable year does not exceed 10 percent of the aggregate bases of all the assets of the REIT as of the beginning of the taxable year, and if certain other requirements are met. These include requirements that limit the amount of expenditures the REIT can make during the 4-year period prior to the sale that are includible in the adjusted basis of the property,[18] that require marketing to be done by an independent contractor, and that forbid a sales price that is based on the income or profits of any person.[19] There is a similar but separate safe harbor for sales of non-timber property, with similar rules, including a 4-year holding period requirement and a limit on the percentage of the aggregate adjusted basis of property that can be sold in one taxable year.[20]

A REIT is not generally permitted to hold securities representing more than 10 percent of the voting power or value of the securities of any one issuer; nor may more than 5 percent of the fair market value of REIT assets be securities of any one issuer.[21] However, under an exception, a REIT may hold any amount of securities of one or more "taxable REIT subsidiary" (TRS) corporations, provided that such TRS securities do not represent more than 20 percent of the fair market value of REIT assets at the end of any quarter. A TRS is a C corporation that is subject to regular corporate tax on its income and that meets certain other requirements. A taxable REIT subsidiary may conduct activities that would produce disqualified non-passive or non-real estate income that could disqualify the REIT if conducted by a REIT itself. Such

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[16] Timber income under section 631(b) has also been held to be qualified real estate income even if the one year holding period is not met. See, e.g., PLR 200052021, see also PLR 199945055, PLR 199927021, PLR 8838016. A private letter ruling may be relied upon only by the taxpayer to which the ruling is issued. However, such rulings provide an indication of administrative practice.

[17] Sections 857(b)(6) and 1221(a)(1). There is an exception for certain foreclosure property.

[18] Aggregate expenditures (other than timberland acquisition expenditures) during such period made by the REIT or a partner of the REIT, which are includible in basis, may not exceed 30 percent of the net selling price in the case of expenditures that are directly related to operation of the property for the production of timber or the preservation of the property for use as timberland, and may not exceed 5 percent of the net selling price in the case of expenditures that are not directly related to those purposes.

[19] Section 857(b)(6)(D).

[20] Section 857(b)(6)(C).

[21] Section 856(c)(4)(B)(ii) and (iii). Certain interests are not treated as "securities" for purposes of the rule forbidding the REIT to hold securities representing more than 10 percent of the value of securities of any one issuer. Sec. 856(m).

business could include business relating to processing timber, or holding timber products or other assets for sale to customers in the ordinary course of business. Such income would be subject to regular corporate rates of tax as income of the TRS.[22]

HOUSE BILL

No provision.

SENATE AMENDMENT

Elective deduction for 60 percent of qualified timber gain

The Senate amendment allows a taxpayer to elect to deduct an amount equal to 60 percent of the taxpayer's qualified timber gain (or, if less, the net capital gain) for a taxable year. In the case of an individual, the deduction reduces adjusted gross income. Qualified timber gain means the net gain described in section 631(a) and (b) for the taxable year.

The deduction is allowed in computing the regular tax and the alternative minimum tax (including the adjusted current earnings of a corporation).

If a taxpayer elects the deduction, the 40 percent of the gain subject to tax is taxed at ordinary income tax rates.[23]

In the case of a pass-thru entity other than a REIT, the election may be made separately by each taxpayer subject to tax on the gain. The Treasury Department may prescribe rules appropriate to apply this provision to gain taken into account by a pass-thru entity.

In the case of a REIT, the election to take the 60-percent deduction is made by the REIT. If a REIT makes the election, then the timber gain is excluded from the computation of capital gain or loss of the REIT and can no longer be designated as a capital gain dividend to shareholders. Instead, the gain is treated as ordinary income for purposes of applying the REIT income distribution requirements, but for this purpose 60-percent of the amount of the gain is deductible by the REIT in computing its income. REIT earnings and profits also exclude the portion of the timber gain that is deductible. Thus, 40 percent of the gain is subject to the REIT distribution requirements,[24] and 40 percent of the gain increases REIT earnings and profits. Accordingly, because REIT earnings and profits have been increased by the 40-percent amount, there is sufficient earnings and profits that a distribution of that 40-percent amount that otherwise qualifies as a dividend would be treated as an ordinary dividend distribution to shareholders. Since this dividend is from a REIT and is not derived from an entity that was taxed as a C corporation, it would not qualify for the current 15-percent qualified dividend rates and would be taxed at the ordinary income rates of the shareholders.

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[22] A 100-percent excise tax is imposed on the amount of certain transactions involving a TRS and a REIT, to the extent such amount would exceed an arm's length amount under section 482. Sec. 857(b)(7).

[23] Under the provision, because only 40 percent of the gain is included in adjusted gross income and AMTI, only that amount of gain would result in the phase-out of tax benefits.

[24] For purposes of the section 4981 excise tax on undistributed REIT income, the amount treated as subject to the 95 percent distribution requirement is the 40 percent of timber gain income that remains after allowing the deduction.

REIT shareholders obtain an upward basis adjustment in their REIT interests, equal to the 60 percent of the timber gain that is deductible by the electing REIT. Because the 60 percent of timber gain that was deductible by the REIT does not increase REIT earnings and profits, a distribution of such 60 percent to the shareholder generally will not be treated as a dividend (in the absence of other retained earnings) but as a return of basis under the general rules of section 301(c). Because the shareholders' basis has been increased by this 60 percent, this distribution would not exceed the shareholders' basis and thus would be nontaxable return of basis, rather than capital gain in excess of basis. However, if a REIT shareholder has obtained such an upward basis adjustment for a REIT interest and disposes of the interest before having held the interest for at least 6 months, then any loss on disposition of the interest is disallowed to the extent of such upward basis adjustment.

Additional REIT provisions

Timber gain qualified REIT income without regard to 1 year holding period

The Senate amendment specifically includes timber gain under section 631(a) as a category of statutorily recognized qualified real estate income of a REIT if the cutting is provided by a taxable REIT subsidiary, and also includes gain recognized under section 631(b). For purposes of such qualified income treatment under those provisions, the requirement of a one-year holding period is removed. Thus, for example, a REIT can acquire timber property and harvest the timber on the property within one year of the acquisition, with the resulting income being qualified real estate income for REIT qualification purposes, even though such income is not eligible for long-term capital gain treatment under sections 631(a) or (b). The provision specifically provides, however, that for all purposes of the Code, such income shall not be considered to be gain described in section 1221(a)(1), that is, it shall not be treated as income from the sale of stock in trade, inventory, or property held by the REIT primarily for sale to customers in the ordinary course of the REITs trade or business.

For purposes of determining REIT income, if the cutting is done by a taxable REIT subsidiary, the cut timber is deemed sold on the first day of the taxable year to the taxable REIT subsidiary (with subsequent gain, if any, attributable to the taxable REIT subsidiary).

REIT prohibited transaction safe harbor for timber property

For sales to a qualified organization for conservation purposes, as defined in section 170(h), the provision reduces to two years the present law four-year holding period requirement under section 857(b)(6)(D), which provides a safe harbor from "prohibited transaction" treatment for certain timber property sales. Also, in the case of such sales, the safe-harbor limitations on how much may be added, within the four-year period prior to the date of sale, to the aggregate adjusted basis of the property, are changed to refer to the two-year period prior to the date of sale.

The Senate amendment also removes the safe-harbor requirement that marketing of the property must be done by an independent contractor, and permits a taxable REIT subsidiary of the REIT to perform the marketing.

The Senate amendment states that any gain that is eligible for the timber property safe harbor is considered for all purposes of the Code not to be described in section 1221(a)(1), that is, it shall not be treated as income from the sale of stock in trade, inventory, or property held by the REIT primarily for sale to customers in the ordinary course of the REITs trade or business.

Special rules for timber REITs

The Senate amendment contains several provisions applicable only to a "timber REIT," defined as a REIT in which more than 50 percent of the value of its total assets consists of real property held in connection with the trade or business of producing timber.

First, mineral royalty income from real property owned by a timber REIT and held, or once held, in connection with the trade or business of producing timber by such REIT, is included as qualifying real estate income for purposes of the REIT income tests.

Second, a timber REIT is permitted to hold TRS securities with a value up to 25 percent, (rather than 20 percent) of the value of the total assets of the REIT.

Effective date

The provision applies to taxable years beginning after the date of enactment, but does not apply after the last day of the first taxable year beginning after the date of enactment.

CONFERENCE AGREEMENT

Corporate rate reduction for qualified timber gain

The conference agreement provides a 15-percent alternative tax rate for corporations on the portion of a corporation's taxable income that consists of qualified timber gain (or, if less, the net capital gain) for a taxable year.[25]

The alternative 15-percent tax rate applies to both the regular tax and the alternative minimum tax.

Qualified timber gain means the net gain described in section 631(a) and (b) for the taxable year, determined by taking into account only trees held more than 15 years.

Effective date.—The provision applies to taxable years ending after the date of enactment and beginning on or before the date which is one year after the date of enactment. In the case of a taxable year that includes the date of enactment, qualified timber gain may not exceed the qualified timber gain properly taken into account for the portion of the year after that date. In the case of a taxable year that includes the date that is one year after the date of enactment, qualified timber gain may not exceed the qualified timber gain properly taken into account for the portion of the year on or before that date.

[25] The conference agreement does not contain the 60 percent deduction for qualified timber income that was contained in the Senate amendment, nor does it make any change to section 4981.

Additional REIT provisions

The conference agreement follows the additional REIT provisions in the Senate amendment.

Effective date.—The additional REIT provisions apply only for the first taxable year of the REIT that begins after the date of enactment and before the date that is one year after the date of enactment. The provisions terminate after that time.

5. Qualified forestry conservation bonds (Sec. 12808 of the Senate amendment, and sec. 15316 of the conference agreement and new secs. 54A and 54B of the Code)

PRESENT LAW

Tax-exempt bonds

In general

Subject to certain Code restrictions, interest on bonds issued by State and local government generally is excluded from gross income for Federal income tax purposes. Bonds issued by State and local governments may be classified as either governmental bonds or private activity bonds. Governmental bonds are bonds the proceeds of which are primarily used to finance governmental functions or which are repaid with governmental funds. Private activity bonds are bonds in which the State or local government serves as a conduit providing financing to nongovernmental persons. For this purpose, the term "nongovernmental person" generally includes the Federal Government and all other individuals and entities other than States or local governments. The exclusion from income for interest on State and local bonds does not apply to private activity bonds, unless the bonds are issued for certain permitted purposes ("qualified private activity bonds") and other Code requirements are met.

Private activity bond tests

Present law provides two tests for determining whether a State or local bond is in substance a private activity bond, the private business test and the private loan test.[26]

Private business tests

Private business use and private payments result in State and local bonds being private activity bonds if both parts of the two-part private business test are satisfied—

1. More than 10 percent of the bond proceeds is to be used (directly or indirectly) by a private business (the "private business use test"); and

2. More than 10 percent of the debt service on the bonds is secured by an interest in property to be used in a private business use or to be derived from payments in respect of such property (the "private payment test").[27]

[26] Sec. 141(b) and (c).

[27] The 10-percent private business use and payment threshold is reduced to five percent for private business uses that are unrelated to a governmental purpose also being financed with proceeds of the bond issue. In addition, as described more fully below, the 10-percent private

Continued

Private business use generally includes any use by a business entity (including the Federal government), which occurs pursuant to terms not generally available to the general public. For example, if bond-financed property is leased to a private business (other than pursuant to certain short-term leases for which safe harbors are provided under Treasury regulations), bond proceeds used to finance the property are treated as used in a private business use, and rental payments are treated as securing the payment of the bonds. Private business use also can arise when a governmental entity contracts for the operation of a governmental facility by a private business under a management contract that does not satisfy Treasury regulatory safe harbors regarding the types of payments made to the private operator and the length of the contract.[28]

Private loan test

The second standard for determining whether a State or local bond is a private activity bond is whether an amount exceeding the lesser of (1) five percent of the bond proceeds or (2) $5 million is used (directly or indirectly) to finance loans to private persons. Private loans include both business and other (e.g., personal) uses and payments by private persons; however, in the case of business uses and payments, all private loans also constitute private business uses and payments subject to the private business test. Present law provides that the substance of a transaction governs in determining whether the transaction gives rise to a private loan. In general, any transaction which transfers tax ownership of property to a private person is treated as a loan.

Qualified private activity bonds

As stated, interest on private activity bonds is taxable unless the bonds meet the requirements for qualified private activity bonds. Qualified private activity bonds permit States or local governments to act as conduits providing tax-exempt financing for certain private activities. The definition of qualified private activity bonds includes an exempt facility bond, or qualified mortgage, veterans' mortgage, small issue, redevelopment, 501(c)(3), or student loan bond (sec. 141(e)). The definition of exempt facility bond includes bonds issued to finance certain transportation facilities (airports, ports, mass commuting, and high-speed intercity rail facilities); qualified residential rental projects; privately owned and/or operated utility facilities (sewage, water, solid waste disposal, and local district heating and cooling facilities, certain private electric and gas facilities, and hydroelectric dam enhancements); public/private educational facilities; qualified green building and sustainable design projects; and qualified highway or surface freight transfer facilities (sec. 142(a)).

In most cases, the aggregate volume of these tax-exempt private activity bonds is restricted by annual aggregate volume limits imposed on bonds issued by issuers within each State. For calendar

business use and private payment thresholds are phased-down for larger bond issues for the financing of certain "output" facilities. The term output facility includes electric generation, transmission, and distribution facilities.

[28] See Treas. Reg. sec. 1.141–3(b)(4) and Rev. Proc. 97–13, 1997–1 C.B. 632.

year 2007, the State volume cap, which is indexed for inflation, equals $85 per resident of the State, or $256.24 million, if greater.

Arbitrage restrictions

The tax exemption for State and local bonds also does not apply to any arbitrage bond.[29] An arbitrage bond is defined as any bond that is part of an issue if any proceeds of the issue are reasonably expected to be used (or intentionally are used) to acquire higher yielding investments or to replace funds that are used to acquire higher yielding investments.[30] In general, arbitrage profits may be earned only during specified periods (e.g., defined "temporary periods") before funds are needed for the purpose of the borrowing or on specified types of investments (e.g., "reasonably required reserve or replacement funds"). Subject to limited exceptions, investment profits that are earned during these periods or on such investments must be rebated to the Federal Government.

Indian tribal governments

Indian tribal governments are provided with a tax status similar to State and local governments for specified purposes under the Code.[31] Among the purposes for which a tribal government is treated as a State is the issuance of tax-exempt bonds. However, bonds issued by tribal governments are subject to limitations not imposed on State and local government issuers. Tribal governments are authorized to issue tax-exempt bonds only if substantially all of the proceeds are used for essential governmental functions or certain manufacturing facilities.[32]

Clean renewable energy bonds

As an alternative to traditional tax-exempt bonds, States and local governments may issue clean renewable energy bonds ("CREBs"). CREBs are defined as any bond issued by a qualified issuer if, in addition to the requirements discussed below, 95 percent or more of the proceeds of such bonds are used to finance capital expenditures incurred by qualified borrowers for qualified projects. "Qualified projects" are facilities that qualify for the tax credit under section 45 (other than Indian coal production facilities), without regard to the placed-in-service date requirements of that section.[33] The term "qualified issuers" includes (1) governmental bodies (including Indian tribal governments); (2) mutual or cooperative electric companies (described in section 501(c)(12) or section 1381(a)(2)(C), or a not-for-profit electric utility which has received a loan or guarantee under the Rural Electrification Act); and (3) clean renewable energy bond lenders. The term "qualified borrower" includes a governmental body (including an Indian tribal government) and a mutual or cooperative electric company. A clean renewable energy bond lender means a cooperative which is owned

[29] Sec. 103(a) and (b)(2).
[30] Sec. 148.
[31] Sec. 7871.
[32] Sec. 7871(c).
[33] In addition, Notice 2006–7 provides that qualified projects include any facility owned by a qualified borrower that is functionally related and subordinate to any facility described in section 45(d)(1) through (d)(9) and owned by such qualified borrower.

by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002.

Unlike tax-exempt bonds, CREBs are not interest-bearing obligations. Rather, the taxpayer holding CREBs on a credit allowance date is entitled to a tax credit. The amount of the credit is determined by multiplying the bond's credit rate by the face amount on the holder's bond. The credit rate on the bonds is determined by the Secretary and is to be a rate that permits issuance of CREBs without discount and interest cost to the qualified issuer. The credit accrues quarterly and is includible in gross income (as if it were an interest payment on the bond), and can be claimed against regular income tax liability and alternative minimum tax liability.

CREBs are subject to a maximum maturity limitation. The maximum maturity is the term which the Secretary estimates will result in the present value of the obligation to repay the principal on a CREBs being equal to 50 percent of the face amount of such bond. In addition, the Code requires level amortization of CREBs during the period such bonds are outstanding.

CREBs also are subject to the arbitrage requirements of section 148 that apply to traditional tax-exempt bonds. Principles under section 148 and the regulations thereunder apply for purposes of determining the yield restriction and arbitrage rebate requirements applicable to CREBs.

In addition to the above requirements, at least 95 percent of the proceeds of CREBs must be spent on qualified projects within the five-year period that begins on the date of issuance. To the extent less than 95 percent of the proceeds are used to finance qualified projects during the five-year spending period, bonds will continue to qualify as CREBs if unspent proceeds are used within 90 days from the end of such five-year period to redeem any "nonqualified bonds." The five-year spending period may be extended by the Secretary upon the qualified issuer's request demonstrating that the failure to satisfy the five-year requirement is due to reasonable cause and the projects will continue to proceed with due diligence.

Issuers of CREBs are required to report issuance to the IRS in a manner similar to the information returns required for tax-exempt bonds. There is a national CREB limitation of $1.2 billion. The maximum amount of CREBs that may be allocated to qualified projects of governmental bodies is $750 million. CREBs must be issued before January 1, 2009.

HOUSE BILL

No provision

SENATE AMENDMENT

The Senate amendment creates a new category of tax-credit bonds, qualified forestry conservation bonds. Qualified forestry conservation bonds are bonds issued by qualified issuers to finance qualified forestry conservation projects. The term "qualified issuer" means a State or a section 501(c)(3) organization. The term "qualified forestry conservation project" means the acquisition by a State or section 501(c)(3) organization from an unrelated person of forest and forest land that meets the following qualifications: (1) some

portion of the land acquired must be adjacent to United States Forest Service Land; (2) at least half of the land acquired must be transferred to the United States Forest Service at no net cost and not more than half of the land acquired may either remain with or be donated to a State; (3) all of the land must be subject to a habitat conservation plan for native fish approved by the United States Fish and Wildlife Service; and (4) the amount of acreage acquired must be at least 40,000 acres.

There is a national limitation on qualified forestry conservation bonds of $500 million. Allocations of qualified forestry conservation bonds are among qualified forestry conservation projects in the manner the Secretary determines appropriate so as to ensure that all of such limitation is allocated before the date that is 24 months after the date of enactment. The Senate amendment also requires the Secretary to solicit applications for allocations of qualified forestry conservation bonds no later than 90 days after the date of enactment.

The Senate amendment requires 100 percent of the available project proceeds of qualified forestry conservation bonds to be used within the three-year period that begins on the date of issuance. The Senate amendment defines available project proceeds as proceeds from the sale of the issue less issuance costs (not to exceed two percent) and any investment earnings on such sale proceeds. To the extent less than 100 percent of the available project proceeds are used to finance qualified forestry conservation purposes during the three-year spending period, bonds will continue to qualify as qualified forestry conservation bonds if unspent proceeds are used within 90 days from the end of such three-year period to redeem bonds. The three-year spending period may be extended by the Secretary upon the issuer's request demonstrating that the failure to satisfy the three-year requirement is due to reasonable cause and the projects will continue to proceed with due diligence.

Qualified forestry conservation bonds generally are subject to the arbitrage requirements of section 148. However, available project proceeds invested during the three-year spending period are not subject to the arbitrage restrictions (i.e., yield restriction and rebate requirements). In addition, amounts invested in a reserve fund are not subject to the arbitrage restrictions to the extent: (1) such fund is funded in a manner reasonably expected to result in an amount not greater than an amount necessary to repay the issue; and (2) the yield on such fund is not greater than the average annual interest rate of tax-exempt obligations having a term of 10 years or more that are issued during the month the qualified forestry conservation bonds are issued.

The maturity of qualified forestry conservation bonds is the term that the Secretary estimates will result in the present value of the obligation to repay the principal on such bonds being equal to 50 percent of the face amount of such bonds, using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more that are issued during the month the qualified forestry conservation bonds are issued.

As with present-law tax credit bonds, the taxpayer holding qualified forestry conservation bonds on a credit allowance date is entitled to a tax credit. The credit rate is set by the Secretary at

70 percent of the rate that would permit issuance of qualified forestry conservation bonds without discount and interest cost to the issuer. The amount of the tax credit to the holder is determined by multiplying the bond's credit rate by the face amount on the holder's bond. The credit accrues quarterly, is includible in gross income (as if it were an interest payment on the bond), and can be claimed against regular income tax liability and alternative minimum tax liability. Unused credits in one year may be carried forward to succeeding taxable years. In addition, credits may be separated from the ownership of the underlying bond similar to how interest coupons can be stripped for interest-bearing bonds.

Issuers of qualified forestry conservation bonds are required to certify that the financial disclosure requirements that apply to State and local bonds offered for sale to the general public are satisfied with respect to any Federal, State, or local government official directly involved with the issuance of such bonds. The Senate amendment authorizes the Secretary to impose additional financial reporting requirements by regulation.

Effective date.—The provision is effective for bonds issued after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment with modifications. Under the conference agreement, the credit rate on qualified forestry conservation bonds is determined by the Secretary at the rate that permits issuance of such bonds without discount and interest cost to the qualified issuer.

The conference agreement also provides that a qualified issuer receiving an allocation to issue qualified forestry conservation bonds may, in lieu of issuing bonds, elect to treat such allocation as a deemed payment of tax (regardless of whether the issuer is subject to tax under chapter 1 of the Code) that is equal to 50 percent of the amount of such allocation. An election to treat an allocation of qualified forestry conservation bonds as a deemed payment is not valid unless the qualified issuer certifies to the Secretary that any payment of tax refunded to the issuer will be used exclusively for one or more qualified forestry conservation purposes. The deemed tax payment may not be used as an offset or credit against any other tax and shall not accrue interest. In addition, if the qualified issuer fails to use any portion of the overpayment for qualified forestry conservation purposes, the issuer shall be liable to the United States in an amount equal to such portion, plus interest, for the period from the date such portion was refunded to the date such amount is paid.

Effective date.—The provision is effective for bonds issued after the date of enactment.

B. Energy Provisions

1. Credit for production of cellulosic biofuel (Sec. 12312 of the Senate amendment, sec. 15321 of the conference agreement and sec. 40 of the Code)

PRESENT LAW

In the case of ethanol, the Code provides a separate 10-cents-per-gallon credit for up to 15 million gallons per year for small producers, defined generally as persons whose production capacity does not exceed 60 million gallons per year. The ethanol must (1) be sold by such producer to another person (a) for use by such other person in the production of a qualified alcohol fuel mixture in such person's trade or business (other than casual off-farm production), (b) for use by such other person as a fuel in a trade or business, or, (c) who sells such ethanol at retail to another person and places such ethanol in the fuel tank of such other person; or (2) used by the producer for any purpose described in (a), (b), or (c). A cooperative may pass through the small ethanol producer credit to its patrons. The credit is includible in income and is treated as a general business credit, subject to the ordering rules and carryforward/carryback rules that apply to business credits generally. The alcohol fuels tax credit, of which the small producer credit is a part, is scheduled to expire after December 31, 2010.

Under the Renewable Fuels Standard Program all renewable fuel produced or imported on or after September 1, 2007 must have a renewable identification number (RIN) associated with it. Producers and importers must generate RINs to represent all the renewable fuel they produce or import and provide those RINs to the EPA. For cellulosic ethanol, 2.5 RINs are generated for every gallon produced.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides an income tax credit for each gallon of qualified cellulosic fuel production of the producer for the taxable year. The amount of the credit per gallon is $1.25 less the credit amount for alcohol fuel and the credit amount for small ethanol producers as of the date the cellulosic biofuel fuel is produced. This credit is in addition to any credit that may be available under section 40 of the Code.

Qualified cellulosic biofuel production is any cellulosic biofuel which is produced by the taxpayer and which is sold by such producer to another person (a) for use by such other person in the production of a qualified biofuel fuel mixture in such person's trade or business (other than casual off-farm production), (b) for use by such other person as a fuel in a trade or business, or, (c) who sells such biofuel at retail to another person and places such biofuel in the fuel tank of such other person; or (2) used by the producer for any purpose described in (a), (b), or (c).

Cellulosic biofuel means any alcohol, ether, ester, or hydrocarbon that is produced in the United States and is derived from

any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis. However, it does not include any alcohol with a proof of less than 150. Examples of lignocellulosic or hemicellulosic matter that is available of a renewable or recurring basis include dedicated energy crops and trees, wood and wood residues, plants, grasses, agricultural residues, fibers, animal wastes and other waste materials, and municipal solid waste. A qualified cellulosic biofuel mixture is a mixture of cellulosic biofuel and any petroleum fuel product which is sold by the person producing such mixture to any person for use as a fuel, or is used as a fuel by the person producing such mixture.

The credit terminates on April 1, 2015.

The Senate amendment waives the 15 million gallon limitation of the small ethanol producer credit for cellulosic biofuel that is ethanol.

Effective date.—The provision is effective for fuel produced after December 31, 2007.

CONFERENCE AGREEMENT

The conference agreement adds a new component to section 40 of the Code, the "cellulosic biofuel producer credit." This credit is a nonrefundable income tax credit for each gallon of qualified cellulosic fuel production of the producer for the taxable year. The amount of the credit per gallon is $1.01, except in the case of cellulosic biofuel that is alcohol. In the case of cellulosic biofuel that is alcohol, the $1.01 credit amount is reduced by (1) the credit amount applicable for such alcohol under the alcohol mixture credit as in effect at the time cellulosic biofuel is produced and (2) in the case of cellulosic biofuel that is ethanol, the credit amount for small ethanol producers as in effect at the time the cellulosic biofuel fuel is produced. The reduction applies regardless of whether the producer claims the alcohol mixture credit or small ethanol producer credit with respect to the cellulosic alcohol. When the alcohol mixture credit and small ethanol producer credit expire after December 31, 2010, cellulosic biofuel will receive the $1.01 without reduction.

"Qualified cellulosic biofuel production" is any cellulosic biofuel which is produced by the taxpayer and which is sold by the taxpayer to another person (a) for use by such other person in the production of a qualified biofuel fuel mixture in such person's trade or business (other than casual off-farm production), (b) for use by such other person as a fuel in a trade or business, or, (c) who sells such biofuel at retail to another person and places such biofuel in the fuel tank of such other person; or (2) used by the producer for any purpose described in (a), (b), or (c).

"Cellulosic biofuel" means any liquid fuel that (1) is produced in the United States and used as fuel in the United States,[34] (2) is derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis and (3) meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act. Thus, to qualify for the credit the fuel must be approved by the Environmental Protection Agency. Cellulosic biofuel

[34] For this purpose, "United States" includes any possession of the United States.

does not include any alcohol with a proof of less than 150. Examples of lignocellulosic or hemicellulosic matter that is available of a renewable or recurring basis include dedicated energy crops and trees, wood and wood residues, plants, grasses, agricultural residues, fibers, animal wastes and other waste materials, and municipal solid waste.

A "qualified cellulosic biofuel mixture" is a mixture of cellulosic biofuel and a special fuel or of cellulosic biofuel and gasoline, which is sold by the person producing such mixture to any person for use as a fuel, or is used as a fuel by the person producing such mixture. The term "special fuel" includes any liquid fuel (other than gasoline) which is suitable for use in an internal combustion engine.

The cellulosic biofuel producer credit terminates on December 31, 2012. The conference agreement requires cellulosic biofuel producers to be registered with the IRS. The cellulosic biofuel producer credit cannot be claimed unless the taxpayer is registered with the IRS as a producer of cellulosic biofuel.

With respect to the small ethanol producer credit, the conference agreement also waives the 15 million gallon limitation for cellulosic biofuel that is ethanol. Thus the small ethanol producer credit may be claimed for cellulosic ethanol in excess of 15 million gallons. The other requirements for the small ethanol producer credit continue to apply for ethanol other than cellulosic ethanol, including the 15 million gallon limitation.

Under the conference agreement, cellulosic biofuel and alcohols cannot qualify as biodiesel, renewable diesel, or alternative fuel for purposes of the credit and payment provisions relating to those fuels.

Effective date.—The provision is effective for fuel produced after December 31, 2008.

2. Comprehensive study of biofuels (sec. 15322 of the conference agreement)

PRESENT LAW

The National Academy of Sciences serves to investigate, examine, experiment and report upon any subject of science whenever called upon to do so by any department of the government. The National Research Council is part of the National Academies. The National Research Council was organized by the National Academy of Sciences in 1916 and is its principal operating agency for conducting science policy and technical work.

HOUSE BILL

No provision.[35]

SENATE AMENDMENT

No provision.

[35] A provision requiring a comprehensive study on biofuels was included in section 402 of H.R. 5351, passed by the House on February 27, 2008.

CONFERENCE AGREEMENT

The conference agreement requires the Secretary, in consultation with the Department of Energy and the Department of Agriculture and the Environmental Protection Agency, to enter into an agreement with the National Academy of Sciences to produce an analysis of current scientific findings to determine:

1. Current biofuels production, as well as projections for future production;
2. The maximum amount of biofuels production capable on U.S. forests and farmlands, including the current quantities and character of the feedstocks and including such information as regional forest inventories that are commercially available, used in the production of biofuels;
3. The domestic effects of a increase in biofuels production on, for example, (a) the price of fuel, (b) the price of land in rural and suburban communities, (c) crop acreage and other land use, (d) the environment, due to changes in crop acreage, fertilizer use, runoff, water use, emissions from vehicles utilizing biofuels, and other factors, (e) the price of feed, (f) the selling price of grain crops, and forest products, (g) exports and imports of grains and forest products, (h) taxpayers, through cost or savings to commodity crop payments, and (i) the expansion of refinery capacity;
4. The ability to convert corn ethanol plants for other uses, such as cellulosic ethanol or biodiesel;
5. A comparative analysis of corn ethanol versus other biofuels and renewable energy sources, considering cost, energy output, and ease of implementation;
6. The impact of the credit for production of cellulosic biofuel (as established by this Act) on the regional agricultural and silvicultural capabilities of commercially available forest inventories; and
7. The need for additional scientific inquiry, and specific areas of interest for future research.

The Secretary shall submit an initial report of the findings to the Congress not later than six months after the date of enactment, and a final report not later than 12 months after the date of enactment. In the case of information relating to the impact of the tax credits established by the Act on the regional agricultural and silvicultural capabilities of commercially available forest inventories, the initial report is due 36 months after the date of enactment and the final report is due 42 months after the date of enactment.

Effective date.—The provision is effective on the date of enactment.

3. Modification of alcohol credit (Sec. 12315 of the Senate amendment, and sec. 15331 of the conference agreement and secs. 40 and 6426 of the Code)

PRESENT LAW

Income tax credit

The alcohol fuels credit is the sum of three credits: the alcohol mixture credit, the alcohol credit, and the small ethanol producer

credit. Generally, the alcohol fuels credit expires after December 31, 2010.[36]

Taxpayers are eligible for an income tax credit of 51 cents per gallon of ethanol (60 cents in the case of alcohol other than ethanol) used in the production of a qualified mixture (the "alcohol mixture credit"). A "qualified mixture" means a mixture of alcohol and gasoline, (or of alcohol and a special fuel) sold by the taxpayer as fuel, or used as fuel by the taxpayer producing such mixture. The term "alcohol" includes methanol and ethanol but does not include (1) alcohol produced from petroleum, natural gas, or coal (including peat), or (2) alcohol with a proof of less than 150.

Taxpayers may reduce their income taxes by 51 cents for each gallon of ethanol, which is not in a mixture with gasoline or other special fuel, that they sell at the retail level as vehicle fuel or use themselves as a fuel in their trade or business ("the alcohol credit"). For alcohol other than ethanol, the rate is 60 cents per gallon.[37]

In the case of ethanol, the Code provides an additional 10–cents-per-gallon credit for up to 15 million gallons per year for small producers. Small producer is defined generally as persons whose production capacity does not exceed 60 million gallons per year. The ethanol must (1) be sold by such producer to another person (a) for use by such other person in the production of a qualified alcohol fuel mixture in such person's trade or business (other than casual off-farm production), (b) for use by such other person as a fuel in a trade or business, or, (c) who sells such ethanol at retail to another person and places such ethanol in the fuel tank of such other person; or (2) used by the producer for any purpose described in (a), (b), or (c). A cooperative may pass through the small ethanol producer credit to its patrons.

The alcohol fuels credit is includible in income and is treated as a general business credit, subject to the ordering rules and carryforward/carryback rules that apply to business credits generally. The credit is allowable against the alternative minimum tax.

Excise tax credit and payment provision for alcohol fuel mixtures

The Code also provides an excise tax credit and payment provision for alcohol fuel mixtures. Like the income tax credit, the amount of the credit is 60 cents per gallon of alcohol used as part of a qualified mixture (51 cents in the case of ethanol). For purposes of the excise tax credit and payment provisions, alcohol includes methanol and ethanol but does not include (1) alcohol produced from petroleum, natural gas, or coal (including peat), or (2) alcohol with a proof of less than 190. Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl either or other ethers produced from alcohol. In lieu of a tax credit, a person making a qualified mixture eligible for the credit may seek a payment from the Secretary in the amount of the credit. The payment provi-

[36] The alcohol fuels credit is unavailable when, for any period before January 1, 2011, the tax rates for gasoline and diesel fuels drop to 4.3 cents per gallon.

[37] In the case of any alcohol (other than ethanol) with a proof that is at least 150 but less than 190, the credit is 45 cents per gallon (the "low-proof blender amount"). For ethanol with a proof that is at least 150 but less than 190, the low-proof blender amount is 37.78 cents.

sions and credits are coordinated such that the incentive is not claimed more than once for each gallon of alcohol used as part of qualified mixture.

RENEWABLE FUELS STANDARD PROGRAM

Under the Renewable Fuels Standard Program all renewable fuel produced or imported on or after September 1, 2007 must have a renewable identification number (RIN) associated with it. Producers and importers must generate RINs to represent all the renewable fuel they produce or import and provide those RINs to the Environmental Protection Agency. For cellulosic ethanol, 2.5 RINs are generated for every gallon produced.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, the 51–cent-per-gallon incentive for ethanol is adjusted to 46 cents per gallon beginning with the first calendar year after the year in which 7.5 billion gallons of ethanol (including cellulosic ethanol) have been produced in or imported into the United States after the date of enactment, as certified by the Secretary in consultation with the Administrator of the Environmental Protection Agency.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

Under the conference agreement, the 51–cent-per-gallon incentive for ethanol is adjusted to 45 cents per gallon for the calendar year 2009 and thereafter.[38] If the Secretary makes a determination, in consultation with the Administrator of the Environmental Protection Agency, that 7,500,000,000 gallons of ethanol (including cellulosic ethanol) were not produced in or imported into the United States in 2008, the reduction in the credit amount will be delayed. If a determination is made that the threshold was not reached in 2008, the reduction for 2010 also will be delayed if the Secretary determines 7,500,000,000 gallons were not produced or imported in 2009. In the absence of a determination, the reduction remains in effect. In the event the determination is made subsequent to the start of a calendar year, those persons claiming the reduced amount prior to the Secretary's determination will be entitled to the difference between the correct credit amount for that year and the credit amount claimed, e.g. between 51 cents per gallon and 45 cents per gallon.

Effective date.—The provision is effective on the date of enactment.

[38] The low-proof blender amount is adjusted accordingly to 33.33 cents.

4. Calculation of volume of alcohol for fuel credits (Sec. 12316 of the Senate amendment, and sec. 15332 of the conference agreement and sec. 40 of the Code)

PRESENT LAW

The Code provides a per-gallon credit for the volume of alcohol used as a fuel or in a qualified mixture. For purposes of determining the number of gallons of alcohol with respect to which the credit is allowable, the volume of alcohol includes any denaturant, including gasoline.[39] The denaturant must be added under a formula approved by the Secretary and the denaturant cannot exceed five percent of the volume of such alcohol (including denaturants).

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment reduces the amount of allowable denaturants to two percent of the volume of the alcohol.

Effective date.—The provision is effective for fuel sold or used after December 31, 2007.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

Effective date.—The provision is effective for fuel sold or used after December 31, 2008.

5. Ethanol tariff extension (Sec. 12317 of the Senate amendment and sec. 15333 of the conference agreement)

PRESENT LAW

Heading 9901.00.50 of the Harmonized Tariff Schedule of the United States imposes a cumulative general duty of 14.27 cents per liter (approximately 54 cents per gallon) to imports of ethyl alcohol, and any mixture containing ethyl alcohol, if used as a fuel or in producing a mixture to be used as a fuel, that are entered into the United States prior to January 1, 2009.

Taxpayers who blend ethanol with gasoline are eligible to claim an alcohol fuels tax credit of 51 cents per gallon, irrespective of whether the ethanol used is produced domestically or imported. Heading 9901.00.50 applies a temporary duty to ethanol imports that offsets the benefit of the alcohol fuels tax credit to imported ethanol.

Heading 9901.00.52 of the Harmonized Tariff Schedule of the United States imposes a general duty of 5.99 cents per liter to imports of ethyl tertiary-butyl ether, and any mixture containing ethyl tertiary-butyl ether, that are entered into the United States prior to January 1, 2009.

HOUSE BILL

No provision.

[39] Sec. 40(d)(4).

SENATE AMENDMENT

The Senate amendment modifies the existing effective period for ethyl alcohol as classified under heading 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States from before January 1, 2009 to before January 1, 2011.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

Effective date.—The provision is effective on the date of enactment.

6. Limitations on duty drawback on certain imported ethanol (Sec. 12318 of the Senate amendment and sec. 15334 of the conference agreement)

PRESENT LAW

Subheading 9901.00.50 of the Harmonized Tariff Schedule of the United States ("HTSUS"), imposes an additional duty on ethanol that is used as fuel or used to make fuel. Subsection (b) of Section 313 of the Tariff Act of 1930 permits the refund of duty if the duty-paid good, or a substitute good, is used to make an article that is exported. Subsection (j)(2) of Section 313 permits the refund of duty if the duty-paid good, or a substitute good, is exported. Subsection (p) of section 313 permits the substitution on exportation for drawback eligibility of one motor fuel for another motor fuel. A person who manufactures or acquires gasoline with ethanol subject to the duty imposed by subheading 9901.00.50, HTSUS, can export jet fuel (which does not involve the use of ethanol) and obtain a refund of the duty paid under subheading 9901.00.50, HTSUS.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment eliminates the ability to obtain a refund of the duty imposed by subheading 9901.00.50, HTSUS, by substitution of ethanol not subject to the duty under 9901.00.50 of the HTSUS for ethanol subject to the duty imposed under subheading 9901.00.50, HTSUS, for drawback purposes. Also, under the provision, an exported article that does not contain ethyl alcohol or a mixture of ethyl alcohol shall not be treated as the same kind and quality as a qualified article that does contain ethyl alcohol or a mixture of ethyl alcohol, for substitution duty drawback purposes under section 313(p) of the Tariff Act of 1930. In particular, this eliminates the ability to export jet fuel as a substitute for motor fuel made with imports of ethyl alcohol or a mixture of ethyl alcohol, and receive duty drawback based upon the import duty paid under subheading 9901.00.50, HTSUS.

Effective date.—Effective for articles exported on or after the date that is 15 days after the date of enactment.

CONFERENCE AGREEMENT

Under the conference agreement, any duty paid under subheading 9901.00.50, HTSUS, on imports of ethyl alcohol or a mixture of ethyl alcohol may not be refunded if the exported article upon which a drawback claim is based does not contain ethyl alcohol or a mixture of ethyl alcohol. In particular, the provision eliminates the ability to export jet fuel as a substitute for motor fuel made with imports of ethyl alcohol or a mixture of ethyl alcohol, and then receive duty drawback based upon the import duty paid on the ethyl alcohol or the mixture of ethyl alcohol under subheading 9901.00.50, HTSUS.

Effective date.—The provision applies to imports of ethyl alcohol or a mixture of ethyl alcohol entered for consumption, or withdrawn from warehouse for consumption, on or after October 1, 2008. With respect to claims for substitution duty drawback that are based upon imports of ethyl alcohol or a mixture of ethyl alcohol entered for consumption, or withdrawn from warehouse for consumption, before October 1, 2008, such claims must be filed not later than September 30, 2010; otherwise, such claims are disallowed.

C. Agricultural Provisions

1. Qualified small issue bonds for farming (Sec. 12401 of the Senate amendment, sec. 15341 of the conference agreement and sec. 144 of the Code)

PRESENT LAW

Qualified small issue bonds are tax-exempt bonds issued by State and local governments to finance private business manufacturing facilities (including certain directly related and ancillary facilities) or the acquisition of land and equipment by certain first-time farmers. A first-time farmer means any individual who has not at any time had any direct ownership interest in substantial farmland in the operation of which such individual materially participated. In addition, an individual does not qualify as a first-time farmer if such individual has received more than $250,000 in qualified small issue bond financing. Substantial farmland means any parcel of land unless (1) such parcel is smaller than 30 percent of the median size of a farm in the county in which such parcel is located and (2) the fair market value of the land does not at any time while held by the individual exceed $125,000.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment increases the maximum amount of qualified small issue bond proceeds available to first-time farmers to $450,000 and indexes this amount for inflation. The provision also eliminates the fair market value test from the definition of substantial farmland.

Effective date.—The provision is effective for bonds issued after the date of enactment. Conference Agreement The conference agreement follows the Senate amendment.

2. Allowance of section 1031 for exchanges involving certain mutual ditch, reservoir, or irrigation company stock (sec. 12403 of the Senate amendment, sec. 15342 of the conference agreement and sec. 1031 of the Code)

PRESENT LAW

An exchange of property, like a sale, generally is a taxable event. However, no gain or loss is recognized if property held for productive use in a trade or business or for investment is exchanged for property of a "like-kind" which is to be held for productive use in a trade or business or for investment.[40] If section 1031 applies to an exchange of properties, the basis of the property received in the exchange is equal to the basis of the property transferred, decreased by any money received by the taxpayer, and further adjusted for any gain or loss recognized on the exchange. In general, section 1031 does not apply to any exchange of stock in trade or other property held primarily for sale; stocks, bonds or notes; other securities or evidences of indebtedness or interest; interests in a partnership; certificates of trust or beneficial interests; or choses in action.[41]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides that the general exclusion from section 1031 treatment for stocks shall not apply to shares in a mutual ditch, reservoir, or irrigation company, if at the time of the exchange: (1) the company is an organization described in section 501(c)(12)(A) (determined without regard to the percentage of its income that is collected from its members for the purpose of meeting losses and expenses); and (2) the shares in the company have been recognized by the highest court of the State in which such company was organized or by applicable State statute as constituting or representing real property or an interest in real property.

Effective date.—The provision is effective for transfers after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

[40] Sec. 1031(a)(1).
[41] Sec. 1031(a)(2).

3. Agricultural chemicals security tax credit (Sec. 12405 of the Senate amendment, sec. 15343 of the conference agreement and new sec. 45O of the Code)

PRESENT LAW

Present law does not provide a credit for agricultural chemicals security.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment establishes a 30 percent credit for qualified chemical security expenditures for the taxable year with respect to eligible agricultural businesses. The credit is a component of the general business credit.[42]

The credit is limited to $100,000 per facility, this amount is reduced by the aggregate amount of the credits allowed for the facility in the prior five years. In addition, each taxpayer's annual credit is limited to $2,000,000.[43] The credit only applies to expenditures paid or incurred before December 31, 2012. The taxpayer's deductible expense is reduced by the amount of the credit claimed.

Qualified chemical security expenditures are amounts paid for: 1) employee security training and background checks; (2) limitation and prevention of access to controls of specific agricultural chemicals stored at a facility; (3) tagging, locking tank valves, and chemical additives to prevent the theft of specific agricultural chemicals or to render such chemicals unfit for illegal use; (4) protection of the perimeter of areas where specified agricultural chemicals are stored; (5) installation of security lighting, cameras, recording equipment and intrusion detection sensors (6) implementation of measures to increase computer or computer network security; (7) conducting security vulnerability assessments; (8) implementing a site security plan; and (9) other measures provided for by regulation. Amounts described in the preceding sentences are only eligible to the extent they are incurred by an eligible agricultural business for protecting specified agricultural chemicals.

Eligible agricultural businesses are businesses that: (1) sell agricultural products, including specified agricultural chemicals, at retail predominantly to farmers and ranchers; or (2) manufacture, formulate, distribute, or aerially apply specified agricultural chemicals.

Specified agricultural chemicals means: (1) fertilizer commonly used in agricultural operations which is listed under section 302(a)(2) of the Emergency Planning and Community Right-to know Act of 1986, section 101 or part 172 of title 49, Code of Federal Regulations, or part 126, 127 or 154 of title 33, Code of Federal Regulations; and (2) any pesticide (as defined in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act) includ-

[42] Sec. 38(b)(1).

[43] The term taxpayer includes controlled groups under rules similar to the rules set out in section 41(f)(1) and (2).

ing all active and inert ingredients which are used on crops grown for food, feed or fiber.

Effective date.—The provision is effective for expenses paid or incurred after date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

4. Three-year depreciation for all race horses (Sec. 12509(a) of the Senate amendment, and sec. 15344 of the conference agreement and sec. 168 of the Code)

PRESENT LAW

A taxpayer is allowed to recover, through annual depreciation deductions, the cost of certain property used in a trade or business or for the production of income. The amount of the depreciation deduction allowed with respect to tangible property for a taxable year is determined under the modified accelerated cost recovery system ("MACRS").[44] The class lives of assets placed in service after 1986 are generally set forth in Revenue Procedure 87–56.[45] Any race horse that is more than two years old at the time it is placed in service is assigned a three-year recovery period.[46] A seven year recovery period is assigned to any race horse that is two years old or younger at the time it is placed in service.[47]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides a three year recovery period for any race horse.

Effective date.—The provision applies to property placed in service on or after the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment, except that the provision applies to any race horse that is two years old or younger at the time that it is placed in service after December 31, 2008 and before January 1, 2014.

[44] Sec. 168.
[45] 1987–2 C.B. 674 (as clarified and modified by Rev. Proc. 88–22, 1988–1 C.B. 785).
[46] Sec. 168(e)(3)(A)(i).
[47] Rev. Proc. 87–56, 1987–2 C.B. 674, asset class 01.225.

5. Temporary relief for Kiowa County, Kansas and surrounding area[48]

(a) Suspension of certain limitations on personal casualty losses (Sec. 12701 of the Senate amendment, sec. 15345 of the conference agreement and sec. 1400S(b) of the Code)

PRESENT LAW

Under present law, a taxpayer may generally claim a deduction for any loss sustained during the taxable year and not compensated by insurance or otherwise (sec. 165). For individual taxpayers, deductible losses must be incurred in a trade or business or other profit-seeking activity or consist of property losses arising from fire, storm, shipwreck, or other casualty, or from theft. Personal casualty or theft losses are deductible only if they exceed $100 per casualty or theft (the "$100 limitation") (sec. 165(h)). In addition, aggregate net casualty and theft losses are deductible only to the extent they exceed 10 percent of an individual taxpayer's adjusted gross income (the "AGI limitation") (sec. 165(h)).

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment removes two limitations on personal casualty or theft losses to the extent those losses arose from such events in the Kansas disaster area after May 4, 2007, and are attributable to the disaster occurring at that time. For purposes of the provisions of this Act, the term "Kansas disaster area" means an area with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (FEMA–1699–DR, as in effect on the date of enactment of this Act) by reason of severe storms and tornadoes beginning on May 4, 2007, and determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act with respect to damages attributable to storms and tornadoes. These personal casualty or theft losses are deductible without regard to either the $100 limitation or the AGI limitation. For purposes of applying the AGI limitation to other personal casualty or theft losses, losses deductible under this provision are disregarded. Thus, the provision has the effect of treating personal casualty or theft losses from the disaster separate from all other casualty losses.

Effective date.—The provision is effective for losses arising on or after May 4, 2007.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

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[48] The provisions of this Act generally provide tax relief similar to certain other disaster areas. They do not modify the otherwise applicable tax relief to those other disaster areas.

(b) Extension of replacement period for nonrecognition of gain (Sec. 12701 of the Senate amendment, and sec. 15345 of the conference agreement)

PRESENT LAW

Generally, a taxpayer realizes gain to the extent the sales price (and any other consideration received) exceeds the taxpayer's basis in the property. The realized gain is subject to current income tax unless the gain is deferred or not recognized under a special tax provision.

Under section 1033, gain realized by a taxpayer from an involuntary conversion of property is deferred to the extent the taxpayer purchases property similar or related in service or use to the converted property within the applicable period. The taxpayer's basis in the replacement property generally is the cost of such property, reduced by the amount of gain not recognized.

The applicable period for the taxpayer to replace the converted property begins with the date of the disposition of the converted property (or if earlier, the earliest date of the threat or imminence of requisition or condemnation of the converted property) and ends two years after the close of the first taxable year in which any part of the gain upon conversion is realized (the "replacement period").

Special rules extend the replacement period for certain real property[49] and principal residences damaged by a Presidentially declared disaster[50] to three years and four years, respectively, after the close of the first taxable year in which gain is realized. Similarly, the replacement period for livestock sold on account of drought, flood, or other weather-related conditions is extended from two years to four years after the close of the first taxable year in which any part of the gain on conversion is realized.[51]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment extends from two to five years the replacement period in which a taxpayer may replace converted property, in the case of property that is in the Kansas disaster area and that is compulsorily or involuntarily converted on or after May 4, 2007, by reason of the May 4, 2007, storms and tornadoes. Substantially all of the use of the replacement property must be in this area.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

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[49] Sec. 1033(g)(4).
[50] Sec. 1033(h)(1)(B).
[51] Sec. 1033(e)(2).

(c) Employee retention credit (Sec. 12701 of the Senate amendment, sec. 15345 of the conference agreement and sec. 1400R(a) of the Code)

PRESENT LAW

For employers affected by Hurricanes Katrina, Rita, or Wilma, section 1400R provides a credit of 40 percent of the qualified wages (up to a maximum of $6,000 in qualified wages per employee) paid by an eligible employer to an eligible employee.

Hurricane Katrina

An eligible employer is any employer (1) that conducted an active trade or business on August 28, 2005, in the GO Zone and (2) with respect to which the trade or business described in (1) is inoperable on any day after August 28, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Katrina.

An eligible employee is, with respect to an eligible employer, an employee whose principal place of employment on August 28, 2005, with such eligible employer was in the GO Zone. An employee may not be treated as an eligible employee for any period with respect to an employer if such employer is allowed a credit under section 51 with respect to the employee for the period.

Qualified wages are wages (as defined in section 51(c)(1) of the Code, but without regard to section 3306(b)(2)(B) of the Code) paid or incurred by an eligible employer with respect to an eligible employee on any day after August 28, 2005, and before January 1, 2006, during the period (1) beginning on the date on which the trade or business first became inoperable at the principal place of employment of the employee immediately before Hurricane Katrina, and (2) ending on the date on which such trade or business has resumed significant operations at such principal place of employment. Qualified wages include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

The credit is a part of the current year business credit under section 38(b) and therefore is subject to the tax liability limitations of section 38(c). Rules similar to sections 51(i)(1) and 52 apply to the credit.

Hurricane Rita and Wilma

The credit for employers affected by Hurricanes Rita and Wilma is subject to the same rules as Katrina, except the reference dates for affected employers, comparable to the August 28, 2005 date for Katrina, are September 23, 2005, and October 23, 2005, respectively.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment extends the retention credit, as modified to include an employer size limitation, for employers affected by the Kansas storms and tornados. The reference dates for these employers, comparable to the August 28, 2005 and January 1, 2006 dates of present law for employers affected by Hurricane Katrina, are May 4, 2007, and January 1, 2008, respectively.

The retention credit for employers affected by the Kansas storms and tornados includes an employer size limitation. The credit only applies to eligible employers who employed an average of not more than 200 employees on business days during the taxable year before May 4, 2007.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

(d) Special depreciation allowance (Sec. 12701 of the Senate amendment, sec. 15345 of the conference agreement and sec. 1400N(d) of the Code)

PRESENT LAW

A taxpayer is allowed to recover, through annual depreciation deductions, the cost of certain property used in a trade or business or for the production of income. The amount of the depreciation deduction allowed with respect to tangible property for a taxable year is determined under the modified accelerated cost recovery system ("MACRS").[52] Under MACRS, different types of property generally are assigned applicable recovery periods and depreciation methods. The recovery periods applicable to most tangible personal property (generally tangible property other than residential rental property and nonresidential real property) range from 3 to 20 years. The depreciation methods generally applicable to tangible personal property are the 200-percent and 150-percent declining balance methods, switching to the straight-line method for the taxable year in which the depreciation deduction would be maximized.

For qualified Gulf Opportunity Zone property, the Code provides an additional first-year depreciation deduction equal to 50 percent of the adjusted basis.[53] In order to qualify, property generally must be placed in service on or before December 31, 2007 (December 31, 2008 in the case of nonresidential real property and residential rental property).

The additional first-year depreciation deduction is allowed for both regular tax and alternative minimum tax purposes for the taxable year in which the property is placed in service. The additional first-year depreciation deduction is subject to the general rules regarding whether an item is deductible under section 162 or subject to capitalization under section 263 or section 263A. The basis of the property and the depreciation allowances in the year of purchase and later years are appropriately adjusted to reflect

[52] Sec. 168.
[53] Sec. 1400N(d).

the additional first-year depreciation deduction. In addition, the provision provides that there is no adjustment to the allowable amount of depreciation for purposes of computing a taxpayer's alternative minimum taxable income with respect to property to which the provision applies. A taxpayer is allowed to elect out of the additional first-year depreciation for any class of property for any taxable year.

In order for property to qualify for the additional first-year depreciation deduction, it must meet all of the following requirements. First, the property must be property to which the general rules of the Modified Accelerated Cost Recovery System ("MACRS") apply with (1) an applicable recovery period of 20 years or less, (2) computer software other than computer software covered by section 197, (3) water utility property (as defined in section 168(e)(5)), (4) certain leasehold improvement property, or (5) certain nonresidential real property and residential rental property. Second, substantially all of the use of such property must be in the Gulf Opportunity Zone and in the active conduct of a trade or business by the taxpayer in the Gulf Opportunity Zone. Third, the original use of the property in the Gulf Opportunity Zone must commence with the taxpayer on or after August 28, 2005.[54] Finally, the property must be acquired by purchase (as defined under section 179(d)) by the taxpayer on or after August 28, 2005 and placed in service on or before December 31, 2007 (December 31, 2008, for qualifying nonresidential real property and residential rental property). Property does not qualify if a binding written contract for the acquisition of such property was in effect before August 28, 2005. However, property is not precluded from qualifying for the additional first-year depreciation merely because a binding written contract to acquire a component of the property is in effect prior to August 28, 2005.

Property that is manufactured, constructed, or produced by the taxpayer for use by the taxpayer qualifies if the taxpayer begins the manufacture, construction, or production of the property after August 27, 2005, and before January 1, 2008, and the property is placed in service on or before December 31, 2007 (and all other requirements are met). In the case of qualified nonresidential real property and residential rental property, the property must be placed in service on or before December 31, 2008. Property that is manufactured, constructed, or produced for the taxpayer by another person under a contract that is entered into prior to the manufacture, construction, or production of the property is considered to be manufactured, constructed, or produced by the taxpayer.

The special allowance for Gulf Opportunity Zone property was extended for certain nonresidential real property and residential rental property, and certain personal property if substantially all of the use of such property is in such building,[55] placed in service in specified portions of the GO Zone by the taxpayer on or before

[54] Used property may constitute qualified property so long as it has not previously been used within the Gulf Opportunity Zone. In addition, it is intended that additional capital expenditures incurred to recondition or rebuild property the original use of which in the Gulf Opportunity Zone began with the taxpayer would satisfy the "original use" requirement. See Treasury Regulation sec. 1.48–2, Example 5.

[55] Such personal property must be placed in service by the taxpayer not later than 90 days after such building is placed in service.

December 31, 2010.[56] The extension only applies to nonresidential real property and residential rental property to the extent of the adjusted basis attributable to manufacture, construction, or production before January 1, 2010.[57]

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides an additional first-year depreciation deduction equal to 50 percent of the adjusted basis for qualified Recovery Assistance property. In order for property to qualify for the additional first-year depreciation deduction, it must meet all of the following requirements: (1) The property must be property to which the general rules of the MACRS apply with (a) an applicable recovery period of 20 years or less, (b) computer software other than computer software covered by section 197, (c) water utility property (as defined in section 168(e)(5)), (d) certain leasehold improvement property, or (e) certain nonresidential real property and residential rental property; (2) substantially all of the use of such property must be in the Kansas Disaster Zone and in the active conduct of a trade or business by the taxpayer in the Kansas Disaster Zone. Third, the original use of the property in the Kansas Disaster Zone must commence with the taxpayer on or after May 5, 2007.[58] Finally, the property must be acquired by purchase (as defined under section 179(d)) by the taxpayer on or after May 5, 2007 and placed in service on or before December 31, 2008 (December 31, 2009, for qualifying nonresidential real property and residential rental property). Property does not qualify if a binding written contract for the acquisition of such property was in effect before May 5, 2007. However, property is not precluded from qualifying for the additional first-year depreciation merely because a binding written contract to acquire a component of the property is in effect prior to May 5, 2007.

Property that is manufactured, constructed, or produced by the taxpayer for use by the taxpayer qualifies if the taxpayer begins the manufacture, construction, or production of the property after May 4, 2007, and before January 1, 2009, and the property is placed in service on or before December 31, 2008 (and all other requirements are met). In the case of qualified nonresidential real property and residential rental property, the property must be placed in service on or before December 31, 2009. Property that is manufactured, constructed, or produced for the taxpayer by another person under a contract that is entered into prior to the manufacture, construction, or production of the property is considered to be manufactured, constructed, or produced by the taxpayer.

Effective date.—The provision is effective on the date of enactment.

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[56] Sec. 1400N(d)(6).

[57] Sec. 1400N(d)(6)(D).

[58] Used property may constitute qualified property so long as it has not previously been used within the Kansas Disaster Zone. In addition, it is intended that additional capital expenditures incurred to recondition or rebuild property the original use of which in the Kansas Disaster Zone began with the taxpayer would satisfy the "original use" requirement. See Treasury Regulation sec. 1.48–2, Example 5.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

(e) Increase in expensing under section 179 (Sec. 12701 of the Senate amendment, sec. 15345 of the conference agreement and sec. 1400N(e) of the Code)

PRESENT LAW

In lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct (or "expense") such costs under section 179. Present law provides that the maximum amount a taxpayer may expense, for taxable years beginning in 2007 through 2010, is $125,000 of the cost of qualifying property placed in service for the taxable year.[59] In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. Off-the-shelf computer software placed in service in taxable years beginning before 2010 is treated as qualifying property. The $125,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $500,000. The $125,000 and $500,000 amounts are indexed for inflation in taxable years beginning after 2007 and before 2011.

The amount eligible to be expensed for a taxable year may not exceed the taxable income for a taxable year that is derived from the active conduct of a trade or business (determined without regard to this provision). Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding taxable years (subject to similar limitations). No general business credit under section 38 is allowed with respect to any amount for which a deduction is allowed under section 179. An expensing election is made under rules prescribed by the Secretary.[60]

For taxable years beginning in 2011 and thereafter (or before 2003), the following rules apply. A taxpayer with a sufficiently small amount of annual investment may elect to deduct up to $25,000 of the cost of qualifying property placed in service for the taxable year. The $25,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $200,000. The $25,000 and $200,000 amounts are not indexed. In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business (not including off the-shelf computer software). An expensing election may be revoked only with consent of the Commissioner.[61]

For qualified section 179 Gulf Opportunity Zone property, the maximum amount that a taxpayer may elect to deduct is increased

[59] Additional section 179 incentives are provided with respect to qualified property meeting applicable requirements that is used by a business in an empowerment zone (sec. 1397A), a renewal community (sec. 1400J), or the Gulf Opportunity Zone (sec. 1400N(e)).

[60] Sec. 179(c)(1). Under Treas. Reg. sec. 1.179–5, applicable to property placed in service in taxable years beginning after 2002 and before 2008, a taxpayer is permitted to make or revoke an election under section 179 without the consent of the Commissioner on an amended Federal tax return for that taxable year. This amended return must be filed within the time prescribed by law for filing an amended return for the taxable year. T.D. 9209, July 12, 2005.

[61] Sec. 179(c)(2).

by the lesser of $100,000 or the cost of qualified section 179 Gulf Opportunity Zone property for the taxable year.[62] The provision applies with respect to qualified section 179 Gulf Opportunity Zone property acquired on or after August 28, 2005, and placed in service on or before December 31, 2007. This placed in service date was extended to December 31, 2008 for property substantially all of the use of which is in one or more specified portions of the GO Zone. The threshold for reducing the amount expensed is computed by increasing the $500,000 present-law amount by the lesser of (1) $600,000, or (2) the cost of qualified section 179 Gulf Opportunity Zone property placed in service during the taxable year. Neither the $100,000 nor $600,000 amounts are indexed for inflation.

Qualified section 179 Gulf Opportunity Zone property means section 179 property (as defined in section 179(d)) that also meets the following requirements: (1) The property must be property to which the general rules of the MACRS apply with (a) an applicable recovery period of 20 years or less, (b) computer software other than computer software covered by section 197, (c) water utility property (as defined in section 168(e)(5)), (d) certain leasehold improvement property; (2) substantially all of the use of which is in the Gulf Opportunity Zone and is in the active conduct of a trade or business by the taxpayer in that Zone; (3) the original use of which commences with the taxpayer on or after August 28, 2005; (4) which is acquired by the taxpayer by purchase on or after August 28, 2005, but only if no written binding contract for the acquisition was in effect before August 28, 2005; and (5) which is placed in service by the taxpayer on or before December 31, 2007.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment increases the amount that a taxpayer may elect for qualified section 179 Recovery Assistance property. The maximum amount that a taxpayer may elect to deduct under section 179 is increased by the lesser of $100,000 or the cost of qualified section 179 Recovery Assistance property for the taxable year. The provision applies with respect to qualified section 179 Recovery Assistance property acquired on or after May 5, 2007, and placed in service on or before December 31, 2008. The threshold for reducing the amount expensed is computed by increasing the $500,000 present-law amount by the lesser of (1) $600,000, or (2) the cost of qualified section 179 Recovery Assistance property placed in service during the taxable year. Neither the $100,000 nor $600,000 amounts are indexed for inflation.

Qualified section 179 Recovery Assistance property means section 179 property (as defined in section 179(d)) that also meets the following requirements: (1) The property must be property to which the general rules of the MACRS apply with (a) an applicable recovery period of 20 years or less, (b) computer software other than computer software covered by section 197, (c) water utility property (as defined in section 168(e)(5)), or (d) certain leasehold improve-

[62] Sec. 1400N(e).

ment property; (2) substantially all of the use of which is in the Kansas Disaster Zone and is in the active conduct of a trade or business by the taxpayer in that Zone; (3) the original use of which commences with the taxpayer on or after May 5, 2007; (4) which is acquired by the taxpayer by purchase on or after May 5, 2007, but only if no written binding contract for the acquisition was in effect before May 5, 2007; and (5) which is placed in service by the taxpayer on or before December 31, 2008.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

(f) Expensing for certain demolition and clean-up costs (Sec. 12701 of the Senate amendment, sec. 15345 of the conference agreement and sec. 1400N(f) of the Code)

PRESENT LAW

Under present law, the cost of demolition of a structure is capitalized into the taxpayer's basis in the land on which the structure is located.[63] Land is not subject to an allowance for depreciation or amortization.

The treatment of the cost of debris removal depends on the nature of the costs incurred. For example, the cost of debris removal after a storm may in some cases constitute an ordinary and necessary business expense which is deductible in the year paid or incurred. In other cases, debris removal costs may be in the nature of replacement of part of the property that was damaged. In such cases, the costs are capitalized and added to the taxpayer's basis in the property. For example, Revenue Ruling 71–161[64] permits the use of clean-up costs as a measure of casualty loss but requires that such costs be added to the post-casualty basis of the property.

Under section 1400N(f), a taxpayer is permitted a deduction for 50 percent of any qualified Gulf Opportunity Zone clean-up cost paid or incurred during the period beginning on August 28, 2005, and ending on December 31, 2007. The remaining 50 percent is capitalized and treated as described above. A qualified Gulf Opportunity Zone clean-up cost is an amount paid or incurred for the removal of debris from, or the demolition of structures on, real property located in the Gulf Opportunity Zone to the extent that the amount would otherwise be capitalized. In order to qualify, the property must be held for use in a trade or business, for the production of income, or as inventory.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, a taxpayer is permitted a deduction for 50 percent of any qualified Recovery Assistance clean-

[63] Sec. 280B.
[64] 1971–1 C.B. 76.

up cost paid or incurred during the period beginning on May 4, 2007, and ending on December 31, 2009. The remaining 50 percent is treated as under present law. A qualified Recovery Assistance clean-up cost is an amount paid or incurred for the removal of debris from, or the demolition of structures on, real property located in the Kansas disaster area to the extent that the amount would otherwise be capitalized. In order to qualify, the property must be held for use in a trade or business, for the production of income, or as inventory.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

(g) Treatment of public utility property disaster losses (Sec. 12701 of the Senate amendment, sec. 15345 of the conference agreement and sec. 1400N(o) of the Code)

PRESENT LAW

Under section 165(i), certain losses attributable to a disaster occurring in a Presidentially declared disaster area may, at the election of the taxpayer, be taken into account for the taxable year immediately preceding the taxable year in which the disaster occurred.

Section 6411 provides a procedure under which taxpayers may apply for tentative carryback and refund adjustments with respect to net operating losses, net capital losses, and unused business credits.

Section 1400N(o) provides an election for taxpayers who incurred casualty losses attributable to Hurricane Katrina with respect to public utility property located in the Gulf Opportunity Zone. Under the election, such losses may be taken into account in the fifth taxable year (rather than the 1st taxable year) immediately preceding the taxable year in which the loss occurred. If the application of this provision results in the creation or increase of a net operating loss for the year in which the casualty loss is taken into account, the net operating loss may be carried back or carried over as under present law applicable to net operating losses for such year.

For purposes of section 1400N(o), public utility property is property used predominantly in the trade or business of the furnishing or sale of electrical energy, water, or sewage disposal services; gas or steam through a local distribution system; telephone services, or other communication services if furnished or sold by the Communications Satellite Corporation for purposes authorized by the Communications Satellite Act of 1962; or transportation of gas or steam by pipeline. Such property is eligible regardless of whether the taxpayer's rates are established or approved by any regulatory body.

A taxpayer making the election under the provision is eligible to file an application for a tentative carryback adjustment of the tax for any prior taxable year affected by the election. As under present law with respect to tentative carryback and refund adjust-

ments, the IRS generally has 90 days to act on the refund claim. Under the provision, the statute of limitations with respect to such a claim can not expire earlier than one year after the date of enactment. Also, a taxpayer making the election with respect to a loss is not entitled to interest with respect to any overpayment attributable to the loss.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides an election for taxpayers who incurred casualty losses attributable to the Kansas storms and tornados with respect to public utility property located in the Kansas Disaster Zone. Under the election, such losses may be taken into account in the fifth taxable year (rather than the 1st taxable year) immediately preceding the taxable year in which the loss occurred. If the application of this provision results in the creation or increase of a net operating loss for the year in which the casualty loss is taken into account, the net operating loss may be carried back or carried over as under present law applicable to net operating losses for such year. The other definitions and rules that apply under section 1400N(o) shall apply to the losses claimed in the Kansas Disaster Zone.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

(h) Treatment of net operating losses attributable to storm losses (Sec. 12701 of the Senate amendment, sec. 15345 of the conference agreement and sec. 1400N(k) of the Code)

PRESENT LAW

Under present law, a net operating loss ("NOL") is, generally, the amount by which a taxpayer's business deductions exceed its gross income. In general, an NOL may be carried back two years and carried over 20 years to offset taxable income in such years.[65] NOLs offset taxable income in the order of the taxable years to which the NOL may be carried.[66]

Different rules apply with respect to NOLs arising in certain circumstances. A three-year carryback applies with respect to NOLs (1) arising from casualty or theft losses of individuals, or (2) attributable to Presidentially declared disasters for taxpayers engaged in a farming business or a small business. A five-year carryback applies to NOLs (1) arising from a farming loss (regardless of whether the loss was incurred in a Presidentially declared disaster area), or (2) certain amounts related to Hurricane Katrina and the Gulf Opportunity Zone. Special rules also apply to real estate investment trusts (no carryback), specified liability losses (10-

[65] Sec. 172(b)(1)(A).
[66] Sec. 172(b)(2).

year carryback), and excess interest losses (no carryback to any year preceding a corporate equity reduction transaction). Additionally, a special rule applies to certain electric utility companies.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides rules in connection with certain net operating losses similar to the rules provided for Gulf Opportunity Zone losses under section 1400N(k). The rules, as applied to qualified Recovery Assistance losses, are as follows:

In General

The provision provides a special five-year carryback period for NOLs to the extent of certain specified amounts related to the Kansas storms and tornados. The amount of the NOL which is eligible for the five year carryback ("eligible NOL") is limited to the aggregate amount of the following deductions: (i) qualified Recovery Assistance casualty losses; (ii) certain moving expenses; (iii) certain temporary housing expenses; (iv) depreciation deductions with respect to qualified Recovery Assistance property for the taxable year the property is placed in service; and (v) deductions for certain repair expenses resulting from the Kansas storms and tornados. The provision applies for losses paid or incurred after May 3, 2007, and before January 1, 2010; however, an irrevocable election not to apply the five-year carryback under the provision may be made with respect to any taxable year.

Qualified Recovery Assistance casualty losses

The amount of qualified Gulf Opportunity Zone casualty losses which may be included in the eligible NOL is the amount of the taxpayer's casualty losses with respect to (1) property used in a trade or business, and (2) capital assets held for more than one year in connection with either a trade or business or a transaction entered into for profit. In order for a casualty loss to qualify, the property must be located in the Kansas Disaster Zone and the loss must be attributable to Kansas storms or tornados. As under present law, the amount of any casualty loss includes only the amount not compensated for by insurance or otherwise. In addition, the total amount of the casualty loss which may be included in the eligible NOL is reduced by the amount of any gain recognized by the taxpayer from involuntary conversions of property located in the Kansas Disaster Zone caused by the Kansas storms or tornados.

To the extent that a casualty loss is included in the eligible NOL and carried back under the provision, the taxpayer is not eligible to also treat the loss as having occurred in the prior taxable year under section 165(i). Similarly, the five-year carryback under the provision does not apply to any loss taken into account for purposes of the ten-year carryback of public utility casualty losses which is provided under another provision in the Act.

Moving expenses

Certain employee moving expenses of an employer may be included in the eligible NOL. In order to qualify, an amount must be paid or incurred after May 3, 2007, and before January 1, 2010 with respect to an employee who (i) lived in the Kansas Disaster Zone before May 4, 2007, (ii) was displaced from their home either temporarily or permanently as a result of the Kansas storms or tornados, and (iii) is employed in the Kansas Disaster Zone by the taxpayer after the expense is paid or incurred.

For this purpose, moving expenses are defined, as under present law, to include only the reasonable expenses of moving household goods and personal effects from the former residence to the new residence, and of traveling (including lodging) from the former residence to the new place of residence. However, for purposes of the provision, the former residence and the new residence may be the same residence if the employee initially vacated the residence as a result of the Kansas storms or tornados. It is not necessary for the individual with respect to whom the moving expenses are incurred to have been an employee of the taxpayer at the time the expenses were incurred. Thus, assuming the other requirements are met, a taxpayer who pays the moving expenses of a prospective employee and subsequently employs the individual in the Kansas Disaster Zone may include such expenses in the eligible NOL.

Temporary housing expenses

Any deduction for expenses of an employer to temporarily house employees who are employed in the Kansas Disaster Zone may be included in the eligible NOL. It is not necessary for the temporary housing to be located in the Kansas Disaster Zone in order for such expenses to be included in the eligible NOL; however, the employee's principal place of employment with the taxpayer must be in the Kansas Disaster Zone. So, for example, if a taxpayer temporarily houses an employee at a location outside of the Kansas Disaster Zone, and the employee commutes into the Kansas Disaster Zone to the employee's principal place of employment, such temporary housing costs will be included in the eligible NOL (assuming all other requirements are met).

Depreciation of Gulf Opportunity Zone property

The eligible NOL includes the depreciation deduction (or amortization deduction in lieu of depreciation) with respect to qualified Recovery Assistance property placed in service during the year. The special carryback period applies to the entire allowable depreciation deduction for such property for the year in which it is placed in service, including both the regular depreciation deduction and the additional first-year depreciation deduction, if any. An election out of the additional first-year depreciation deduction for qualified Recovery Assistance property does not preclude eligibility for the five-year carryback.

Repair expenses

The eligible NOL includes deductions for repair expenses (including the cost of removal of debris) with respect to damage

caused by the Kansas storms or tornados. In order to qualify, the amount must be paid or incurred after May 3, 2007 and before January 1, 2010, and the property must be located in the Kansas Disaster Zone.

Other rules

The amount of the NOL to which the five-year carryback period applies is limited to the amount of the corporation's overall NOL for the taxable year. Any remaining portion of the taxpayer's NOL is subject to the general two-year carryback period. Ordering rules similar to those for specified liability losses apply to losses carried back under the provision.

In addition, the general rule which limits a taxpayer's NOL deduction to 90 percent of AMTI does not apply to any NOL to which the five-year carryback period applies under the provision. Instead, a taxpayer may apply such NOL carrybacks to offset up to 100 percent of AMTI.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

(i) Representations regarding income eligibility for purposes of qualified residential rental project requirements (Sec. 12701 of the Senate amendment, sec. 15345 of the conference agreement and sec. 1400N(n) of the Code)

PRESENT LAW

In general

Under present law, gross income does not include interest on State or local bonds (sec. 103). State and local bonds are classified generally as either governmental bonds or private activity bonds. Governmental bonds are bonds which are primarily used to finance governmental functions or are repaid with governmental funds. Private activity bonds are bonds with respect to which the State or local government serves as a conduit providing financing to nongovernmental persons (e.g., private businesses or individuals). The exclusion from income for State and local bonds does not apply to private activity bonds, unless the bonds are issued for certain permitted purposes ("qualified private activity bonds").

Qualified private activity bonds

The definition of a qualified private activity bond includes an exempt facility bond, or qualified mortgage, veterans' mortgage, small issue, redevelopment, 501(c)(3), or student loan bond. The definition of exempt facility bond includes bonds issued to finance certain transportation facilities (airports, ports, mass commuting, and high-speed intercity rail facilities); qualified residential rental projects; privately owned and/or operated utility facilities (sewage, water, solid waste disposal, and local district heating and cooling facilities, certain private electric and gas facilities, and hydroelectric dam enhancements); public/private educational facilities;

qualified green building and sustainable design projects; and qualified highway or surface freight transfer facilities.

Subject to certain requirements, qualified private activity bonds may be issued to finance residential rental property or owner-occupied housing. Residential rental property may be financed with exempt facility bonds if the financed project is a "qualified residential rental project." A project is a qualified residential rental project if 20 percent or more of the residential units in such project are occupied by individuals whose income is 50 percent or less of area median gross income (the "20–50 test"). Alternatively, a project is a qualified residential rental project if 40 percent or more of the residential units in such project are occupied by individuals whose income is 60 percent or less of area median gross income (the "40–60 test"). The issuer must elect to apply either the 20–50 test or the 40–60 test. Operators of qualified residential rental projects must annually certify that such project meets the requirements for qualification, including meeting the 20–50 test or the 40–60 test.

HOUSE BILL

No provision

SENATE AMENDMENT

Under the provision, the operator of a qualified residential rental project may rely on the representations of prospective tenants displaced by reason of the severe storms and tornados in the Kansas disaster area beginning on May 4, 2007 for purposes of determining whether such individual satisfies the income limitations for qualified residential rental projects and, thus, the project is in compliance with the 20–50 test or the 40–60 test. This rule only applies if the individual's tenancy begins during the six-month period beginning on the date when such individual was displaced.

Effective date.—The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment provision.

(j) Use of retirement funds from retirement plans relating to the Kansas Disaster Zone (Sec. 12701 of the Senate amendment, sec. 15345 of the conference agreement and sec. 1400Q of the Code)

PRESENT LAW

In general

Withdrawals from retirement plans

Under present law, a distribution from a qualified retirement plan under section 401(a), a qualified annuity plan under section 403(a), a tax-sheltered annuity under section 403(b) (a "403(b) annuity"), an eligible deferred compensation plan maintained by a State or local government under section 457 (a "governmental 457 plan"), or an individual retirement arrangement under section 408

(an "IRA") generally is included in income for the year distributed (secs. 402(a), 403(a), 403(b), 408(d), and 457(a)). (These plans are referred to collectively as "eligible retirement plans".) In addition, a distribution from a qualified retirement or annuity plan, a 403(b) annuity, or an IRA received before age 59½, death, or disability generally is subject to a 10-percent early withdrawal tax on the amount includible in income, unless an exception applies (sec. 72(t)).

An eligible rollover distribution from a qualified retirement or annuity plan, a 403(b) annuity, or a governmental 457 plan, or a distribution from an IRA, generally can be rolled over within 60 days to another plan, annuity, or IRA. The IRS has the authority to waive the 60-day requirement if failure to waive the requirement would be against equity or good conscience, including cases of casualty, disaster, or other events beyond the reasonable control of the individual. Any amount rolled over is not includible in income (and thus also not subject to the 10-percent early withdrawal tax).

Distributions from a qualified retirement or annuity plan, 403(b) annuity, a governmental 457 plan, or an IRA are generally subject to income tax withholding unless the recipient elects otherwise. An eligible rollover distribution from a qualified retirement or annuity plan, 403(b) annuity, or governmental 457 plan is subject to income tax withholding at a 20-percent rate unless the distribution is rolled over to another plan, annuity or IRA by means of a direct transfer. Any distribution is an eligible rollover distribution unless specifically excepted. Exceptions include a distribution that is part of a series of substantially equal periodic payments made at least annually for the life of the employee.

Certain amounts held in a qualified retirement plan that includes a qualified cash-or-deferred arrangement (a "401(k) plan") or in a 403(b) annuity may not be distributed before severance from employment, age 59½, death, disability, or financial hardship of the employee. Amounts deferred under a governmental 457 plan may not be distributed before severance from employment, age 70½, or an unforeseeable emergency of the employee.

Loans from retirement plans

An individual is permitted to borrow from a qualified plan in which the individual participates (and to use his or her accrued benefit as security for the loan) provided the loan bears a reasonable rate of interest, is adequately secured, provides a reasonable repayment schedule, and is not made available on a basis that discriminates in favor of employees who are officers, shareholders, or highly compensated.

Subject to certain exceptions, a loan from a qualified employer plan to a plan participant is treated as a taxable distribution of plan benefits. A qualified employer plan includes a qualified retirement plan under section 401(a), a qualified annuity plan under section 403(a), a tax-deferred annuity under section 403(b), and any plan that was (or was determined to be) a qualified employer plan or a governmental plan.

An exception to this general rule of income inclusion is provided to the extent that the loan (when added to the outstanding balance of all other loans to the participant from all plans main-

tained by the employer) does not exceed the lesser of (1) $50,000 reduced by the excess of the highest outstanding balance of loans from such plans during the one-year period ending on the day before the date the loan is made over the outstanding balance of loans from the plan on the date the loan is made or (2) the greater of $10,000 or one half of the participant's accrued benefit under the plan (sec. 72(p)). This exception applies only if the loan is required, by its terms, to be repaid within five years. An extended repayment period is permitted for the purchase of the principal residence of the participant. Plan loan repayments (principal and interest) must be amortized in level payments and made not less frequently than quarterly, over the term of the loan.

Plan amendments

Present law provides a remedial amendment period during which, under certain circumstances, a plan may be amended retroactively in order to comply with the qualification requirements (sec. 401(b)). In general, plan amendments required to reflect changes in the law generally must be made by the time prescribed by law for filing the income tax return of the employer for the employer's taxable year in which the change in law occurs. The Secretary of the Treasury may extend the time by which plan amendments need to be made.

Use of retirement funds related to disaster relief for Hurricanes Katrina, Rita, and Wilma

In general

Section 1400Q provides exceptions to certain rules regarding distributions from retirement plans, for loans from retirement plans, and for plan amendments to retirement plans.[67]

Tax favored withdrawals from retirement plans

Section 1400Q(a) provides an exception to the 10-percent early withdrawal tax in the case of a qualified hurricane distribution from a qualified retirement or annuity plan, a 403(b) annuity, or an IRA. In addition, as discussed more fully below, income attributable to a qualified hurricane distribution may be included in income ratably over three years, and the amount of a qualified hurricane distribution may be recontributed to an eligible retirement plan within three years.

A qualified hurricane distribution includes certain distributions from an eligible retirement plan related to Hurricanes Katrina, Wilma, and Rita. Specifically, qualified hurricane distributions include the following distributions from an eligible retirement plan: any distribution made on or after August 25, 2005, and before January 1, 2007, to an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina Disaster Area and who has sustained an economic loss by reason of Hurricane Katrina; any distribution made on or after September 23,

[67] The relief with respect to Hurricane Katrina was initially provided in the Katrina Emergency Relief Act of 2005 (Pub. L. No. 109–73). The IRS provided guidance on those relief provisions in Notice 2005–92, 2005–2 CB 1165. The relief was codified in section 1400Q and was expanded to the Hurricanes Rita and Wilma Disaster Areas in the Gulf Opportunity Zone Act of 2005 (Pub. L. No. 109–135)

2005, and before January 1, 2007, to an individual whose principal place of abode on September 23, 2005, is located in the Hurricane Rita Disaster Area and who has sustained an economic loss by reason of Hurricane Rita; and any distribution made on or after October 23, 2005, and before January 1, 2007, to an individual whose principal place of abode on October 23, 2005, is located in the Hurricane Wilma Disaster Area and who has sustained an economic loss by reason of Hurricane Wilma.

The total amount of qualified hurricane distributions that an individual can receive from all plans, annuities, or IRAs is $100,000. Thus, any distributions in excess of $100,000 during the applicable periods are not qualified hurricane distributions.

Any amount required to be included in income as a result of a qualified hurricane distribution is included in income ratably over the three-year period beginning with the year of distribution unless the individual elects not to have ratable inclusion apply.

Any portion of a qualified hurricane distribution may, at any time during the three-year period beginning the day after the date on which the distribution was received, be recontributed to an eligible retirement plan to which a rollover can be made. Any amount recontributed within the three-year period is treated as a rollover and thus is not includible in income. For example, if an individual receives a qualified hurricane distribution in 2005, that amount is included in income, generally ratably over the year of the distribution and the following two years, but is not subject to the 10-percent early withdrawal tax. If, in 2007, the amount of the qualified hurricane distribution is recontributed to an eligible retirement plan, the individual may file an amended return (or returns) to claim a refund of the tax attributable to the amount previously included in income. In addition, if, under the ratable inclusion provision, a portion of the distribution has not yet been included in income at the time of the contribution, the remaining amount is not includible in income.

A qualified hurricane distribution is a permissible distribution from a 401(k) plan, 403(b) annuity, or governmental 457 plan, regardless of whether a distribution would otherwise be permissible. A plan is not treated as violating any Code requirement merely because it treats a distribution as a qualified hurricane distribution, provided that the aggregate amount of such distributions from plans maintained by the employer and members of the employer's controlled group does not exceed $100,000. A plan is not treated as violating any Code requirement merely because an individual might receive total distributions in excess of $100,000, taking into account distributions from plans of other employers or IRAs.

Qualified hurricane distributions are subject to the income tax withholding rules applicable to distributions other than eligible rollover distributions. Thus, 20-percent mandatory withholding does not apply.

Recontributions of withdrawals for home purchases

Section 1400Q(b) generally provides that a distribution received from a 401(k) plan, 403(b) annuity, or IRA in order to purchase a home in the Hurricane Katrina, Rita, or Wilma disaster

areas may be recontributed to such a plan, annuity, or IRA in certain circumstances.

The ability to recontribute applies to an individual who receives a qualified distribution. A qualified distribution is a hardship distribution from a 401(k) plan or 403(b) annuity, or a qualified first-time homebuyer distribution from an IRA, that is a qualified Katrina distribution, a qualified Rita distribution, or a qualified Wilma distribution.

A qualified Katrina distribution is a distribution: (1) that is received after February 28, 2005, and before August 29, 2005; and (2) that was to be used to purchase or construct a principal residence in the Hurricane Katrina disaster area, but the residence is not purchased or constructed on account of Hurricane Katrina. Any portion of a qualified Katrina distribution may, during the period beginning on August 25, 2005, and ending on February 28, 2006, be recontributed to a plan, annuity or IRA to which a rollover is permitted.

A qualified Hurricane Rita distribution is a distribution: (1) that is received after February 28, 2005, and before September 24, 2005; and (2) that was to be used to purchase or construct a principal residence in the Hurricane Rita disaster area, but the residence is not purchased or constructed on account of Hurricane Rita. Any portion of a qualified Hurricane Rita distribution may, during the period beginning on September 23, 2005, and ending on February 28, 2006, be recontributed to a plan, annuity or IRA to which a rollover is permitted.

A qualified Hurricane Wilma distribution is a distribution: (1) that is received after February 28, 2005, and before October 24, 2005; and (2) that was to be used to purchase or construct a principal residence in the Hurricane Wilma disaster area, but the residence is not purchased or constructed on account of Hurricane Wilma. Any portion of a qualified Hurricane Wilma distribution may, during the period beginning on October 23, 2005, and ending on February 28, 2006, be recontributed to a plan, annuity or IRA to which a rollover is permitted.

Any amount recontributed is treated as a rollover. Thus, that portion of the qualified distribution is not includible in income (and also is not subject to the 10-percent early withdrawal tax).

Loans from qualified plans to individuals sustaining an economic loss

Section 1400Q(c) provides an exception to the income inclusion rule for loans from a qualified employer plan related to Hurricanes Katrina, Rita, and Wilma made to a qualified individual during an applicable period and provides a repayment delay for loans that are outstanding on or after a qualified beginning date if the due date for any repayment with respect to such loan occurs after the qualified beginning date and December 31, 2006.

The exception to the general rule of income inclusion is provided to the extent that the loan (when added to the outstanding balance of all other loans to the participant from all plans maintained by the employer) does not exceed the lesser of (1) $100,000 reduced by the excess of the highest outstanding balance of loans from such plans during the one-year period ending on the day be-

fore the date the loan is made over the outstanding balance of loans from the plan on the date the loan is made or (2) the greater of $10,000 or the participant's accrued benefit under the plan.

In the case of a qualified individual with an outstanding loan on or after the qualified beginning date from a qualified employer plan, if the due date for any repayment with respect to such loan occurs during the period beginning on the qualified beginning date, and ending on December 31, 2006, such due date is delayed for one year. Any subsequent repayments with respect to such loan shall be appropriately adjusted to reflect the delay in the due date and any interest accruing during such delay. The period during which required repayment is delayed is disregarded in complying with the requirements that the loan be repaid within five years and that level amortization payments be made.

A qualified individual entitled to this plan loan relief includes a qualified Katrina individual, a qualified Rita individual, or a qualified Wilma individual. A qualified Hurricane Katrina individual is an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina. The qualified beginning date for a qualified Katrina individual is August 25, 2005 and the applicable period is the period beginning on September 24, 2005, and ending December 31, 2006.

A qualified Hurricane Rita individual is an individual whose principal place of abode on September 23, 2005, is located in a Hurricane Rita disaster area and who has sustained an economic loss by reason of Hurricane Rita. The qualified beginning date for a qualified Hurricane Rita individual is September 23, 2005, and the applicable period is the period beginning on September 23, 2005, and ending on December 31, 2006.

A qualified Hurricane Wilma individual is an individual whose principal place of abode on October 23, 2005, is located in a Hurricane Wilma disaster area and who has sustained an economic loss by reason of Hurricane Wilma. The qualified beginning date for a qualified Hurricane Wilma individual is October 23, 2005, and the applicable period is the period beginning on October 23, 2005, and ending on December 31, 2006.

An individual cannot be a qualified individual with respect to more than one hurricane.

Plan amendments relating to Hurricanes Katrina, Rita, and Wilma

Section 1400Q(d) permits certain plan amendments made pursuant to any provision in section 1400Q, or regulations issued thereunder, to be retroactively effective. If the plan amendment meets the requirements of section 1400Q, then the plan will be treated as being operated in accordance with its terms. In order for this treatment to apply, the plan amendment is required to be made on or before the last day of the first plan year beginning on or after January 1, 2007, or such later date as provided by the Secretary of the Treasury. Governmental plans are given an additional two years in which to make required plan amendments. If the amendment is required to be made to retain qualified status as a result of the changes made by section 1400Q (or regulations), the

amendment is required to be made retroactively effective as of the date on which the change became effective with respect to the plan, and the plan is required to be operated in compliance until the amendment is made. Amendments that are not required to retain qualified status but that are made pursuant to section 1400Q may be made retroactively effective as of the first day the plan is operated in accordance with the amendment. A plan amendment will not be considered to be pursuant to section 1400Q (or regulations) if it has an effective date before the effective date of the provision (or regulations) to which it relates.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment provides relief similar to the relief provided in section 1400Q with respect to use of retirement funds in connection with the tornadoes and storms that occurred in the Kansas disaster area.

Effective date. The provision is effective on the date of enactment.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

6. Modification of the advanced coal project credit and the gasification project credit (Sec. 15346 of the conference agreement and secs. 48A and 48B of the Code)

PRESENT LAW

Advanced coal project credit

An investment tax credit is available for power generation projects that use integrated gasification combined cycle ("IGCC") or other advanced coal-based electricity generation technologies.[68] The credit amount is 20 percent for investments in qualifying IGCC projects and 15 percent for investments in qualifying projects that use other advanced coal-based electricity generation technologies.

To qualify, an advanced coal project must be located in the United States and use an advanced coal-based generation technology to power a new electric generation unit or to retrofit or repower an existing unit. Generally, an electric generation unit using an advanced coal-based technology must be designed to achieve a 99 percent reduction in sulfur dioxide and a 90 percent reduction in mercury, as well as to limit emissions of nitrous oxide and particulate matter.[69]

The fuel input for a qualifying project, when completed, must use at least 75 percent coal. The project, consisting of one or more electric generation units at one site, must have a nameplate gener-

[68] Sec. 48A.

[69] For advanced coal project certification applications submitted after October 2, 2006, an electric generation unit using advanced coal-based generation technology designed to use subbituminous coal can meet the performance requirement relating to the removal of sulfur dioxide if it is designed either to remove 99 percent of the sulfur dioxide or to achieve an emission limit of 0.04 pounds of sulfur dioxide per million British thermal units on a 30-day average.

ating capacity of at least 400 megawatts, and the taxpayer must provide evidence that a majority of the output of the project is reasonably expected to be acquired or utilized.

Credits are available only for projects certified by the Secretary of the Treasury, in consultation with the Secretary of Energy. Certifications are issued using a competitive bidding process. The Secretary of Treasury must establish a certification program no later than 180 days after August 8, 2005,[70] and each project application must be submitted during the three-year period beginning on the date such certification program is established. An applicant for certification has two years from the date the Secretary accepts the application to provide the Secretary with evidence that the requirements for certification have been met. Upon certification, the applicant has five years from the date of issuance of the certification to place the project in service.

The Secretary of the Treasury may allocate $800 million of credits to IGCC projects and $500 million to projects using other advanced coal-based electricity generation technologies. Qualified projects must be economically feasible and use the appropriate clean coal technologies. With respect to IGCC projects, credit-eligible investments include only investments in property associated with the gasification of coal, including any coal handling and gas separation equipment. Thus, investments in equipment that could operate by drawing fuel directly from a natural gas pipeline do not qualify for the credit.

In determining which projects to certify that use IGCC technology, the Secretary must allocate power generation capacity in relatively equal amounts to projects that use bituminous coal, subbituminous coal, and lignite as primary feedstock. In addition, the Secretary must give high priority to projects which include greenhouse gas capture capability, increased by-product utilization, and other benefits.

Gasification project credit

A 20-percent investment tax credit is also available for investments in certain qualifying coal gasification projects.[71] Only property which is part of a qualifying gasification project and necessary for the gasification technology of such project is eligible for the gasification credit.

Qualified gasification projects convert coal, petroleum residue, biomass, or other materials recovered for their energy or feedstock value into a synthesis gas composed primarily of carbon monoxide and hydrogen for direct use or subsequent chemical or physical conversion. Qualified projects must be carried out by an eligible entity, defined as any person whose application for certification is principally intended for use in a domestic project which employs domestic gasification applications related to (1) chemicals, (2) fertilizers, (3) glass, (4) steel, (5) petroleum residues, (6) forest products, and (7) agriculture, including feedlots and dairy operations.

Credits are available only for projects certified by the Secretary of the Treasury, in consultation with the Secretary of Energy. Cer-

[70] The Secretary issued guidance establishing the certification program on February 21, 2006 (IRS Notice 2006–24).

[71] Sec. 48B.

tifications are issued using a competitive bidding process. The Secretary of the Treasury must establish a certification program no later than 180 days after August 8, 2005,[72] and each project application must be submitted during the three-year period beginning on the date such certification program is established. The Secretary of the Treasury may not allocate more than $350 million in credits. In addition, the Secretary may certify a maximum of $650 million in qualified investment as eligible for credit with respect to any single project.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

In implementing either section 48A (relating to the credit described above) or section 48B (relating to the coal gasification credit), the provision directs the Secretary to modify the terms of any competitive certification award and any associated closing agreements in certain cases. Specifically, modification is required when it (1) is consistent with the objectives of such section, (2) is requested by the recipient of the award, and (3) involves moving the project site to improve the potential to capture and sequester carbon dioxide emissions, reduce costs of transporting feedstock, and serve a broader customer base. However, no modification is required if the Secretary determines that the dollar amount of tax credits available to the taxpayer under the applicable section would increase as a result of the modification or such modification would result in such project not being originally certified. In considering any such modification, the Secretary must consult with other relevant Federal agencies, including the Department of Energy.

EFFECTIVE DATE

The provision is effective for credit allocation awards issued before, on, or after the date of enactment.

D. Other Revenue Provisions

1. Limitation on farming losses of certain taxpayers (sec. 12501 of the Senate amendment, sec. 15351 of the conference agreement and sec. 461 of the Code)

PRESENT LAW

For taxpayers who materially participate (as defined in section 469(h)) in a farming activity, net farming losses are reported in full as a reduction to income from both passive and nonpassive sources. For taxpayers who do not materially participate in a farming activity, the passive activity rules of section 469 limit the ability to use such losses to reduce income from nonpassive sources.

[72] The Secretary issued guidance establishing the certification program on February 21, 2006 (IRS Notice 2006–25).

Farming income generally includes sales of livestock, produce, grains, and other products; cooperative distributions; Agricultural Program Payments; certain Commodity Credit Corporation ("CCC") loans (if an election is made to include loan proceeds in income in the year received); certain crop insurance proceeds and federal crop disaster payments; and other income. Farm expenses generally include feed, fertilizers, gasoline, fuel, and oil; insurance; interest; hired labor; rent and lease payments; repairs and maintenance; taxes; utilities; depreciation; and other business-related expenses. Living expenses and other personal expenses are not deductible farming expenses.

Present law (section 263A(e)(4))[73] defines a farming business as the trade or business of farming, including the trade or business of operating a nursery or sod farm, or the raising or harvesting of trees bearing fruit, nuts, or other crops, or ornamental trees (excluding evergreen trees that are more than six years old at the time severed from the roots). Treasury regulation section 1.263A–4(a)(4) further provides that a farming business generally means a trade or business involving the cultivation of land or the raising or harvesting of any agricultural or horticultural commodity. The raising, shearing, feeding, caring for, training, and management of animals are included in this definition. For example, the raising of cattle for sale is considered a farming business. However, the mere buying and reselling of plants or animals grown or raised entirely by another is not considered to be raising an agricultural or horticultural commodity. While a farming business does include processing activities that are normally incident to the growing, raising, or harvesting of agricultural or horticultural products (e.g., harvesting, washing, inspecting, and packing fruits and vegetables for sale), it does not include the processing of commodities or products beyond those activities that are normally incident to the growing, raising, or harvesting of such products.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment limits the amount of losses that can be claimed by an individual, estate, trust, or partnership on Schedule F to $200,000 in cases where the taxpayer has received Agricultural Program Payments or CCC loans. Losses that are limited in a particular year may be carried forward to subsequent years.

Effective date.—The provision is effective for taxable years beginning after December 31, 2007.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with modifications. The conference agreement limits the farming loss of a taxpayer, other than a C corporation, for any taxable year in which any applicable subsidies are received to the greater of (1) $300,000 ($150,000 in the case of a married person filing a sepa-

[73] This is the same definition of "farming business" used for averaging of farm income under section 1301.

rate return), or (2) the taxpayer's total net farm income for the prior five taxable years. For purposes of the provision, applicable subsidies are (1) any direct or counter-cyclical payments under title I of the Food, Conservation, and Energy Act of 2008 (or any payment elected in lieu of any such payment), or (2) any CCC loan. Total net farm income is an aggregation of all income and loss from farming businesses for the prior five taxable years.

The following examples illustrate the operation of this provision:

Example 1.—Assume an individual taxpayer has $1 million of net income from a farming business in each taxable year 2010 to 2014, and incurs a $5 million farming loss in 2015. For purposes of this provision, the farming loss in 2015 is limited to the greater of (1) $300,000 or (2) $5 million (total net farm income for the prior five taxable years). Thus, the farming loss is allowable in full in 2015. Assuming the taxpayer had no other income or deductions in any of the taxable years 2010 to 2015, the $5 million net operating loss for 2015 is carried back to the prior five taxable years under the present-law net operating loss carryback rules and reduces the taxpayer's taxable income in each of those years to zero.[74]

Example 2.—Assume an individual taxpayer has $300,000 of net farm income and $700,000 of non-farm income in 2010, and $1 million of net farm income in each taxable year 2011 to 2014. In 2015, the taxpayer incurs a $7 million farming loss. For purposes of this provision, the farming loss in 2015 is limited to the greater of (1) $300,000 or (2) $4.3 million (total net farm income for the prior five taxable years). Thus, $2.7 million of the farming loss is disallowed under the provision and will be treated as a deduction attributable to a farming business in 2016. The $4.3 million farming loss allowed for 2015 is carried back to the prior five taxable years and allowed as a deduction under present-law rules. The taxpayer's taxable income in each of the years 2010[75] to 2013 is reduced to zero and taxable income in 2014 is reduced by the remaining farm loss of $300,000 to $700,000.

For purposes of calculating total net farm income for the prior five years, losses that are limited under the provision are taken into account in the year in which they are allowed as a deduction. For example, if a taxpayer has a $500,000 excess farm loss in 2010 that is not allowed as a deduction until 2012, the calculation in 2011 of total net farm income for the prior five years does not take into account the $500,000 as a farm loss. Instead, the $500,000 loss would be included in the calculation of prior year's total net farm income for taxable years 2013 through 2017. In the case where the filing status of the taxpayer is not the same for the taxable year and each of the taxable years in the five-year period, the Treasury Department is authorized to provide guidance for the computation of total net farm income.

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[74] Under section 172(b)(1)(G), farming losses may be carried back to each of the five taxable years preceding the taxable year of the loss.

[75] The loss carryback to 2010 reduces both the $300,000 of net farm income and $700,000 of non-farm income to zero.

In the case of a partnership or S corporation, the limit is applied at the partner or shareholder level.[76] Therefore, each partner or shareholder takes into account its proportionate share of income, gain, or deduction from farming businesses of a partnership or S corporation, and any applicable subsidies received by a partnership or S corporation during the taxable year (regardless of whether such items are treated as income for Federal tax purposes).

For purposes of the provision, the term "farming business" has the meaning provided in present-law section 263A(e)(4), with a modification for certain processing activities. Thus, for purposes of this provision, the conference agreement broadens the definition of "farming business" to include the processing of commodities, without regard to whether such activity is incidental, by a taxpayer otherwise engaged in a farming business with respect to such commodities. The farming activities of a cooperative are attributed to each member for purposes of this rule. Thus, a member of a cooperative who raises a commodity and sells it to the cooperative for processing is considered to be the processor of such commodity. In this case, patronage dividends received from a cooperative that is engaged in a farming business are considered to be income from a farming business for purposes of this provision.

As under the Senate amendment, any loss that is disallowed under the provision in a particular year is carried forward to the next taxable year and treated as a deduction attributable to farming businesses in that year.

Farming losses arising by reason of fire, storm, or other casualty, or by reason of disease or drought, are disregarded for purposes of calculating the limitation.

Treasury regulatory authority is provided to prescribe such additional reporting requirements as appropriate to carry out the purposes of this provision.

Effective date.—The provision is effective for taxable years beginning after December 31, 2009.

2. Increase and index dollar thresholds for farm optional method and nonfarm optional method for computing net earnings from self-employment (sec. 12502 of the Senate amendment, sec. 15352 of the conference agreement and sec. 1402(a) of the Code)

PRESENT LAW

In general

Generally, tax under the Self-Employment Contributions Act (SECA) is imposed on the self-employment income of an individual. SECA tax has two components. Under the old-age, survivors, and disability insurance component, the rate of tax is 12.40 percent on self-employment income up to the Social Security wage base ($97,500 for 2007). Under the hospital insurance component, the rate is 2.90 percent of all self-employment income (without regard to the Social Security wage base).

[76] The Treasury Department may provide guidance for the application of this provision to any other pass-thru entity to the extent necessary to carry out the purposes of this provision. In the case of tiered partnership or pass-thru entity structures, the Treasury Department may provide guidance as necessary to carry out the purposes of this provision.

Self-employment income subject to the SECA tax is determined as the net earnings from self-employment. An individual may use one of three methods to calculate net earnings from self-employment. Under the generally applicable rule, net earnings from self-employment means gross income (including the individual's net distributive share of partnership income) derived by an individual from any trade or business carried on by the individual, less the deductions attributable to the trade or business that are allowed under the SECA tax rules. Alternatively, an individual may elect to use one of two optional methods for calculating net earnings from self-employment. These methods are: (1) the farm optional method; and (2) the nonfarm optional method. The farm optional method allows individuals to pay SECA taxes (and secure Social Security benefit coverage) when they have low net income or losses from farming. The nonfarm optional method is similar to the farm optional method.

Farm optional method

If an individual is engaged in a farming trade or business, either as a sole proprietor or as a partner, the individual may elect to use the farm optional method in one of two instances. The first instance is an individual engaged in a farming business who has gross farm income of $2,400 or less for the taxable year. In this instance, the individual may elect to report two-thirds of gross farm income as net earnings from self-employment. In the second instance, an individual engaged in a farming business may elect the farm optional method even though gross farm income exceeds $2,400 for the taxable year but only if the net farm income is less than $1,733 for the taxable year. In this second instance, the individual may elect to report $1,600 as net earnings from self-employment for the taxable year. In all other instances (i.e., more than $2,400 of gross farm income and net farm income of at least $1,733) a person engaged in a farming business must compute net earnings from self-employment under the generally applicable rule. There is no limit on the number of years that an individual may elect the farm optional method during such individual's lifetime.

The dollar limits in the farm optional method are not indexed for inflation.

Nonfarm optional method

The nonfarm optional method is available only to individuals who have been self-employed for at least two of the three years before the year in which they seek to elect the nonfarm optional method and who meet certain other requirements. Specifically, an individual may elect the nonfarm optional method if the individual's: (1) net nonfarm income for the taxable year is less than $1,733; and (2) net nonfarm income for the taxable year is less than 72.189 percent of gross nonfarm income. If a qualified individual engaged in a nonfarming business who elects the nonfarm optional method has gross nonfarm income of $2,400 or less for the taxable year, then the individual may elect to report two-thirds of gross nonfarm income as net earnings from self-employment. If the electing individual engaged in a nonfarming business has gross nonfarm income of at least $2,400 for the taxable year, then the

individual may elect to report $1,600 as net earnings from self-employment for the taxable year. In all other instances, a person engaged in a nonfarming business must compute net earnings from self-employment under the generally applicable rule. An individual may elect to use the nonfarm optional method for no more than five years in the course of the individual's lifetime.

The dollar limits in the nonfarm optional method are not indexed for inflation.

Other rules applicable to farm optional and nonfarm optional methods

In the case of a cash method trade or business, gross income is defined as the gross receipts from such trade or business less the cost or other basis of property sold in carrying out such trade or business with certain adjustments. In the case of an accrual method trade or business, gross income is defined as the gross income from the trade or business with certain adjustments. If an individual (including a member of a partnership) derives gross income from more than one trade or business then such gross income (including the individual's distributive share of the gross income of any partnership) is treated as derived from a single trade or business.

Social Security benefit eligibility

Generally, Social Security benefits can be paid to an individual (and dependents or survivors) only if that individual has worked long enough in covered employment to be insured. Insured status is measured in terms of "credits," previously called "quarters of coverage." For this purpose, Social Security uses the lifetime record of earnings reported for that individual. In the case of a self-employed individual, net earnings from self-employment is used to calculate Social Security benefit eligibility.

Up to four quarters of coverage can be earned for a year, depending on covered wages for the year and the amount needed to earn each quarter of coverage. For 2007, credit for a quarter of coverage is provided for each $1,000 of wages.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment modifies the farm optional method so that electing taxpayers may be eligible to secure four credits of Social Security benefit coverage each taxable year by increasing and indexing the thresholds. The provision makes a similar modification to the nonfarm optional method.

Effective date.—The provision is effective for taxable years beginning after December 31, 2007.

CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

3. Information reporting for commodity credit corporation transactions (Sec. 12503 of the Senate amendment, sec. 15353 of the conference agreement and new sec. 6039J of the Code)

PRESENT LAW

The Farm Security and Rural Investment Act of 2002[77] authorizes a marketing assistance loan program through the Commodity Credit Corporation ("CCC"). Under such program, the CCC may make loans for eligible commodities at a specified rate per unit of commodity (the original loan rate). The repayment amount for such a loan secured by an eligible commodity generally is based on the lower of the original loan rate or the alternative repayment rate, as determined by the CCC, as of the date of repayment. The alternative repayment rate may be adjusted to reflect quality and location for each type of commodity. A taxpayer receiving a CCC loan can use cash to repay such a loan, purchase CCC certificates for use in repayment of the loan, or deliver the pledged collateral as full payment for the loan at maturity.

If a taxpayer uses cash or CCC certificates to repay a CCC loan, and the loan is repaid at a time when the repayment rate is less than the original loan rate, the difference between the original loan amount and the lesser repayment amount is market gain. Regardless of whether a taxpayer repays a CCC loan in cash or uses CCC certificates in repayment of the loan, the market gain is taken into account either as income or as an adjustment to the basis of the commodity (if the taxpayer has made an election under section 77).

If a farmer uses cash instead of certificates, the farmer will receive a Form CCC–1099–G Information Return showing the market gain realized. For transactions prior to January 1, 2007, however, if a farmer uses CCC certificates to facilitate repayment of a CCC loan, the farmer will not receive an information return. For loans repaid on or after January 1, 2007, IRS Notice 2007–63 provides that the CCC reports market gain associated with the repayment of a CCC loan whether the taxpayer repays the loan with cash or uses CCC certificates in repayment of the loan.[78] The CCC reports the market gain on Form 1099–G, Certain Government Payments.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment codifies the requirements of IRS Notice 2007–63 providing that the CCC reports market gain associated with the repayment of a CCC loan, regardless of whether the taxpayer repays the loan with cash or uses CCC certificates in repayment of the loan.

Effective date.—The provision is effective for loans repaid on or after January 1, 2007.

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[77] Pub. L. No. 107–171.
[78] 2007–33 IRB.

CONFERENCE AGREEMENT

The conference agreement includes the Senate amendment provision.

E. PROTECTION OF SOCIAL SECURITY

(Sec. 15361 of the conference agreement)

To ensure that the assets of the trust funds established under section 201 of the Social Security Act are not reduced as the result of the enactment of this Act, the Secretary of the Treasury shall transfer certain amounts annually from the general revenues of the Federal Government to those trust funds.

IV. TRADE PROVISIONS

A. EXTENSION OF CERTAIN TRADE BENEFITS

(Secs. 15401–15407 and 15410–15411 of the conference agreement)

PRESENT LAW

Sec. 213A of the Caribbean Basin Recovery Act (19 U.S.C. 2703a) establishes the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 ("HOPE I"). HOPE I extended preferences to Haiti for apparel meeting certain rules of origin, and for certain automotive wire harnesses.

With respect to apparel, HOPE I extended preferential treatment to three categories of apparel: (1) apparel meeting a value-added rule of origin; (2) limited quantities of woven apparel wholly assembled in Haiti; and (3) brassieres meeting a cut and sew requirement.

HOPE I (in section 213A(d)) conditions Haiti's eligibility for these preferences on the President determining and certifying that Haiti has either established, or is making continual progress towards establishing, protection of internationally recognized worker rights. These rights include the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age of employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

The use of the HOPE I preference program has been very limited to date.

In fact, just 1.6% of Haiti's apparel exports in 2007 were under the HOPE I program. The Conferees believe that the limited use of the program is largely attributable to HOPE I's complex value-added rule of origin. As a result, the economic benefits—namely, new investment and significant new job creation—that the preference program was intended to spread widely to foster stability and security in Haiti have not been forthcoming.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

To address the deficiencies in HOPE I, the conference report includes the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (HOPE II), which provides additional ways (under simplified rules) that Haitian apparel can qualify for duty-free treatment, as well as authorizing a new apparel sector labor capacity building and monitoring program (the Technical Assistance Improvement and Compliance Needs Assessment and Remediation Program or "TAICNAR program") to ensure the benefits of the new preferences are spread widely. The Conferees intend HOPE II to help Haitian industry attract new investment and create immediate jobs, generate income for workers to cover increased food costs and pay for other necessities, and continue to provide incentives to encourage the use of inputs manufactured by U.S. companies.

Key aspects of the HOPE II apparel provisions are outlined below. The Conferees note that HOPE II creates six discrete stand alone rules for apparel (and some textile) products to qualify for preferential treatment: (1) the value-added rule (as provided for in HOPE I, subject to a change in the cap); (2) a capped benefit for woven apparel meeting a wholly assembled/knit-to-shape rule; (3) a capped benefit for certain knit apparel meeting a wholly assembled/knit-to-shape rule; (4) an uncapped benefit for certain types of apparel meeting a wholly assembled/knit-to-shape rule; (5) an uncapped benefit for apparel meeting a wholly assembled/knit-to-shape rule under the "3 for 1" Earned Import Allowance Program; and (6) an uncapped benefit for apparel meeting a wholly assembled/knit-to-shape rule, where the apparel is made from "short supply" yarns or fabrics. The Conferees note that if a capped benefit is filled in a given year, an importer can still use one or more of the other rules. In addition, apparel from Haiti may also qualify for preferential access to the U.S. market under the United States-Caribbean Basin Trade Partnership Act (Title II of Public Law 106–200) (CBTPA).

Ten Year Duration.—The conference report extends most apparel preferences, including all apparel preferences created under HOPE II, for 10 years, until September 30, 2018. The ten year duration is aimed at fostering a more stable investment climate for businesses seeking to use HOPE I or II preferences.

Expanded Preferences for Woven Apparel.—The conference report expands the HOPE I "woven apparel cap" to 70 million square meters equivalents ("SMEs"), and extends the benefit for 10 years. Apparel exported under this provision can qualify for preferences if the apparel is "wholly assembled" or knit-to-shape, or both, in Haiti, without regard to the origin of the fabric (or fabric components, or components knit-to-shape, or yarn) comprising the apparel article. The definition of "wholly assembled" is taken from existing Customs regulations.

New Knit Apparel Cap.—HOPE II creates a new "knit apparel cap" of 70 million SMEs, with exclusions for men's/boys' cotton t-shirts, men's/boys' mmf t-shirts, certain men's/boys' sweatshirts/pullovers, and certain men's/boy's cotton-blend sweatshirts. Apparel exported under this provision can qualify for preferences if the ap-

parel is "wholly assembled" or knit-to-shape, or both, in Haiti, without regard to the origin of the fabric (or fabric components, or components knit to shape, or yarn) comprising the apparel article.

Modified Single Transformation Rule for Certain Apparel and Certain Luggage.—HOPE II extends preferential treatment to certain apparel articles wholly assembled, or knit-to-shape, or both, in Haiti, without regard to the origin of the fabric (or fabric components, or components knit-to-shape, or yarn) comprising the apparel article. The apparel articles covered by this provision are: (1) brassieres; (2) those apparel articles covered by the Central America-Dominican Republic-United States Free Trade Agreement (CAFTA-DR) "single transformation" rule; (3) headgear; and (4) certain sleepwear.

With regard to covered sleepwear, HOPE II extends preferences to women's and girls' pajama bottoms (*i.e.*, sleep pants), regardless of whether such bottoms are a separate garment or are part of a set.

HOPE II also extends preferential treatment to luggage and handbags wholly assembled in Haiti, without regard to the source of the fabric, materials or components. The Conferees did not include the concept of knit-to-shape in this provision, because such processing does not typically occur for such luggage/handbags.

"3 for 1" EIA Program for Knit or Woven Apparel.—HOPE II creates a "3 for 1" earned import allowance program (EIA) to be developed and administered by the Secretary of Commerce. Under the "3 for 1" EIA, Haitian producers or entities controlling production that purchase qualifying fabric for apparel production in Haiti may export other apparel to the United States duty-free, and not subject to quantitative limitations, regardless of the origin of the fabric (or fabric components, components knit to shape, or yarns) from which the apparel product is made. Specifically, for every 3 SMEs of qualifying fabric purchased, a producer or entity controlling production receives a "credit" for 1 SME that can be used in the manufacture of apparel using non-qualifying fabric (*e.g.*, Taiwanese fabric). The Secretary of Commerce is to establish electronic "accounts" for producers or entities controlling production where such "credits" can be deposited. A producer or entity controlling production can then withdraw these credits for an "earned import allowance certificate" that reflects the requested number of credits. Apparel wholly assembled, or knit to shape, or both, in Haiti using non-qualifying fabric may enter the United States duty-free, if the apparel is accompanied by such an "earned import allowance certificate" that reflects the number of credits equal to the SMEs of the apparel for which preferential treatment is sought.

An example may help illustrate the process: Producer A in Haiti purchases 300 SMEs of denim fabric woven in the United States using U.S. yarns in order to manufacture jeans in Haiti. Producer A, upon submission of documentation supporting the purchase of the U.S. denim (such documentation can include information submitted by the U.S. textile mill that exported the fabric), will receive 100 credits in Producer A's Commerce Department account. If Producer A subsequently wants to export jeans that are wholly assembled in Haiti to the United States duty-free and such jeans are wholly assembled in Haiti from Italian denim, Producer

A would redeem all or part of the accrued 100 credits for the requisite earned import allowance certificate. For instance, if the jeans made with the Italian fabric account for 50 SMEs, Producer A would request a certificate that equaled 50 credits.

In HOPE II, the Conferees have established principles for the "3 for 1" EIA program. The Conferees expect and intend the Secretary of Commerce to establish additional requirements in order to make the program efficient, workable, and administrable, and have provided the Secretary with the authority to promulgate and enforce such requirements. In addition, the Conferees urge the Secretary of Commerce to establish the "3 for 1" EIA program as an electronic program, including with respect to the EIA certificate.

The Conferees note that woven and knit fabrics are treated differently under the HOPE II-created EIA program. Specifically, qualifying woven fabric must be wholly formed in the United States, from U.S. yarns (subject to some limited exceptions). Qualifying knit fabric may be wholly formed or knit to shape in the United States, U.S. free trade agreement (FTA) partner country or U.S. preference partner country (*e.g.*, a beneficiary country under the African Growth and Opportunity Act), or any combination, from U.S. yarns (subject to some limited exceptions).

Modified Single Transformation Rule for Apparel Made from "Short Supply" Fabrics/Yarns.—HOPE II also includes a provision to extend duty-free treatment to any apparel article wholly assembled or knit to shape, or both, in Haiti where the apparel article is made from fabrics or yarns designated as not being available in commercial quantities under any U.S. preference program or FTA, or is covered by certain provisions of Annex 401 of the NAFTA (*i.e.*, those provisions which extend duty-free treatment to apparel notwithstanding the origin of fabric or yarns). The Conferees note that the entire apparel article need not be made from a "short supply" fabric or yarn—only the fabric, fabric components, components knit to shape, or yarns that make up the component that determines the tariff classification of the article need be made of "short supply" fabrics or yarns for entry under this rule.

Transition Value-Added Rule.—HOPE II preserves the existing value-added rule of origin from HOPE I, but freezes the cap for exports qualifying for this rule at the 2008 level (*i.e.*, 1.25% of U.S. apparel imports). Under HOPE II, the value-added rule retains the termination date provided for in HOPE I (five years from enactment of HOPE I). The Conferees chose to sunset this provision as provided for in HOPE I and not extend the rule for an additional ten years, because Haitian exports under the value-added rule have been minimal, reflecting the complexity of the rule. The conferee notes that more flexible value-added rules applied to apparel in other preferential trade arrangements (*e.g.*, the United States-Jordan Free Trade Agreement) have been effective in increasing trade.

Allow Direct Shipment from and Co-production in the Dominican Republic.—HOPE II recognizes the unique situation of Haiti and the Dominican Republic, the two sovereign nations that share the Caribbean island of Hispaniola, and the ties between the textile and apparel industries of both countries. The Conferees believe that existing ties between the textile and apparel industries of both

countries should be maintained and strengthened. Toward that end, HOPE II allows direct shipment from the Dominican Republic of apparel qualifying under section 213A, as amended by HOPE II. The direct shipment provision will minimize transit times and costs when apparel wholly assembled or knit to shape in Haiti is sent to the Dominican Republic for packaging or post-assembly operations.

The Conferees have included direction to the Commissioner responsible for U.S. Customs and Border Protection to provide technical and other assistance to Haiti and the Dominican Republic to develop procedures to prevent unlawful transshipment and use of counterfeit documents. The Conferees intend that assistance be provided expeditiously and in a manner that facilitates trade, and to include assisting Haiti and the Dominican Republic in developing a secure electronic system to combat unlawful transshipment and use of counterfeit documents.

The Conferees also expect the processing requirement necessary for an apparel article to qualify under HOPE II—that is, that apparel be wholly assembled or knit to shape, or both, in Haiti—to facilitate co-production between Haiti and the Dominican Republic. The HOPE II processing requirement does not preclude assembly or other operations from occurring outside Haiti. Co-production operations performed in the Dominican Republic could include, but are not limited to, activities such as minor assembly, repair, embellishment, and finishing.

Clarifications on Administration of Caps.—HOPE II clarifies that exports qualifying for preferences under apparel provisions not subject to quantitative limitations (*e.g.,* the apparel qualifying under the rules contained in section 213A(b)(3), as amended by HOPE II) should not be included in the calculation of any quantitative limitations contained in HOPE II. In addition, apparel qualifying under a rule subject to a particular cap (*e.g.,* the woven or knit apparel caps in section 213A(b)(2), as amended by HOPE II), should not be counted against another cap (*e.g.,* the value-added cap, included in section 213A(b)(1), as amended by HOPE II). Finally, the legislation clarifies that HOPE II benefits are in addition to preferences extended to Haitian exports under the Caribbean Basin Economic Recovery Act (CBERA), including apparel preferences under section 213(b)(2) of the CBERA, as amended, and that apparel exports qualifying for preferences under 213(b)(2) should not be counted against the quantitative limitations established in HOPE II.

Labor Provisions. The conference agreement amends Section 213A of the Caribbean Basin Recovery Act to include new provisions to promote compliance with core labor standards, as enumerated in the legislation, and to improve working conditions, in particular in the textile and apparel sector. The Conferees recognize that the core labor standards defined in the legislation refer to the rights as listed in the 1998 International Labor Organization Declaration on Fundamental Principles and Rights at Work and Its Follow Up. Specifically, HOPE II requires that the President certify, within 16 months of enactment, that Haiti has created an independent Labor Ombudsman's Office responsible for performing the functions set forth in the conference agreement and estab-

lished, with the assistance of the International Labor Organization ("ILO"), the TAICNAR Program. Unless the President extends the period for meeting these requirements, which is permitted under certain limited conditions set out in the conference agreement, the President is required to terminate Haiti's eligibility for preferential treatment under the section.

The functions of the Labor Ombudsman include overseeing the implementation of the TAICNAR Program, maintaining a registry of the textile and apparel producers that may seek preferential treatment and coordinating a committee comprised of representatives of government agencies, employers, and workers to consult on the implementation of the TAICNAR Program and other matters of common concern. The Labor Ombudsman is also responsible for receiving comments from interested parties about the labor conditions in the facilities of the registered producers and, where such comments are submitted in good faith and supported with evidence, directing the comments to the ILO or the appropriate Haitian government official. Further, where registered producers are found to have deficiencies, the Labor Ombudsman also shares responsibility for assisting them in complying with core labor standards and national labor laws directly relating to the standards and acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety. In performing its functions, the Labor Ombudsman is expected to coordinate and consult with other appropriate Haitian government officials (*e.g.,* in the Ministry of Labor).

The TAICNAR Program is comprised of two elements. The first element of the program is technical assistance from the ILO to build Haiti's own capacity to inspect the facilities of registered textile and apparel producers, enforce its labor laws, and resolve labor disputes. The scope of such assistance is broad, including ILO assistance in reviewing national labor laws and regulations and bringing them into compliance with core labor standards, increasing awareness of worker rights, and on-the-job training for labor inspectors, judicial officers, and other government officials.

The second element of the TAICNAR Program is ILO assessment of compliance with core labor standards and national labor laws in the facilities of the producers registered with the Labor Ombudsman and, where necessary, assistance with remediating deficiencies. Consistent with existing practice under its Better Factories Cambodia and Better Works programs, the ILO has a number of tools to perform such assessments, including unannounced site visits and confidential interviews with management and workers. The results of the assessment are reported, confidentially in the first instance, to the management and workers (or, where there is union representation, worker representatives) together with suggestions for remediation of deficiencies. Under the program, the ILO then aids the producer in remediating any deficiencies, with assistance, if necessary, from the Labor Ombudsman or other parties. Every six months, following implementation of the TAICNAR Program by Haiti, the ILO is expected to publish a public report on the assessments it has conducted during the preceding six months. Such reports will identify the specific factories assessed and the conditions in these factories.

To encourage compliance with core labor standards and national labor laws directly related to core labor standards, the conference agreement provides for preferential treatment to be denied in certain circumstances. Specifically, the conference agreement directs the President to identify (on a biennial basis, beginning in the second year after implementation) producers who are failing to comply with these compliance conditions. The President is directed to offer assistance to any such producers in meeting the compliance conditions and, if the assistance is refused or if the producer otherwise fails to come into compliance, to withdraw, suspend, or limit preferential treatment to articles of the producer. The preferential treatment may be reinstated if the President later determines that the producer has come into compliance with core labor standards and national labor laws directly related to core labor standards. In making both the initial identification of non-compliant producers and any later reinstatement determination, the President is to consider the reports of the ILO.

B. Extension of CBTPA

(Sec. 15408–15409 of the conference agreement)

PRESENT LAW

The Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)), as amended by the United States-Caribbean Basin Trade Partnership Act (Title II of Public Law 106–200) (CBTPA), provides that eligible textile and apparel articles of a designated CBTPA beneficiary country shall enter the United States free of duty and free of quantitative limitations, provided that the President determines that the country has implemented the necessary procedures and requirements. These preference program provisions expire on September 30, 2008.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement amends section 213(b) of the Caribbean Basin Economic Recovery Act to extend the Caribbean Basin Trade Partnership Act, including the textile and apparel preference program provisions, through September 30, 2010.

C. Unused Merchandise Drawback

(Sec. 15421 of the conference agreement)

PRESENT LAW

Section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) currently provides for unused merchandise drawback. Unused drawback is permitted if imported merchandise is exported or destroyed within 3 years of import without being used in the United States.

Pursuant to section 313(j)(2) of the Tariff Act of 1930 (19 U.S.C. 1313(j)(2)), domestic or imported merchandise that is commercially interchangeable with the imported merchandise may be substituted for the imported merchandise and drawback granted on the export or destruction of the substituted merchandise within the 3-year period beginning on the date of importation. The drawback is limited to 99% of the duty, tax and fee imposed under Federal law on the imported merchandise upon entry or importation.

Section 313(j)(2) of the Tariff Act of 1930 does not contain a definition of "commercially interchangeable." From late 2001 to May 2007, U.S. Customs and Border Protection (CBP) paid drawback claims on wine based on white domestic and imported table wine being commercially interchangeable with relatively valued imported white table wine. Red domestic and imported table wine was also considered to be commercially interchangeable with relatively valued imported red table wine. Relatively valued wine was considered to be wine within a price range of 50%.

CBP informed wine drawback claimants in May 2007 that, effective immediately, the above standard for commercial interchangeability was no longer applicable. CBP did not provide a definitive new standard but stated that the criterion of the varietal wine should have been a determining factor in determining commercial interchangeability.

The new provision carries forward the standard used for commercial interchangeability from 2001 to May 2007, and provides certainty for the filing and processing of unused drawback claims for imported and exported wine.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The conference agreement amends section 313(j)(2) of the Tariff Act of 1930, to provide a standard for what is considered to be "commercially interchangeable" for purposes of unused merchandise drawback for wine. The provision is effective for claims filed for drawback on or after the date of enactment.

D. Requirements Relating to Determination of Transaction Value of Imported Merchandise

(Sec. 15422 of the conference agreement)

PRESENT LAW

No provision.

HOUSE BILL

No provision.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

The Conference agreement includes an importer declaration requirement for one year to assist in gathering information on the valuation of goods imported into the United States.

The value of merchandise imported into the United States is determined primarily under transaction value. Transaction value is defined in section 402(b) of the Tariff Act of 1930 (19 U.S.C. 1401a(b)(1)) as the price actually paid or payable for the merchandise when sold for exportation to the United States. Import transactions can involve one sale of the imported goods prior to importation or a series of sales. In the multiple sale scenario, Customs and Border Protection ("CBP") currently permits importers to base transaction value on the price paid by the buyer in the first or earlier sale (*e.g.* the sale between the manufacturer and the intermediary), provided the importer can establish by sufficient evidence that the sale was at arm's length and that at the time of such sale, the merchandise was clearly destined for exportation to the United States.

On January 24, 2008, CBP published in the Federal Register a proposed interpretation of the expression "sold for exportation to the United States." 73 Fed. Reg. 4254 (Jan. 24, 2008). In the publication, CBP proposed that when imported merchandise has been subject to a series of sales prior to importation, the price actually paid or payable for the imported goods when sold for exportation is the price paid in the last sale occurring prior to the introduction of the goods into the United States.

Congress has serious concerns that CBP did not provide Congress or the importing community with any notice about its proposed interpretation. Congress also has serious concerns that CBP proposed its new interpretation without conducting adequate analysis of the proposed impact of such interpretation. Moreover, Congress has received several concerns and questions about CBP's proposed interpretation, including questions of the number and value of importations that would be impacted by the change. CBP informed Congress that it does not keep records indicating which importers are basing transaction value on the price paid by the buyer in the first or earlier sale. Therefore, there is no information available to assess which sectors are using this provision, the extent of its use, and probable impact on the United States.

The Conferees through section (a) require Customs to collect adequate information regarding the impact of such proposal by requiring that importers declare whether the transaction value of the imported merchandise is determined on the basis of the price paid in the first or earlier sale occurring prior to introduction of the merchandise into the United States. The term "first or earlier sale" as used in subsection (a)(2) is intended to refer to the current CBP interpretation expressed in the January 24, 2008 Federal Register Notice.

Subsection (b) requires CBP to provide the collected information to the United States International Trade Commission ("ITC")

on a monthly basis. The Conferees intend for CBP and ITC to mutually agree on the format in which CBP will submit the data for ITC use. Subsection (c) requires the ITC to submit a report to the House Ways and Means Committee and the Senate Finance Committee within ninety days of receipt of CBP's last monthly report.

In subsection (d), the Conferees express a sense of Congress that CBP should not before January 1, 2011, implement a change of interpretation of the expression "sold for exportation to the United States" for purposes of applying the transaction value of the imported merchandise in a series of sales. It is the sense of Congress that after January 1, 2011, CBP may propose to change or change its interpretation only if CBP: (1) consults with and provides notice to the appropriate committees not less than 180 days prior to proposing a change and not less than 90 days prior to publishing a change; (2) consults with, provides notice to, and takes into consideration views expressed by the Commercial Operations Advisory Committee not less than 120 days prior to proposing a change and not less than 60 days prior to publishing a change; and (3) receives the explicit approval of the Secretary of Treasury prior to publishing a change. The term "publishing", as used in subsection (d), includes any notice CBP may provide to the regulated community through a public notice.

Through subsection (d)(3), the Conferees express a sense of Congress that CBP should take into consideration the ITC report as referenced in subsection (b) before publishing any change to the expression "sold for exportation to the United States."

V. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Restructuring and Reform Act of 1998 (the "IRS Reform Act") requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code (the "Code") and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that have "widespread applicability" to individuals or small businesses.

COMPLIANCE WITH RULE XXI, CL.9 (HOUSE) AND WITH RULE XLIV (SENATE)

The following list is submitted in compliance with clause 9 of rule XXI of the Rules of the House of Representatives and rule XLIV of the Standing Rules of the Senate, which require publication of a list of congressionally directed spending items (Senate), congressional earmarks (House), limited tax benefits, and limited tariff benefits included in the conference report, or in the joint statement of managers accompanying the conference report, including the name of each Senator, House Member, Delegate, or Resi-

dent Commissioners who submitted a request to the Committee of jurisdiction for each item so identified. Congressionally directed spending items (as defined in the Senate rule) and congressional earmarks (as defined in the House rule) in this division of the conference report or joint statement of managers contains any limited tax benefits or limited tariff benefits as defined in the applicable House and Senate rules.

Member	Program description	Funding level
Baucus	National Sheep and Goat Industry Improvement Center	$1 million.
Baucus	Appropriate Technology Transfer to Rural Areas	Authorized for appropriation.
Baucus	Camelina Pilot Program	$9 million.
Biden	Chesapeake Bay Watershed Conservation Program	$382 million.
Cardin	Chesapeake Bay Watershed Conservation Program	$382 million.
Casey	Chesapeake Bay Watershed Conservation Program	$382 million.
Chambliss	Cost Share Assistance for Wildlife Corridors	Up to $100 million.
Cochran	Natural Products Research Laboratory	Authorized for appropriation.
Conrad	Grants to Broadcasting Systems	Authorized for appropriation.
Harkin	Congressional Hunger Center	Authorized for appropriation.
Harkin	Appropriate Technology Transfer to Rural Areas	Authorized for appropriation.
Harkin	Policy Research Centers	Authorized for appropriation.
Hinojosa	Housing Assistance Council	Authorized for appropriation.
Inouye	Insular Pacific Sun Grant Sub-Center	Authorized for appropriation.
Inouye	Education Grants to Alaska Native Serving Institutions and Native Hawaiian Serving Institutions.	Authorized for appropriation.
Kohl	Housing Assistance Council	Authorized for appropriation.
Nelson	Drought Mitigation Center/University of Nebraska	Authorized for appropriation.
Reid	Desert Terminal Lakes/Nevada	$175 million FY 08–12.
Roberts	Consortium for Agricultural Soils Mitigation of Greenhouse Gases/Kansas State University.	Authorized for appropriation.
Stevens	Education Grants to Alaska Native Serving Institutions and Native Hawaiian Serving Institutions.	Authorized for appropriation.
Stevens	Water Systems for Rural and Native Villages in Alaska	Authorized for appropriation.

From the Committee on Agriculture, for consideration of the House bill (except title XII) and the Senate amendment (except secs. 12001, 12201–12601, and 12701–12808), and modifications committed to conference:

COLLIN C. PETERSON,
TIM HOLDEN,
MIKE MCINTYRE,
BOB ETHERIDGE,
LEONARD L. BOSWELL,
JOE BACA,
DENNIS L. CARDOZA,
DAVID SCOTT,
BOB GOODLATTE,
ROBIN HAYES,
MARILYN MUSGRAVE,
RANDY NEUGEBAUER,

From the Committee on Education and Labor, for consideration of secs. 4303 and 4304 of the House bill, and secs. 4901–4905, 4911, and 4912 of the Senate amendment, and modifications committed to conference:

GEORGE MILLER,
CAROLYN MCCARTHY,
TODD R. PLATTS,

From the Committee on Energy and Commerce, for consideration of secs. 6012, 6023, 6024, 6028, 6029, 9004, 9005,

and 9017 of the House bill, and secs. 6006, 6012, 6110–6112, 6202, 6302, 7044, 7049, 7307, 7507, 9001, 11060, 11072, 11087, and 11101–11103 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
FRANK PALLONE,

From the Committee on Financial Services, for consideration of sec. 11310 of the House bill, and secs. 6501–6505, 11068, and 13107 of the Senate amendment, and modifications committed to conference:

PAUL E. KANJORSKI,
MAXINE WATERS,

From the Committee on Foreign Affairs, for consideration of secs. 3001–3008, 3010–3014, and 3016 of the House bill, and secs. 3001–3022, 3101–3107, and 3201–3204 of the Senate amendment, and modifications committed to conference:

HOWARD L. BERMAN,
BRAD SHERMAN,
ILEANA ROS-LEHTINEN,

From the Committee on Judiciary, for consideration of secs. 11102, 11312, and 11314 of the House bill, and secs. 5402, 10103, 10201, 10203, 10205, 11017, 11069, 11076, 13102, and 13104 of the Senate amendment, and modifications committed to conference:

JOHN CONYERS,
BOBBY SCOTT,

From the Committee on Natural Resources, for consideration of secs. 2313, 2331, 2341, 2405, 2607, 2607A, 2611, 5401, 6020, 7033, 7311, 8101, 8112, 8121–8127, 8204, 8205, 11063, and 11075 of the Senate amendment, and modifications committed to conference:

NICK RAHALL,
MADELEINE Z. BORDALLO,
CATHY MCMORRIS RODGERS,

From the Committee on Oversight and Government Reform, for consideration of secs. 1501 and 7109 of the House bill, and secs. 7020, 7313, 7314, 7316, 7502, 8126, 8205, and 10201 of the Senate amendment, and modifications committed to conference:

EDOLPHUS TOWNS,

From the Committee on Science and Technology, for consideration of secs. 4403, 9003, 9006, 9010, 9015, 9019, and 9020 of the House bill, and secs. 7039, 7051, 7315, 7501, and 9001 of the Senate amendment, and modifications committed to conference:

BART GORDON,
MICHAEL T. MCCAUL,

From the Committee on Small Business, for consideration of subtitle D of title XI of the Senate amendment, and modifications committed to conference:

NYDIA M. VELÁZQUEZ,
HEATH SHULER,

From the Committee on Transportation and Infrastructure, for consideration of secs. 2203, 2301, 6019, and 6020 of the House bill, and secs. 2604, 6029, 6030, and 11087 of the Senate amendment, and modifications committed to conference:

JAMES L. OBERSTAR,
ELEANOR H. NORTON,
SAM GRAVES,

From the Committee on Ways and Means, for consideration of sec. 1303 and title XII of the House bill, and secs. 12001–12601, and 12701–12808 of the Senate amendment, and modifications committed to conference:

CHARLES B. RANGEL,
EARL POMEROY,

For consideration of House bill (except title XII) and the Senate amendment (except secs. 12001, 12201–12601, and 12701–12808), and modifications committed to conference:

ROSA L. DELAURO,
ADAM H. PUTNAM,
Managers on the Part of the House.

TOM HARKIN,
PATRICK LEAHY,
KENT CONRAD,
MAX BAUCUS,
BLANCHE L. LINCOLN,
DEBBIE STABENOW,
SAXBY CHAMBLISS,
THAD COCHRAN,
PAT ROBERTS
(for purposes of title XV only),
CHUCK GRASSLEY.
Managers on the Part of the Senate.

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