

Calendar No. **753**

110TH CONGRESS
2^D SESSION

H. R. 6124

IN THE SENATE OF THE UNITED STATES

MAY 22, 2008

Received; read twice and placed on the calendar

AN ACT

To provide for the continuation of agricultural and other programs of the Department of Agriculture through fiscal year 2012, and for other purposes.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Food, Conservation, and Energy Act of 2008”.

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

- Sec. 1. Short title; table of contents.
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- Sec. 3. Explanatory Statement.
- Sec. 4. Repeal of duplicative enactment.

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- Sec. 15341. Increase in loan limits on agricultural bonds.
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PART IV—OTHER REVENUE PROVISIONS

- Sec. 15351. Limitation on excess farm losses of certain taxpayers.
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- Sec. 15361. Protection of social security.

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- Sec. 15401. Short title.
- Sec. 15402. Benefits for apparel and other textile articles.
- Sec. 15403. Labor Ombudsman and technical assistance improvement and compliance needs assessment and remediation program.
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- Sec. 15408. Extension of CBTPA.
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- Sec. 15421. Unused merchandise drawback.
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1 **SEC. 2. DEFINITION OF SECRETARY.**

2 In this Act, the term “Secretary” means the Sec-
 3 retary of Agriculture.

4 **SEC. 3. EXPLANATORY STATEMENT.**

5 The Joint Explanatory Statement submitted by the
 6 Committee of Conference for the conference report to ac-
 7 company H.R. 2419 of the 110th Congress (House Report
 8 110-627) shall be deemed to be part of the legislative his-
 9 tory of this Act and shall have the same effect with respect
 10 to the implementation of this Act as it would have had
 11 with respect to the implementation of H.R. 2419.

12 **SEC. 4. REPEAL OF DUPLICATIVE ENACTMENT.**

13 (a) IN GENERAL.—The Act entitled “An Act to pro-
 14 vide for the continuation of agricultural programs through
 15 fiscal year 2012, and for other purposes” (H.R. 2419 of
 16 the 110th Congress), and the amendments made by that
 17 Act, are repealed, effective on the date of enactment of
 18 that Act.

1 (b) EFFECTIVE DATE.—Except as otherwise provided
2 in this Act, this Act and the amendments made by this
3 Act shall take effect on the earlier of—

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

5 (2) the date of the enactment of the Act enti-
6 tled “An Act to provide for the continuation of agri-
7 cultural programs through fiscal year 2012, and for
8 other purposes” (H.R. 2419 of the 110th Congress).

9 **TITLE I—COMMODITY**
10 **PROGRAMS**

11 **SEC. 1001. DEFINITIONS.**

12 In this title (other than subtitle C):

13 (1) AVERAGE CROP REVENUE ELECTION PAY-
14 MENT.—The term “average crop revenue election
15 payment” means a payment made to producers on
16 a farm under section 1105.

17 (2) BASE ACRES.—

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

1 (B) PEANUTS.—The term “base acres for
2 peanuts” has the meaning given the term in
3 section 1301.

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

7 (4) COVERED COMMODITY.—The term “covered
8 commodity” means wheat, corn, grain sorghum, bar-
9 ley, oats, upland cotton, long grain rice, medium
10 grain rice, pulse crops, soybeans, and other oilseeds.

11 (5) DIRECT PAYMENT.—The term “direct pay-
12 ment” means a payment made to producers on a
13 farm under section 1103.

14 (6) EFFECTIVE PRICE.—The term “effective
15 price”, with respect to a covered commodity for a
16 crop year, means the price calculated by the Sec-
17 retary under section 1104 to determine whether
18 counter-cyclical payments are required to be made
19 for that crop year.

20 (7) EXTRA LONG STAPLE COTTON.—The term
21 “extra long staple cotton” means cotton that—

22 (A) is produced from pure strain varieties
23 of the Barbadosense species or any hybrid of the
24 species, or other similar types of extra long sta-
25 ple cotton, designated by the Secretary, having

1 characteristics needed for various end uses for
2 which United States upland cotton is not suit-
3 able and grown in irrigated cotton-growing re-
4 gions of the United States designated by the
5 Secretary or other areas designated by the Sec-
6 retary as suitable for the production of the vari-
7 eties or types; and

8 (B) is ginned on a roller-type gin or, if au-
9 thorized by the Secretary, ginned on another
10 type gin for experimental purposes.

11 (8) LOAN COMMODITY.—The term “loan com-
12 modity” means wheat, corn, grain sorghum, barley,
13 oats, upland cotton, extra long staple cotton, long
14 grain rice, medium grain rice, soybeans, other oil-
15 seeds, graded wool, nongraded wool, mohair, honey,
16 dry peas, lentils, small chickpeas, and large chick-
17 peas.

18 (9) MEDIUM GRAIN RICE.—The term “medium
19 grain rice” includes short grain rice.

20 (10) OTHER OILSEED.—The term “other oil-
21 seed” means a crop of sunflower seed, rapeseed,
22 canola, safflower, flaxseed, mustard seed, crambe,
23 sesame seed, or any oilseed designated by the Sec-
24 retary.

1 (11) PAYMENT ACRES.—The term “payment
2 acres” means, in the case of direct payments and
3 counter-cyclical payments—

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

8 (B) in the case of direct payments for each
9 of the 2009 through 2011 crop years, 83.3 per-
10 cent of the base acres for the covered com-
11 modity on a farm on which direct payments are
12 made.

13 (12) PAYMENT YIELD.—The term “payment
14 yield” means the yield established for direct pay-
15 ments and the yield established for counter-cyclical
16 payments under section 1102 of the Farm Security
17 and Rural Investment Act of 2002 (7 U.S.C. 7912)
18 as in effect on September 30, 2007, or under section
19 1102 of this Act, for a farm for a covered com-
20 modity.

21 (13) PRODUCER.—

22 (A) IN GENERAL.—The term “producer”
23 means an owner, operator, landlord, tenant, or
24 sharecropper that shares in the risk of pro-
25 ducing a crop and is entitled to share in the

1 crop available for marketing from the farm, or
2 would have shared had the crop been produced.

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

6 (i) not take into consideration the ex-
7 istence of a hybrid seed contract; and

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

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

15 (15) STATE.—The term “State” means—

16 (A) a State;

17 (B) the District of Columbia;

18 (C) the Commonwealth of Puerto Rico;

19 and

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

22 (16) TARGET PRICE.—The term “target price”
23 means the price per bushel, pound, or hundred-
24 weight (or other appropriate unit) of a covered com-

1 modity used to determine the payment rate for
2 counter-cyclical payments.

3 (17) UNITED STATES.—The term “United
4 States”, when used in a geographical sense, means
5 all of the States.

6 (18) UNITED STATES PREMIUM FACTOR.—The
7 term “United States Premium Factor” means the
8 percentage by which the difference in the United
9 States loan schedule premiums for Strict Middling
10 (SM) 1¹/₈-inch upland cotton and for Middling (M)
11 1³/₃₂-inch upland cotton exceeds the difference in the
12 applicable premiums for comparable international
13 qualities.

14 **Subtitle A—Direct Payments and** 15 **Counter-Cyclical Payments**

16 **SEC. 1101. BASE ACRES.**

17 (a) ADJUSTMENT OF BASE ACRES.—

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

22 (A) A conservation reserve contract en-
23 tered into under section 1231 of the Food Secu-
24 rity Act of 1985 (16 U.S.C. 3831) with respect
25 to the farm expires or is voluntarily terminated,

1 or was terminated or expired during the period
2 beginning on October 1, 2007, and ending on
3 the date of enactment of this Act.

4 (B) Cropland is released from coverage
5 under a conservation reserve contract by the
6 Secretary, or was released during the period be-
7 ginning on October 1, 2007, and ending on the
8 date of enactment of this Act.

9 (C) The producer has eligible pulse crop
10 acreage, which shall be determined in the same
11 manner as eligible oilseed acreage under section
12 1101(a)(2) of the Farm Security and Rural In-
13 vestment Act of 2002 (7 U.S.C. 7911(a)(2)).

14 (D) The producer has eligible oilseed acre-
15 age as the result of the Secretary designating
16 additional oilseeds, which shall be determined in
17 the same manner as eligible oilseed acreage
18 under section 1101(a)(2) of the Farm Security
19 and Rural Investment Act of 2002 (7 U.S.C.
20 7911(a)(2)).

21 (2) SPECIAL CONSERVATION RESERVE ACREAGE
22 PAYMENT RULES.—For the crop year in which a
23 base acres adjustment under subparagraph (A) or
24 (B) of paragraph (1) is first made, the owner of the
25 farm shall elect to receive either direct payments

1 and counter-cyclical payments with respect to the
2 acreage added to the farm under this subsection or
3 a prorated payment under the conservation reserve
4 contract, but not both.

5 (b) PREVENTION OF EXCESS BASE ACRES.—

6 (1) REQUIRED REDUCTION.—If the sum of the
7 base acres for a farm, together with the acreage de-
8 scribed in paragraph (2) exceeds the actual cropland
9 acreage of the farm, the Secretary shall reduce the
10 base acres for 1 or more covered commodities for the
11 farm or the base acres for peanuts for the farm so
12 that the sum of the base acres and acreage described
13 in paragraph (2) does not exceed the actual cropland
14 acreage of the farm.

15 (2) OTHER ACREAGE.—For purposes of para-
16 graph (1), the Secretary shall include the following:

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

19 (B) Any acreage on the farm enrolled in
20 the conservation reserve program or wetlands
21 reserve program under chapter 1 of subtitle D
22 of title XII of the Food Security Act of 1985
23 (16 U.S.C. 3830 et seq.).

24 (C) Any other acreage on the farm enrolled
25 in a Federal conservation program for which

1 payments are made in exchange for not pro-
2 ducing an agricultural commodity on the acre-
3 age.

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

9 (E) If the Secretary designates additional
10 oilseeds, any eligible oilseed acreage, which shall
11 be determined in the same manner as eligible
12 oilseed acreage under section 1101(a)(2) of the
13 Farm Security and Rural Investment Act of
14 2002 (7 U.S.C. 7911(a)(2)).

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

20 (4) EXCEPTION FOR DOUBLE-CROPPED ACRE-
21 AGE.—In applying paragraph (1), the Secretary
22 shall make an exception in the case of double crop-
23 ping, as determined by the Secretary.

24 (5) COORDINATED APPLICATION OF REQUIRE-
25 MENTS.—The Secretary shall take into account sec-

1 tion 1302(b) when applying the requirements of this
2 subsection.

3 (c) REDUCTION IN BASE ACRES.—

4 (1) REDUCTION AT OPTION OF OWNER.—

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

8 (B) EFFECT OF REDUCTION.—A reduction
9 under subparagraph (A) shall be permanent
10 and made in a manner prescribed by the Sec-
11 retary.

12 (2) REQUIRED ACTION BY SECRETARY.—

13 (A) IN GENERAL.—The Secretary shall
14 proportionately reduce base acres on a farm for
15 covered commodities for land that has been sub-
16 divided and developed for multiple residential
17 units or other nonfarming uses if the size of the
18 tracts and the density of the subdivision is such
19 that the land is unlikely to return to the pre-
20 vious agricultural use, unless the producers on
21 the farm demonstrate that the land—

22 (i) remains devoted to commercial ag-
23 ricultural production; or

24 (ii) is likely to be returned to the pre-
25 vious agricultural use.

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

4 (3) REVIEW AND REPORT.—Each year, to en-
5 sure, to the maximum extent practicable, that pay-
6 ments are received only by producers, the Secretary
7 shall submit to Congress a report that describes the
8 results of the actions taken under paragraph (2).

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

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

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

20 (A) a socially disadvantaged farmer or
21 rancher (as defined in section 355(e) of the
22 Consolidated Farm and Rural Development Act
23 (7 U.S.C. 2003(e)); or

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

1 (3) DATA COLLECTION AND PUBLICATION.—

2 The Secretary shall—

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

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

10 **SEC. 1102. PAYMENT YIELDS.**

11 (a) ESTABLISHMENT AND PURPOSE.—For the pur-
12 pose of making direct payments and counter-cyclical pay-
13 ments under this subtitle, the Secretary shall provide for
14 the establishment of a yield for each farm for any des-
15 ignated oilseed or eligible pulse crop for which a payment
16 yield was not established under section 1102 of the Farm
17 Security and Rural Investment Act of 2002 (7 U.S.C.
18 7912) in accordance with this section.

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

21 (1) DETERMINATION OF AVERAGE YIELD.—In
22 the case of designated oilseeds and eligible pulse
23 crops, the Secretary shall determine the average
24 yield per planted acre for the designated oilseed or
25 pulse crop on a farm for the 1998 through 2001

1 crop years, excluding any crop year in which the
2 acreage planted to the designated oilseed or pulse
3 crop was zero.

4 (2) ADJUSTMENT FOR PAYMENT YIELD.—

5 (A) IN GENERAL.—The payment yield for
6 a farm for a designated oilseed or eligible pulse
7 crop shall be equal to the product of the fol-
8 lowing:

9 (i) The average yield for the des-
10 ignated oilseed or pulse crop determined
11 under paragraph (1).

12 (ii) The ratio resulting from dividing
13 the national average yield for the des-
14 ignated oilseed or pulse crop for the 1981
15 through 1985 crops by the national aver-
16 age yield for the designated oilseed or
17 pulse crop for the 1998 through 2001
18 crops.

19 (B) NO NATIONAL AVERAGE YIELD INFOR-
20 MATION AVAILABLE.—To the extent that na-
21 tional average yield information for a des-
22 ignated oilseed or pulse crop is not available,
23 the Secretary shall use such information as the
24 Secretary determines to be fair and equitable to

1 establish a national average yield under this
2 section.

3 (3) USE OF PARTIAL COUNTY AVERAGE
4 YIELD.—If the yield per planted acre for a crop of
5 a designated oilseed or pulse crop for a farm for any
6 of the 1998 through 2001 crop years was less than
7 75 percent of the county yield for that designated
8 oilseed or pulse crop, the Secretary shall assign a
9 yield for that crop year equal to 75 percent of the
10 county yield for the purpose of determining the aver-
11 age under paragraph (1).

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

20 **SEC. 1103. AVAILABILITY OF DIRECT PAYMENTS.**

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

1 (b) PAYMENT RATE.—Except as provided in section
2 1105, the payment rates used to make direct payments
3 with respect to covered commodities for a crop year shall
4 be as follows:

5 (1) Wheat, \$0.52 per bushel.

6 (2) Corn, \$0.28 per bushel.

7 (3) Grain sorghum, \$0.35 per bushel.

8 (4) Barley, \$0.24 per bushel.

9 (5) Oats, \$0.024 per bushel.

10 (6) Upland cotton, \$0.0667 per pound.

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

12 (8) Medium grain rice, \$2.35 per hundred-
13 weight.

14 (9) Soybeans, \$0.44 per bushel.

15 (10) Other oilseeds, \$0.80 per hundredweight.

16 (c) PAYMENT AMOUNT.—The amount of the direct
17 payment to be paid to the producers on a farm for a cov-
18 ered commodity for a crop year shall be equal to the prod-
19 uct of the following:

20 (1) The payment rate specified in subsection

21 (b).

22 (2) The payment acres of the covered com-
23 modity on the farm.

24 (3) The payment yield for the covered com-
25 modity for the farm.

1 (d) TIME FOR PAYMENT.—

2 (1) IN GENERAL.—Except as provided in para-
3 graph (2), in the case of each of the 2008 through
4 2012 crop years, the Secretary may not make direct
5 payments before October 1 of the calendar year in
6 which the crop of the covered commodity is har-
7 vested.

8 (2) ADVANCE PAYMENTS.—

9 (A) OPTION.—

10 (i) IN GENERAL.—At the option of the
11 producers on a farm, the Secretary shall
12 pay in advance up to 22 percent of the di-
13 rect payment for a covered commodity for
14 any of the 2008 through 2011 crop years
15 to the producers on a farm.

16 (ii) 2008 CROP YEAR.—If the pro-
17 ducers on a farm elect to receive advance
18 direct payments under clause (i) for a cov-
19 ered commodity for the 2008 crop year, as
20 soon as practicable after the election, the
21 Secretary shall make the advance direct
22 payment to the producers on the farm.

23 (B) MONTH.—

24 (i) SELECTION.—Subject to clauses

25 (ii) and (iii), the producers on a farm shall

1 select the month during which the advance
2 payment for a crop year will be made.

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

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

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

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

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

1 **SEC. 1104. AVAILABILITY OF COUNTER-CYCLICAL PAY-**
2 **MENTS.**

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

11 (b) **EFFECTIVE PRICE.**—

12 (1) **COVERED COMMODITIES OTHER THAN**
13 **RICE.**—Except as provided in paragraph (2), for
14 purposes of subsection (a), the effective price for a
15 covered commodity is equal to the sum of the fol-
16 lowing:

17 (A) The higher of the following:

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

22 (ii) The national average loan rate for
23 a marketing assistance loan for the covered
24 commodity in effect for the applicable pe-
25 riod under subtitle B.

1 (B) The payment rate in effect for the cov-
2 ered commodity under section 1103 for the pur-
3 pose of making direct payments with respect to
4 the covered commodity.

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

9 (A) The higher of the following:

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

14 (ii) The national average loan rate for
15 a marketing assistance loan for the type or
16 class of rice in effect for the applicable pe-
17 riod under subtitle B.

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

22 (c) TARGET PRICE.—

23 (1) 2008 CROP YEAR.—For purposes of the
24 2008 crop year, the target prices for covered com-
25 modities shall be as follows:

- 1 (A) Wheat, \$3.92 per bushel.
- 2 (B) Corn, \$2.63 per bushel.
- 3 (C) Grain sorghum, \$2.57 per bushel.
- 4 (D) Barley, \$2.24 per bushel.
- 5 (E) Oats, \$1.44 per bushel.
- 6 (F) Upland cotton, \$0.7125 per pound.
- 7 (G) Long grain rice, \$10.50 per hundred-
- 8 weight.
- 9 (H) Medium grain rice, \$10.50 per hun-
- 10 dredweight.
- 11 (I) Soybeans, \$5.80 per bushel.
- 12 (J) Other oilseeds, \$10.10 per hundred-
- 13 weight.
- 14 (2) 2009 CROP YEAR.—For purposes of the
- 15 2009 crop year, the target prices for covered com-
- 16 modities shall be as follows:
- 17 (A) Wheat, \$3.92 per bushel.
- 18 (B) Corn, \$2.63 per bushel.
- 19 (C) Grain sorghum, \$2.57 per bushel.
- 20 (D) Barley, \$2.24 per bushel.
- 21 (E) Oats, \$1.44 per bushel.
- 22 (F) Upland cotton, \$0.7125 per pound.
- 23 (G) Long grain rice, \$10.50 per hundred-
- 24 weight.

1 (H) Medium grain rice, \$10.50 per hun-
2 dredweight.

3 (I) Soybeans, \$5.80 per bushel.

4 (J) Other oilseeds, \$10.10 per hundred-
5 weight.

6 (K) Dry peas, \$8.32 per hundredweight.

7 (L) Lentils, \$12.81 per hundredweight.

8 (M) Small chickpeas, \$10.36 per hundred-
9 weight.

10 (N) Large chickpeas, \$12.81 per hundred-
11 weight.

12 (3) SUBSEQUENT CROP YEARS.—For purposes
13 of each of the 2010 through 2012 crop years, the
14 target prices for covered commodities shall be as fol-
15 lows:

16 (A) Wheat, \$4.17 per bushel.

17 (B) Corn, \$2.63 per bushel.

18 (C) Grain sorghum, \$2.63 per bushel.

19 (D) Barley, \$2.63 per bushel.

20 (E) Oats, \$1.79 per bushel.

21 (F) Upland cotton, \$0.7125 per pound.

22 (G) Long grain rice, \$10.50 per hundred-
23 weight.

24 (H) Medium grain rice, \$10.50 per hun-
25 dredweight.

1 (I) Soybeans, \$6.00 per bushel.

2 (J) Other oilseeds, \$12.68 per hundred-
3 weight.

4 (K) Dry peas, \$8.32 per hundredweight.

5 (L) Lentils, \$12.81 per hundredweight.

6 (M) Small chickpeas, \$10.36 per hundred-
7 weight.

8 (N) Large chickpeas, \$12.81 per hundred-
9 weight.

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

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

15 and

16 (2) the effective price determined under sub-
17 section (b) for the covered commodity.

18 (e) PAYMENT AMOUNT.—If counter-cyclical pay-
19 ments are required to be paid under this section for any
20 of the 2008 through 2012 crop years of a covered com-
21 modity, the amount of the counter-cyclical payment to be
22 paid to the producers on a farm for that crop year shall
23 be equal to the product of the following:

24 (1) The payment rate specified in subsection

25 (d).

1 (2) The payment acres of the covered com-
2 modity on the farm.

3 (3) The payment yield for the covered com-
4 modity for the farm.

5 (f) TIME FOR PAYMENTS.—

6 (1) GENERAL RULE.—Except as provided in
7 paragraph (2), if the Secretary determines under
8 subsection (a) that counter-cyclical payments are re-
9 quired to be made under this section for the crop of
10 a covered commodity, beginning October 1, or as
11 soon as practicable thereafter, after the end of the
12 marketing year for the covered commodity, the Sec-
13 retary shall make the counter-cyclical payments for
14 the crop.

15 (2) AVAILABILITY OF PARTIAL PAYMENTS.—

16 (A) IN GENERAL.—If, before the end of
17 the 12-month marketing year for a covered
18 commodity, the Secretary estimates that
19 counter-cyclical payments will be required for
20 the crop of the covered commodity, the Sec-
21 retary shall give producers on a farm the option
22 to receive partial payments of the counter-cycli-
23 cal payment projected to be made for that crop
24 of the covered commodity.

25 (B) ELECTION.—

1 (i) IN GENERAL.—The Secretary shall
2 allow producers on a farm to make an elec-
3 tion to receive partial payments for a cov-
4 ered commodity under subparagraph (A)
5 at any time but not later than 60 days
6 prior to the end of the marketing year for
7 that covered commodity.

8 (ii) DATE OF ISSUANCE.—The Sec-
9 retary shall issue the partial payment after
10 the date of an announcement by the Sec-
11 retary but not later than 30 days prior to
12 the end of the marketing year.

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

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

20 (B) the final partial payment shall be
21 made beginning October 1, or as soon as prac-
22 ticable thereafter, after the end of the applica-
23 ble marketing year for the covered commodity.

24 (4) AMOUNT OF PARTIAL PAYMENT.—

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

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

11 (i) the actual counter-cyclical payment
12 to be made to the producers for the cov-
13 ered commodity for that crop year; and

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

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

1 **SEC. 1105. AVERAGE CROP REVENUE ELECTION PROGRAM.**

2 (a) AVAILABILITY AND ELECTION OF ALTERNATIVE
3 APPROACH.—

4 (1) AVAILABILITY OF AVERAGE CROP REVENUE
5 ELECTION PAYMENTS.—As an alternative to receiv-
6 ing counter-cyclical payments under section 1104 or
7 1304 and in exchange for a 20-percent reduction in
8 direct payments under section 1103 or 1303 and a
9 30-percent reduction in marketing assistance loan
10 rates under section 1202 or 1307, with respect to all
11 covered commodities and peanuts on a farm, during
12 each of the 2009, 2010, 2011, and 2012 crop years,
13 the Secretary shall give the producers on the farm
14 an opportunity to make an irrevocable election to in-
15 stead receive average crop revenue election (referred
16 to in this section as “ACRE”) payments under this
17 section for the initial crop year for which the elec-
18 tion is made through the 2012 crop year.

19 (2) LIMITATION.—

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

25 (B) ELECTION.—If the total number of
26 planted acres to all covered commodities and

1 peanuts of the producers on a farm exceeds the
2 total base acreage of the farm, the producers on
3 the farm may choose which planted acres to en-
4 roll in the program under this section.

5 (3) ELECTION; TIME FOR ELECTION.—

6 (A) IN GENERAL.—The Secretary shall
7 provide notice to producers regarding the op-
8 portunity to make each of the elections de-
9 scribed in paragraph (1).

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

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

15 (ii) information regarding the manner
16 in which the election must be made and
17 the time periods and manner in which no-
18 tice of the election must be submitted to
19 the Secretary.

20 (4) ELECTION DEADLINE.—Within the time pe-
21 riod and in the manner prescribed pursuant to para-
22 graph (3), all of the producers on a farm shall sub-
23 mit to the Secretary notice of an election made
24 under paragraph (1).

1 (5) EFFECT OF FAILURE TO MAKE ELEC-
2 TION.—If all of the producers on a farm fail to
3 make an election under paragraph (1), make dif-
4 ferent elections under paragraph (1), or fail to time-
5 ly notify the Secretary of the election made, as re-
6 quired by paragraph (4), all of the producers on the
7 farm shall be deemed to have made the election to
8 receive counter-cyclical payments under section 1104
9 or 1304 for all covered commodities and peanuts on
10 the farm, and to otherwise not have made the elec-
11 tion described in paragraph (1), for the applicable
12 crop years.

13 (b) PAYMENTS REQUIRED.—

14 (1) IN GENERAL.—In the case of producers on
15 a farm who make an election under subsection (a)
16 to receive ACRE payments for any of the 2009
17 through 2012 crop years for all covered commodities
18 and peanuts, the Secretary shall make ACRE pay-
19 ments available to the producers on a farm in ac-
20 cordance with this subsection.

21 (2) ACRE PAYMENT.—

22 (A) IN GENERAL.—Subject to paragraph
23 (3), in the case of producers on a farm de-
24 scribed in paragraph (1), the Secretary shall

1 make ACRE payments available to the pro-
2 ducers on a farm for each crop year if—

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

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

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

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

19 (ii) the farm ACRE benchmark rev-
20 enue for the crop year for the covered com-
21 modity or peanuts, as determined under
22 subsection (f).

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

1 as soon as practicable thereafter, after the end of
2 the applicable marketing year for the covered com-
3 modity or peanuts.

4 (c) ACTUAL STATE REVENUE.—

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

9 (A) the actual State yield for each planted
10 acre for the crop year for the covered com-
11 modity or peanuts determined under paragraph
12 (2); and

13 (B) the national average market price for
14 the crop year for the covered commodity or pea-
15 nuts determined under paragraph (3).

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

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

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

4 (3) NATIONAL AVERAGE MARKET PRICE.—For
5 purposes of paragraph (1)(B), the national average
6 market price for a crop year for a covered com-
7 modity or peanuts in a State shall equal the greater
8 of—

9 (A) the national average market price re-
10 ceived by producers during the 12-month mar-
11 keting year for the covered commodity or pea-
12 nuts, as determined by the Secretary; or

13 (B) the marketing assistance loan rate for
14 the covered commodity or peanuts under section
15 1202 or 1307, as reduced under subsection
16 (a)(1).

17 (d) ACRE PROGRAM GUARANTEE.—

18 (1) AMOUNT.—

19 (A) IN GENERAL.—For purposes of sub-
20 section (b)(2)(A) and subject to subparagraph
21 (B), the ACRE program guarantee for a crop
22 year for a covered commodity or peanuts in a
23 State shall equal 90 percent of the product ob-
24 tained by multiplying—

1 (i) the benchmark State yield for each
2 planted acre for the crop year for the cov-
3 ered commodity or peanuts in a State de-
4 termined under paragraph (2); and

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

9 (B) MINIMUM AND MAXIMUM GUAR-
10 ANTEE.—In the case of each of the 2010
11 through 2012 crop years, the ACRE program
12 guarantee for a crop year for a covered com-
13 modity or peanuts under subparagraph (A)
14 shall not decrease or increase more than 10
15 percent from the guarantee for the preceding
16 crop year.

17 (2) BENCHMARK STATE YIELD.—

18 (A) IN GENERAL.—For purposes of para-
19 graph (1)(A)(i), subject to subparagraph (B),
20 the benchmark State yield for each planted acre
21 for a crop year for a covered commodity or pea-
22 nuts in a State shall equal the average yield per
23 planted acre for the covered commodity or pea-
24 nuts in the State for the most recent 5 crop
25 year yields, excluding each of the crop years

1 with the highest and lowest yields, using Na-
2 tional Agricultural Statistics Service data.

3 (B) ASSIGNED YIELD.—If the Secretary
4 cannot establish the benchmark State yield for
5 each planted acre for a crop year for a covered
6 commodity or peanuts in a State in accordance
7 with subparagraph (A) or if the yield deter-
8 mined under subparagraph (A) is an unrepre-
9 sentative average yield for the State (as deter-
10 mined by the Secretary), the Secretary shall as-
11 sign a benchmark State yield for each planted
12 acre for the crop year for the covered com-
13 modity or peanuts in the State on the basis
14 of—

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

18 (ii) benchmark State yields for plant-
19 ed acres for the crop year for the covered
20 commodity or peanuts in similar States.

21 (3) ACRE PROGRAM GUARANTEE PRICE.—For
22 purposes of paragraph (1)(A)(ii), the ACRE pro-
23 gram guarantee price for a crop year for a covered
24 commodity or peanuts in a State shall be the simple
25 average of the national average market price re-

1 received by producers of the covered commodity or
2 peanuts for the most recent 2 crop years, as deter-
3 mined by the Secretary.

4 (4) STATES WITH IRRIGATED AND NONIRRIGATED LAND.—In the case of a State in which at
5 least 25 percent of the acreage planted to a covered
6 commodity or peanuts in the State is irrigated and
7 at least 25 percent of the acreage planted to the cov-
8 ered commodity or peanuts in the State is not irri-
9 gated, the Secretary shall calculate a separate
10 ACRE program guarantee for the irrigated and non-
11 irrigated areas of the State for the covered com-
12 modity or peanuts.

14 (e) ACTUAL FARM REVENUE.—For purposes of sub-
15 section (b)(2)(B)(i), the amount of the actual farm rev-
16 enue for a crop year for a covered commodity or peanuts
17 shall equal the amount determined by multiplying—

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

20 (2) the national average market price for the
21 crop year for the covered commodity or peanuts de-
22 termined under subsection (c)(3).

23 (f) FARM ACRE BENCHMARK REVENUE.—For pur-
24 poses of subsection (b)(2)(B)(ii), the farm ACRE bench-

1 mark revenue for the crop year for a covered commodity
2 or peanuts shall equal the sum obtained by adding—

3 (1) the amount determined by multiplying—

4 (A) the average yield per planted acre for
5 the covered commodity or peanuts of the pro-
6 ducers on the farm for the most recent 5 crop
7 years, excluding each of the crop years with the
8 highest and lowest yields; and

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

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

17 (g) PAYMENT AMOUNT.—If ACRE payments are re-
18 quired to be paid for any of the 2009 through 2012 crop
19 years of a covered commodity or peanuts under this sec-
20 tion, the amount of the ACRE payment to be paid to the
21 producers on the farm for the crop year under this section
22 shall be equal to the product obtained by multiplying—

23 (1) the lesser of—

24 (A) the difference between—

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

5 (ii) the actual State revenue from the
6 crop year for the covered commodity or
7 peanuts in the State determined under
8 subsection (e); and

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

13 (2)(A) for each of the 2009 through 2011 crop
14 years, 83.3 percent of the acreage planted or consid-
15 ered planted to the covered commodity or peanuts
16 for harvest on the farm in the crop year; and

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

21 (3) the quotient obtained by dividing—

22 (A) the average yield per planted acre for
23 the covered commodity or peanuts of the pro-
24 ducers on the farm for the most recent 5 crop

1 years, excluding each of the crop years with the
2 highest and lowest yields; by

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

5 **SEC. 1106. PRODUCER AGREEMENT REQUIRED AS CONDI-**
6 **TION OF PROVISION OF PAYMENTS.**

7 (a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—

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

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

18 (B) to comply with applicable wetland pro-
19 tection requirements under subtitle C of title
20 XII of that Act (16 U.S.C. 3821 et seq.);

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

23 (D) to use the land on the farm, in a
24 quantity equal to the attributable base acres for
25 the farm and any base acres for peanuts for the

1 farm under subtitle C, for an agricultural or
2 conserving use, and not for a nonagricultural
3 commercial, industrial, or residential use, as de-
4 termined by the Secretary; and

5 (E) to effectively control noxious weeds
6 and otherwise maintain the land in accordance
7 with sound agricultural practices, as determined
8 by the Secretary, if the agricultural or con-
9 serving use involves the noncultivation of any
10 portion of the land referred to in subparagraph
11 (D).

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

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

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

23 (1) TERMINATION.—

24 (A) IN GENERAL.—Except as provided in
25 paragraph (2), a transfer of (or change in) the

1 interest of the producers on a farm in base
2 acres for which direct payments or counter-cy-
3 clical payments are made, or on which average
4 crop revenue election payments are based, shall
5 result in the termination of the direct pay-
6 ments, counter-cyclical payments, or average
7 crop revenue election payments to the extent
8 the payments are made or based on the base
9 acres, unless the transferee or owner of the
10 acreage agrees to assume all obligations under
11 subsection (a).

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

15 (2) EXCEPTION.—If a producer entitled to a di-
16 rect payment, counter-cyclical payment, or average
17 crop revenue election payment dies, becomes incom-
18 petent, or is otherwise unable to receive the pay-
19 ment, the Secretary shall make the payment, in ac-
20 cordance with rules issued by the Secretary.

21 (c) REPORTS.—

22 (1) ACREAGE REPORTS.—As a condition on the
23 receipt of any benefits under this subtitle or subtitle
24 B, the Secretary shall require producers on a farm

1 to submit to the Secretary annual acreage reports
2 with respect to all cropland on the farm.

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

10 (3) PENALTIES.—No penalty with respect to
11 benefits under this subtitle or subtitle B shall be as-
12 sessed against the producers on a farm for an inac-
13 curate acreage or production report unless the pro-
14 ducers on the farm knowingly and willfully falsified
15 the acreage or production report.

16 (d) TENANTS AND SHARECROPPERS.—In carrying
17 out this subtitle, the Secretary shall provide adequate safe-
18 guards to protect the interests of tenants and share-
19 croppers.

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

1 **SEC. 1107. PLANTING FLEXIBILITY.**

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

5 (b) LIMITATIONS REGARDING CERTAIN COMMOD-
6 ITIES.—

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

11 (2) TREATMENT OF TREES AND OTHER
12 PERENNIALS.—The planting of an agricultural com-
13 modity specified in paragraph (3) that is produced
14 on a tree or other perennial plant shall be prohibited
15 on base acres.

16 (3) COVERED AGRICULTURAL COMMODITIES.—
17 Paragraphs (1) and (2) apply to the following agri-
18 cultural commodities:

19 (A) Fruits.

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

22 (C) Wild rice.

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

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

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

12 (3) by the producers on a farm that the Sec-
13 retary determines has an established planting his-
14 tory of a specific agricultural commodity specified in
15 subsection (b)(3), except that—

16 (A) the quantity planted may not exceed
17 the average annual planting history of such ag-
18 ricultural commodity by the producers on the
19 farm in the 1991 through 1995 or 1998
20 through 2001 crop years (excluding any crop
21 year in which no plantings were made), as de-
22 termined by the Secretary; and

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

1 (d) PLANTING TRANSFERABILITY PILOT PROJECT.—

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

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

- 13 (A) 9,000 acres in the State of Illinois;
14 (B) 9,000 acres in the State of Indiana;
15 (C) 1,000 acres in the State of Iowa;
16 (D) 9,000 acres in the State of Michigan;
17 (E) 34,000 acres in the State of Min-
18 nesota;
19 (F) 4,000 acres in the State of Ohio; and
20 (G) 9,000 acres in the State of Wisconsin.

21 (3) CONTRACT AND MANAGEMENT REQUIRE-
22 MENTS.—To be eligible for selection to participate in
23 the pilot project, the producers on a farm shall—

- 24 (A) demonstrate to the Secretary that the
25 producers on the farm have entered into a con-

1 tract to produce a crop of a commodity speci-
2 fied in paragraph (1) for processing;

3 (B) agree to produce the crop as part of
4 a program of crop rotation on the farm to
5 achieve agronomic and pest and disease man-
6 agement benefits; and

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

9 (4) TEMPORARY REDUCTION IN BASE ACRES.—

10 The base acres on a farm for a crop year shall be
11 reduced by an acre for each acre planted under the
12 pilot program.

13 (5) DURATION OF REDUCTIONS.—The reduc-
14 tion in the base acres of a farm for a crop year
15 under paragraph (4) shall expire at the end of the
16 crop year.

17 (6) RECALCULATION OF BASE ACRES.—

18 (A) IN GENERAL.—If the Secretary recal-
19 culates base acres for a farm while the farm is
20 included in the pilot project, the planting and
21 production of a crop of a commodity specified
22 in paragraph (1) on base acres for which a tem-
23 porary reduction was made under this section
24 shall be considered to be the same as the plant-
25 ing and production of a covered commodity.

1 (B) PROHIBITION.—Nothing in this para-
2 graph provides authority for the Secretary to
3 recalculate base acres for a farm.

4 (7) PILOT IMPACT EVALUATION.—

5 (A) IN GENERAL.—The Secretary shall pe-
6 riodically evaluate the pilot project conducted
7 under this subsection to determine the effects of
8 the pilot project on the supply and price of—

9 (i) fresh fruits and vegetables; and

10 (ii) fruits and vegetables for proc-
11 essing.

12 (B) DETERMINATION.—An evaluation
13 under subparagraph (A) shall include a deter-
14 mination as to whether—

15 (i) producers of fresh fruits and vege-
16 tables are being negatively impacted; and

17 (ii) existing production capacities are
18 being supplanted.

19 (C) REPORT.—As soon as practicable after
20 conducting an evaluation under subparagraph
21 (A), the Secretary shall submit to the Com-
22 mittee on Agriculture of the House of Rep-
23 resentatives and the Committee on Agriculture,
24 Nutrition, and Forestry of the Senate a report
25 that describes the results of the evaluation.

1 **SEC. 1108. SPECIAL RULE FOR LONG GRAIN AND MEDIUM**
2 **GRAIN RICE.**

3 (a) **CALCULATION METHOD.**—Subject to subsections
4 (b) and (c), for the purposes of determining the amount
5 of the counter-cyclical payments to be paid to the pro-
6 ducers on a farm for long grain rice and medium grain
7 rice under section 1104, the base acres of rice on the farm
8 shall be apportioned using the 4-year average of the per-
9 centages of acreage planted in the applicable State to long
10 grain rice and medium grain rice during the 2003 through
11 2006 crop years, as determined by the Secretary.

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

17 (1) the percentages of acreage planted on the
18 farm to long grain rice and medium grain rice dur-
19 ing the 2003 through 2006 crop years;

20 (2) the percentages of any acreage on the farm
21 that the producers were prevented from planting to
22 long grain rice and medium grain rice during the
23 2003 through 2006 crop years because of drought,
24 flood, other natural disaster, or other condition be-
25 yond the control of the producers, as determined by
26 the Secretary; and

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

6 (2) TERMS AND CONDITIONS.—The marketing
7 assistance loans shall be made under terms and con-
8 ditions that are prescribed by the Secretary and at
9 the loan rate established under section 1202 for the
10 loan commodity.

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

15 (c) COMPLIANCE WITH CONSERVATION AND WET-
16 LANDS REQUIREMENTS.—As a condition of the receipt of
17 a marketing assistance loan under subsection (a), the pro-
18 ducer shall comply with applicable conservation require-
19 ments under subtitle B of title XII of the Food Security
20 Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wet-
21 land protection requirements under subtitle C of title XII
22 of that Act (16 U.S.C. 3821 et seq.) during the term of
23 the loan.

1 **SEC. 1202. LOAN RATES FOR NONRECOURSE MARKETING**
2 **ASSISTANCE LOANS.**

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

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

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

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

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

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

13 (6) In the case of base quality of upland cotton,
14 \$0.52 per pound.

15 (7) In the case of extra long staple cotton,
16 \$0.7977 per pound.

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

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

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

22 (11) In the case of other oilseeds, \$9.30 per
23 hundredweight for each of the following kinds of oil-
24 seeds:

25 (A) Sunflower seed.

26 (B) Rapeseed.

- 1 (C) Canola.
- 2 (D) Safflower.
- 3 (E) Flaxseed.
- 4 (F) Mustard seed.
- 5 (G) Crambe.
- 6 (H) Sesame seed.
- 7 (I) Other oilseeds designated by the Sec-
8 retary.

9 (12) In the case of dry peas, \$6.22 per hun-
10 dredweight.

11 (13) In the case of lentils, \$11.72 per hundred-
12 weight.

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

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

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

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

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

21 (b) 2009 CROP YEAR.—Except as provided in section
22 1105, for purposes of the 2009 crop year, the loan rate
23 for a marketing assistance loan under section 1201 for
24 a loan commodity shall be equal to the following:

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

- 1 (2) In the case of corn, \$1.95 per bushel.
- 2 (3) In the case of grain sorghum, \$1.95 per
3 bushel.
- 4 (4) In the case of barley, \$1.85 per bushel.
- 5 (5) In the case of oats, \$1.33 per bushel.
- 6 (6) In the case of base quality of upland cotton,
7 \$0.52 per pound.
- 8 (7) In the case of extra long staple cotton,
9 \$0.7977 per pound.
- 10 (8) In the case of long grain rice, \$6.50 per
11 hundredweight.
- 12 (9) In the case of medium grain rice, \$6.50 per
13 hundredweight.
- 14 (10) In the case of soybeans, \$5.00 per bushel.
- 15 (11) In the case of other oilseeds, \$9.30 per
16 hundredweight for each of the following kinds of oil-
17 seeds:
- 18 (A) Sunflower seed.
- 19 (B) Rapeseed.
- 20 (C) Canola.
- 21 (D) Safflower.
- 22 (E) Flaxseed.
- 23 (F) Mustard seed.
- 24 (G) Crambe.
- 25 (H) Sesame seed.

1 (I) Other oilseeds designated by the Sec-
2 retary.

3 (12) In the case of dry peas, \$5.40 per hun-
4 dredweight.

5 (13) In the case of lentils, \$11.28 per hundred-
6 weight.

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

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

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

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

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

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

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

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

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

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

- 1 (4) In the case of barley, \$1.95 per bushel.
- 2 (5) In the case of oats, \$1.39 per bushel.
- 3 (6) In the case of base quality of upland cotton,
4 \$0.52 per pound.
- 5 (7) In the case of extra long staple cotton,
6 \$0.7977 per pound.
- 7 (8) In the case of long grain rice, \$6.50 per
8 hundredweight.
- 9 (9) In the case of medium grain rice, \$6.50 per
10 hundredweight.
- 11 (10) In the case of soybeans, \$5.00 per bushel.
- 12 (11) In the case of other oilseeds, \$10.09 per
13 hundredweight for each of the following kinds of oil-
14 seeds:
- 15 (A) Sunflower seed.
- 16 (B) Rapeseed.
- 17 (C) Canola.
- 18 (D) Safflower.
- 19 (E) Flaxseed.
- 20 (F) Mustard seed.
- 21 (G) Crambe.
- 22 (H) Sesame seed.
- 23 (I) Other oilseeds designated by the Sec-
24 retary.

1 (12) In the case of dry peas, \$5.40 per hun-
2 dredweight.

3 (13) In the case of lentils, \$11.28 per hundred-
4 weight.

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

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

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

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

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

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

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

19 **SEC. 1203. TERM OF LOANS.**

20 (a) TERM OF LOAN.—In the case of each loan com-
21 modity, a marketing assistance loan under section 1201
22 shall have a term of 9 months beginning on the first day
23 of the first month after the month in which the loan is
24 made.

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

4 **SEC. 1204. REPAYMENT OF LOANS.**

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

12 (1) the loan rate established for the commodity
13 under section 1202, plus interest (determined in ac-
14 cordance with section 163 of the Federal Agriculture
15 Improvement and Reform Act of 1996 (7 U.S.C.
16 7283));

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

19 (A) is calculated based on average market
20 prices for the loan commodity during the pre-
21 ceding 30-day period; and

22 (B) will minimize discrepancies in mar-
23 keting loan benefits across State boundaries
24 and across county boundaries; or

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

5 (A) minimize potential loan forfeitures;

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

8 (C) minimize the cost incurred by the Fed-
9 eral Government in storing the commodity;

10 (D) allow the commodity produced in the
11 United States to be marketed freely and com-
12 petitively, both domestically and internationally;
13 and

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

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

22 (1) the loan rate established for the commodity
23 under section 1202, plus interest (determined in ac-
24 cordance with section 163 of the Federal Agriculture

1 Improvement and Reform Act of 1996 (7 U.S.C.
2 7283)); or

3 (2) the prevailing world market price for the
4 commodity, as determined and adjusted by the Sec-
5 retary in accordance with this section.

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

13 (d) PREVAILING WORLD MARKET PRICE.—For pur-
14 poses of this section and section 1207, the Secretary shall
15 prescribe by regulation—

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

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

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

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

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

8 (A) shall be adjusted to United States
9 quality and location, with the adjustment to in-
10 clude—

11 (i) a reduction equal to any United
12 States Premium Factor for upland cotton
13 of a quality higher than Middling (M)
14 $1\frac{3}{32}$ -inch; and

15 (ii) the average costs to market the
16 commodity, including average transpor-
17 tation costs, as determined by the Sec-
18 retary; and

19 (B) may be further adjusted, during the
20 period beginning on the date of enactment of
21 this Act and ending on July 31, 2013, if the
22 Secretary determines the adjustment is nec-
23 essary to—

24 (i) minimize potential loan forfeitures;

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

4 (iii) ensure that upland cotton pro-
5 duced in the United States can be mar-
6 keted freely and competitively, both domes-
7 tically and internationally; and

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

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

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

19 (3) GUIDELINES FOR ADDITIONAL ADJUST-
20 MENTS.—In making adjustments under this sub-
21 section, the Secretary shall establish a mechanism
22 for determining and announcing the adjustments in
23 order to avoid undue disruption in the United States
24 market.

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

7 (1) the loan rate established for the commodity
8 under section 1202, plus interest (determined in ac-
9 cordance with section 163 of the Federal Agriculture
10 Improvement and Reform Act of 1996 (7 U.S.C.
11 7283)); or

12 (2) the repayment rate established for oil sun-
13 flower seed.

14 (g) PAYMENT OF COTTON STORAGE COSTS.—

15 (1) 2008 THROUGH 2011 CROP YEARS.—Effec-
16 tive for each of the 2008 through 2011 crop years,
17 the Secretary shall provide cotton storage payments
18 in the same manner, and at the same rates as the
19 Secretary provided storage payments for the 2006
20 crop of cotton, except that the rates shall be reduced
21 by 10 percent.

22 (2) SUBSEQUENT CROP YEARS.—Beginning
23 with the 2012 crop year, the Secretary shall provide
24 cotton storage payments in the same manner, and at
25 the same rates as the Secretary provided storage

1 payments for the 2006 crop of cotton, except that
2 the rates shall be reduced by 20 percent.

3 (h) AUTHORITY TO TEMPORARILY ADJUST REPAY-
4 MENT RATES.—

5 (1) ADJUSTMENT AUTHORITY.—In the event of
6 a severe disruption to marketing, transportation, or
7 related infrastructure, the Secretary may modify the
8 repayment rate otherwise applicable under this sec-
9 tion for marketing assistance loans under section
10 1201 for a loan commodity.

11 (2) DURATION.—Any adjustment made under
12 paragraph (1) in the repayment rate for marketing
13 assistance loans for a loan commodity shall be in ef-
14 fect on a short-term and temporary basis, as deter-
15 mined by the Secretary.

16 **SEC. 1205. LOAN DEFICIENCY PAYMENTS.**

17 (a) AVAILABILITY OF LOAN DEFICIENCY PAY-
18 MENTS.—

19 (1) IN GENERAL.—Except as provided in sub-
20 section (d), the Secretary may make loan deficiency
21 payments available to producers on a farm that, al-
22 though eligible to obtain a marketing assistance loan
23 under section 1201 with respect to a loan com-
24 modity, agree to forgo obtaining the loan for the

1 commodity in return for loan deficiency payments
2 under this section.

3 (2) UNSHORN PELTS, HAY, AND SILAGE.—

4 (A) MARKETING ASSISTANCE LOANS.—

5 Subject to subparagraph (B), nongraded wool
6 in the form of unshorn pelts and hay and silage
7 derived from a loan commodity are not eligible
8 for a marketing assistance loan under section
9 1201.

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

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

19 (1) the payment rate determined under sub-
20 section (c) for the commodity; by

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

25 (c) PAYMENT RATE.—

1 (1) IN GENERAL.—In the case of a loan com-
2 modity, the payment rate shall be the amount by
3 which—

4 (A) the loan rate established under section
5 1202 for the loan commodity; exceeds

6 (B) the rate at which a marketing assist-
7 ance loan for the loan commodity may be repaid
8 under section 1204.

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

12 (A) the loan rate established under section
13 1202 for ungraded wool; exceeds

14 (B) the rate at which a marketing assist-
15 ance loan for ungraded wool may be repaid
16 under section 1204.

17 (3) HAY AND SILAGE.—In the case of hay or si-
18 lage derived from a loan commodity, the payment
19 rate shall be the amount by which—

20 (A) the loan rate established under section
21 1202 for the loan commodity from which the
22 hay or silage is derived; exceeds

23 (B) the rate at which a marketing assist-
24 ance loan for the loan commodity may be repaid
25 under section 1204.

1 (d) EXCEPTION FOR EXTRA LONG STAPLE COT-
2 TON.—This section shall not apply with respect to extra
3 long staple cotton.

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

11 **SEC. 1206. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAY-**
12 **MENTS FOR GRAZED ACREAGE.**

13 (a) ELIGIBLE PRODUCERS.—

14 (1) IN GENERAL.—Effective for the 2008
15 through 2012 crop years, in the case of a producer
16 that would be eligible for a loan deficiency payment
17 under section 1205 for wheat, barley, or oats, but
18 that elects to use acreage planted to the wheat, bar-
19 ley, or oats for the grazing of livestock, the Sec-
20 retary shall make a payment to the producer under
21 this section if the producer enters into an agreement
22 with the Secretary to forgo any other harvesting of
23 the wheat, barley, or oats on that acreage.

24 (2) GRAZING OF TRITICALE ACREAGE.—Effec-
25 tive for the 2008 through 2012 crop years, with re-

1 spect to a producer on a farm that uses acreage
2 planted to triticale for the grazing of livestock, the
3 Secretary shall make a payment to the producer
4 under this section if the producer enters into an
5 agreement with the Secretary to forgo any other
6 harvesting of triticale on that acreage.

7 (b) PAYMENT AMOUNT.—

8 (1) IN GENERAL.—The amount of a payment
9 made under this section to a producer on a farm de-
10 scribed in subsection (a)(1) shall be equal to the
11 amount determined by multiplying—

12 (A) the loan deficiency payment rate deter-
13 mined under section 1205(c) in effect, as of the
14 date of the agreement, for the county in which
15 the farm is located; by

16 (B) the payment quantity determined by
17 multiplying—

18 (i) the quantity of the grazed acreage
19 on the farm with respect to which the pro-
20 ducer elects to forgo harvesting of wheat,
21 barley, or oats; and

22 (ii) the payment yield in effect for the
23 calculation of direct payments under sub-
24 title A with respect to that loan commodity
25 on the farm or, in the case of a farm with-

1 out a payment yield for that loan com-
2 modity, an appropriate yield established by
3 the Secretary in a manner consistent with
4 section 1102 of the Farm Security and
5 Rural Investment Act of 2002 (7 U.S.C.
6 7912).

7 (2) GRAZING OF TRITICALE ACREAGE.—The
8 amount of a payment made under this section to a
9 producer on a farm described in subsection (a)(2)
10 shall be equal to the amount determined by multi-
11 plying—

12 (A) the loan deficiency payment rate deter-
13 mined under section 1205(c) in effect for
14 wheat, as of the date of the agreement, for the
15 county in which the farm is located; by

16 (B) the payment quantity determined by
17 multiplying—

18 (i) the quantity of the grazed acreage
19 on the farm with respect to which the pro-
20 ducer elects to forgo harvesting of triticale;
21 and

22 (ii) the payment yield in effect for the
23 calculation of direct payments under sub-
24 title A with respect to wheat on the farm
25 or, in the case of a farm without a pay-

1 ment yield for wheat, an appropriate yield
2 established by the Secretary in a manner
3 consistent with section 1102 of the Farm
4 Security and Rural Investment Act of
5 2002 (7 U.S.C. 7912).

6 (c) TIME, MANNER, AND AVAILABILITY OF PAY-
7 MENT.—

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

12 (2) AVAILABILITY.—

13 (A) IN GENERAL.—The Secretary shall es-
14 tablish an availability period for the payments
15 authorized by this section.

16 (B) CERTAIN COMMODITIES.—In the case
17 of wheat, barley, and oats, the availability pe-
18 riod shall be consistent with the availability pe-
19 riod for the commodity established by the Sec-
20 retary for marketing assistance loans author-
21 ized by this subtitle.

22 (d) PROHIBITION ON CROP INSURANCE INDEMNITY
23 OR NONINSURED CROP ASSISTANCE.—A 2008 through
24 2012 crop of wheat, barley, oats, or triticale planted on
25 acreage that a producer elects, in the agreement required

1 by subsection (a), to use for the grazing of livestock in
2 lieu of any other harvesting of the crop shall not be eligible
3 for an indemnity under a policy or plan of insurance au-
4 thorized under the Federal Crop Insurance Act (7 U.S.C.
5 1501 et seq.) or noninsured crop assistance under section
6 196 of the Federal Agriculture Improvement and Reform
7 Act of 1996 (7 U.S.C. 7333).

8 **SEC. 1207. SPECIAL MARKETING LOAN PROVISIONS FOR**
9 **UPLAND COTTON.**

10 (a) SPECIAL IMPORT QUOTA.—

11 (1) DEFINITION OF SPECIAL IMPORT QUOTA.—

12 In this subsection, the term “special import quota”
13 means a quantity of imports that is not subject to
14 the over-quota tariff rate of a tariff-rate quota.

15 (2) ESTABLISHMENT.—

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

21 (B) PROGRAM REQUIREMENTS.—Whenever
22 the Secretary determines and announces that
23 for any consecutive 4-week period, the Friday
24 through Thursday average price quotation for
25 the lowest-priced United States growth, as

1 quoted for Middling (M) 1³/₃₂-inch cotton, deliv-
2 ered to a definable and significant international
3 market, as determined by the Secretary, ex-
4 ceeds the prevailing world market price, there
5 shall immediately be in effect a special import
6 quota.

7 (3) QUANTITY.—The quota shall be equal to 1
8 week’s consumption of cotton by domestic mills at
9 the seasonally adjusted average rate of the most re-
10 cent 3 months for which data are available.

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

16 (5) OVERLAP.—A special quota period may be
17 established that overlaps any existing quota period if
18 required by paragraph (2), except that a special
19 quota period may not be established under this sub-
20 section if a quota period has been established under
21 subsection (b).

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

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

3 (B) section 204 of the Andean Trade Pref-
4 erence Act (19 U.S.C. 3203);

5 (C) section 503(d) of the Trade Act of
6 1974 (19 U.S.C. 2463(d)); and

7 (D) General Note 3(a)(iv) to the Har-
8 monized Tariff Schedule.

9 (7) LIMITATION.—The quantity of cotton en-
10 tered into the United States during any marketing
11 year under the special import quota established
12 under this subsection may not exceed the equivalent
13 of 10 week’s consumption of upland cotton by do-
14 mestic mills at the seasonally adjusted average rate
15 of the 3 months immediately preceding the first spe-
16 cial import quota established in any marketing year.

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

19 (1) DEFINITIONS.—In this subsection:

20 (A) SUPPLY.—The term “supply” means,
21 using the latest official data of the Bureau of
22 the Census, the Department of Agriculture, and
23 the Department of the Treasury—

24 (i) the carry-over of upland cotton at
25 the beginning of the marketing year (ad-

1 justed to 480-pound bales) in which the
2 quota is established;

3 (ii) production of the current crop;

4 and

5 (iii) imports to the latest date avail-
6 able during the marketing year.

7 (B) DEMAND.—The term “demand”
8 means—

9 (i) the average seasonally adjusted an-
10 nual rate of domestic mill consumption of
11 cotton during the most recent 3 months
12 for which data are available; and

13 (ii) the larger of—

14 (I) average exports of upland cot-
15 ton during the preceding 6 marketing
16 years; or

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

21 (C) LIMITED GLOBAL IMPORT QUOTA.—

22 The term “limited global import quota” means
23 a quantity of imports that is not subject to the
24 over-quota tariff rate of a tariff-rate quota.

1 (2) PROGRAM.—The President shall carry out
2 an import quota program that provides that when-
3 ever the Secretary determines and announces that
4 the average price of the base quality of upland cot-
5 ton, as determined by the Secretary, in the des-
6 ignated spot markets for a month exceeded 130 per-
7 cent of the average price of the quality of cotton in
8 the markets for the preceding 36 months, notwith-
9 standing any other provision of law, there shall im-
10 mediately be in effect a limited global import quota
11 subject to the following conditions:

12 (A) QUANTITY.—The quantity of the quota
13 shall be equal to 21 days of domestic mill con-
14 sumption of upland cotton at the seasonally ad-
15 justed average rate of the most recent 3 months
16 for which data are available or as estimated by
17 the Secretary.

18 (B) QUANTITY IF PRIOR QUOTA.—If a
19 quota has been established under this sub-
20 section during the preceding 12 months, the
21 quantity of the quota next established under
22 this subsection shall be the smaller of 21 days
23 of domestic mill consumption calculated under
24 subparagraph (A) or the quantity required to

1 increase the supply to 130 percent of the de-
2 mand.

3 (C) PREFERENTIAL TARIFF TREAT-
4 MENT.—The quantity under a limited global
5 import quota shall be considered to be an in-
6 quota quantity for purposes of—

7 (i) section 213(d) of the Caribbean
8 Basin Economic Recovery Act (19 U.S.C.
9 2703(d));

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

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

14 (iv) General Note 3(a)(iv) to the Har-
15 monized Tariff Schedule.

16 (D) QUOTA ENTRY PERIOD.—When a
17 quota is established under this subsection, cot-
18 ton may be entered under the quota during the
19 90-day period beginning on the date the quota
20 is established by the Secretary.

21 (3) NO OVERLAP.—Notwithstanding paragraph
22 (2), a quota period may not be established that over-
23 laps an existing quota period or a special quota pe-
24 riod established under subsection (a).

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

3 (1) IN GENERAL.—Subject to paragraph (2),
4 the Secretary shall, on a monthly basis, provide eco-
5 nomic adjustment assistance to domestic users of
6 upland cotton in the form of payments for all docu-
7 mented use of that upland cotton during the pre-
8 vious monthly period regardless of the origin of the
9 upland cotton.

10 (2) VALUE OF ASSISTANCE.—

11 (A) BEGINNING PERIOD.—During the pe-
12 riod beginning on August 1, 2008, and ending
13 on July 31, 2012, the value of the assistance
14 provided under paragraph (1) shall be 4 cents
15 per pound.

16 (B) SUBSEQUENT PERIOD.—Effective be-
17 ginning on August 1, 2012, the value of the as-
18 sistance provided under paragraph (1) shall be
19 3 cents per pound.

20 (3) ALLOWABLE PURPOSES.—Economic adjust-
21 ment assistance under this subsection shall be made
22 available only to domestic users of upland cotton
23 that certify that the assistance shall be used only to
24 acquire, construct, install, modernize, develop, con-

1 vert, or expand land, plant, buildings, equipment, fa-
2 cilities, or machinery.

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

7 (5) IMPROPER USE OF ASSISTANCE.—If the
8 Secretary determines, after a review or audit of the
9 records of the domestic user, that economic adjust-
10 ment assistance under this subsection was not used
11 for the purposes specified in paragraph (3), the do-
12 mestic user shall be—

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

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

19 **SEC. 1208. SPECIAL COMPETITIVE PROVISIONS FOR EXTRA**
20 **LONG STAPLE COTTON.**

21 (a) COMPETITIVENESS PROGRAM.—Notwithstanding
22 any other provision of law, during the period beginning
23 on the date of enactment of this Act through July 31,
24 2013, the Secretary shall carry out a program—

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

4 (2) to increase exports of extra long staple cot-
5 ton produced in the United States; and

6 (3) to ensure that extra long staple cotton pro-
7 duced in the United States remains competitive in
8 world markets.

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

12 (1) for a consecutive 4-week period, the world
13 market price for the lowest priced competing growth
14 of extra long staple cotton (adjusted to United
15 States quality and location and for other factors af-
16 fecting the competitiveness of such cotton), as deter-
17 mined by the Secretary, is below the prevailing
18 United States price for a competing growth of extra
19 long staple cotton; and

20 (2) the lowest priced competing growth of extra
21 long staple cotton (adjusted to United States quality
22 and location and for other factors affecting the com-
23 petitiveness of such cotton), as determined by the
24 Secretary, is less than 134 percent of the loan rate
25 for extra long staple cotton.

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

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

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

17 (a) HIGH MOISTURE FEED GRAINS.—

18 (1) DEFINITION OF HIGH MOISTURE STATE.—
19 In this subsection, the term “high moisture state”
20 means corn or grain sorghum having a moisture con-
21 tent in excess of Commodity Credit Corporation
22 standards for marketing assistance loans made by
23 the Secretary under section 1201.

24 (2) RECOURSE LOANS AVAILABLE.—For each of
25 the 2008 through 2012 crops of corn and grain sor-

1 ghum, the Secretary shall make available recourse
2 loans, as determined by the Secretary, to producers
3 on a farm that—

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

7 (B) present—

8 (i) certified scale tickets from an in-
9 spected, certified commercial scale, includ-
10 ing a licensed warehouse, feedlot, feed mill,
11 distillery, or other similar entity approved
12 by the Secretary, pursuant to regulations
13 issued by the Secretary; or

14 (ii) field or other physical measure-
15 ments of the standing or stored crop in re-
16 gions of the United States, as determined
17 by the Secretary, that do not have certified
18 commercial scales from which certified
19 scale tickets may be obtained within rea-
20 sonable proximity of harvest operation;

21 (C) certify that they were the owners of
22 the feed grain at the time of delivery to, and
23 that the quantity to be placed under loan under
24 this subsection was in fact harvested on the
25 farm and delivered to, a feedlot, feed mill, or

1 commercial or on-farm high-moisture storage
2 facility, or to a facility maintained by the users
3 of corn and grain sorghum in a high moisture
4 state; and

5 (D) comply with deadlines established by
6 the Secretary for harvesting the corn or grain
7 sorghum and submit applications for loans
8 under this subsection within deadlines estab-
9 lished by the Secretary.

10 (3) ELIGIBILITY OF ACQUIRED FEED GRAINS.—

11 A loan under this subsection shall be made on a
12 quantity of corn or grain sorghum of the same crop
13 acquired by the producer equivalent to a quantity
14 determined by multiplying—

15 (A) the acreage of the corn or grain sor-
16 ghum in a high moisture state harvested on the
17 producer's farm; by

18 (B) the lower of the farm program pay-
19 ment yield used to make counter-cyclical pay-
20 ments under subtitle A or the actual yield on a
21 field, as determined by the Secretary, that is
22 similar to the field from which the corn or grain
23 sorghum was obtained.

24 (b) RECOURSE LOANS AVAILABLE FOR SEED COT-
25 TON.—For each of the 2008 through 2012 crops of upland

1 cotton and extra long staple cotton, the Secretary shall
2 make available recourse seed cotton loans, as determined
3 by the Secretary, on any production.

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

10 **SEC. 1210. ADJUSTMENTS OF LOANS.**

11 (a) ADJUSTMENT AUTHORITY.—Subject to sub-
12 section (e), the Secretary may make appropriate adjust-
13 ments in the loan rates for any loan commodity (other
14 than cotton) for differences in grade, type, quality, loca-
15 tion, and other factors.

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

23 (c) ADJUSTMENT ON COUNTY BASIS.—

24 (1) IN GENERAL.—The Secretary may establish
25 loan rates for a crop for producers in individual

1 counties in a manner that results in the lowest loan
2 rate being 95 percent of the national average loan
3 rate, if those loan rates do not result in an increase
4 in outlays.

5 (2) PROHIBITION.—Adjustments under this
6 subsection shall not result in an increase in the na-
7 tional average loan rate for any year.

8 (d) ADJUSTMENT IN LOAN RATE FOR COTTON.—

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

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

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

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

23 (i) the elimination of warehouse loca-
24 tion differentials;

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

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

11 (iv) a mechanism to ensure that no
12 premium or discount is established that ex-
13 ceeds the premium or discount associated
14 with a leaf grade that is 1 better than the
15 applicable color grade.

16 (C) DISCRETIONARY REVISIONS.—Revi-
17 sions under subparagraph (A) may include—

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

23 (ii) adjustments in the premiums or
24 discounts associated with upland cotton
25 with a staple length of 33 or above due to

1 micronaire with the goal of eliminating any
2 unnecessary artificial splits in the calcula-
3 tions of the premiums or discounts; and

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

8 (3) CONSULTATION WITH PRIVATE SECTOR.—

9 (A) PRIOR TO REVISION.—In making ad-
10 justments to the loan rate for cotton (including
11 any review of the adjustments) as provided in
12 this subsection, the Secretary shall consult with
13 representatives of the United States cotton in-
14 dustry.

15 (B) INAPPLICABILITY OF FEDERAL ADVI-
16 SORY COMMITTEE ACT.—The Federal Advisory
17 Committee Act (5 U.S.C. App.) shall not apply
18 to consultations under this subsection.

19 (4) REVIEW OF ADJUSTMENTS.—The Secretary
20 may review the operation of the upland cotton qual-
21 ity adjustments implemented pursuant to this sub-
22 section and may make further revisions to the ad-
23 ministration of the loan program for upland cotton,
24 by—

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

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

6 (e) RICE.—The Secretary shall not make adjust-
7 ments in the loan rates for long grain rice and medium
8 grain rice, except for differences in grade and quality (in-
9 cluding milling yields).

10 **Subtitle C—Peanuts**

11 **SEC. 1301. DEFINITIONS.**

12 In this subtitle:

13 (1) **BASE ACRES FOR PEANUTS.**—

14 (A) **IN GENERAL.**—The term “base acres
15 for peanuts” means the number of acres as-
16 signed to a farm pursuant to section 1302 of
17 the Farm Security and Rural Investment Act of
18 2002 (7 U.S.C. 7952), as in effect on Sep-
19 tember 30, 2007, subject to any adjustment
20 under section 1302 of this Act.

21 (B) **COVERED COMMODITIES.**—The term
22 “base acres”, with respect to a covered com-
23 modity, has the meaning given the term in sec-
24 tion 1101.

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

4 (3) DIRECT PAYMENT.—The term “direct pay-
5 ment” means a direct payment made to producers
6 on a farm under section 1303.

7 (4) EFFECTIVE PRICE.—The term “effective
8 price” means the price calculated by the Secretary
9 under section 1304 for peanuts to determine wheth-
10 er counter-cyclical payments are required to be made
11 under that section for a crop year.

12 (5) PAYMENT ACRES.—The term “payment
13 acres” means, in the case of direct payments and
14 counter-cyclical payments—

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

19 (B) in the case of direct payments for each
20 of the 2009 through 2011 crop years, 83.3 per-
21 cent of the base acres for peanuts on a farm on
22 which direct payments are made.

23 (6) PAYMENT YIELD.—The term “payment
24 yield” means the yield established for direct pay-
25 ments and the yield established for counter-cyclical

1 payments under section 1302 of the Farm Security
2 and Rural Investment Act of 2002 (7 U.S.C. 7952),
3 as in effect on September 30, 2007, for a farm for
4 peanuts.

5 (7) PRODUCER.—

6 (A) IN GENERAL.—The term “producer”
7 means an owner, operator, landlord, tenant, or
8 sharecropper that shares in the risk of pro-
9 ducing a crop on a farm and is entitled to share
10 in the crop available for marketing from the
11 farm, or would have shared had the crop been
12 produced.

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

16 (i) not take into consideration the ex-
17 istence of a hybrid seed contract; and

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

22 (8) STATE.—The term “State” means—

23 (A) a State;

24 (B) the District of Columbia;

1 (C) the Commonwealth of Puerto Rico;
2 and

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

5 (9) TARGET PRICE.—The term “target price”
6 means the price per ton of peanuts used to deter-
7 mine the payment rate for counter-cyclical pay-
8 ments.

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

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

13 (a) ADJUSTMENT OF BASE ACREAGE FOR PEA-
14 NUTS.—

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

19 (A) A conservation reserve contract en-
20 tered into under section 1231 of the Food Secu-
21 rity Act of 1985 (16 U.S.C. 3831) with respect
22 to the farm expires or is voluntarily terminated,
23 or was terminated or expired during the period
24 beginning on October 1, 2007, and ending on
25 the date of enactment of this Act.

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

6 (C) The producer has eligible pulse crop
7 acreage, which shall be determined in the same
8 manner as eligible oilseed acreage under section
9 1101(a)(2) of the Farm Security and Rural In-
10 vestment Act of 2002 (7 U.S.C. 7911(a)(2)).

11 (D) The producer has eligible oilseed acre-
12 age as the result of the Secretary designating
13 additional oilseeds, which shall be determined in
14 the same manner as eligible oilseed acreage
15 under section 1101(a)(2) of the Farm Security
16 and Rural Investment Act of 2002 (7 U.S.C.
17 7911(a)(2)).

18 (2) SPECIAL CONSERVATION RESERVE ACREAGE
19 PAYMENT RULES.—For the crop year in which a
20 base acres for peanuts adjustment under subpara-
21 graph (A) or (B) of paragraph (1) is first made, the
22 owner of the farm shall elect to receive either direct
23 payments and counter-cyclical payments with respect
24 to the acreage added to the farm under this sub-

1 section or a prorated payment under the conserva-
2 tion reserve contract, but not both.

3 (b) PREVENTION OF EXCESS BASE ACRES FOR PEA-
4 NUTS.—

5 (1) REQUIRED REDUCTION.—If the sum of the
6 base acres for peanuts for a farm, together with the
7 acreage described in paragraph (2), exceeds the ac-
8 tual cropland acreage of the farm, the Secretary
9 shall reduce the base acres for peanuts for the farm
10 or the base acres for 1 or more covered commodities
11 for the farm so that the sum of the base acres for
12 peanuts and acreage described in paragraph (2) does
13 not exceed the actual cropland acreage of the farm.

14 (2) OTHER ACREAGE.—For purposes of para-
15 graph (1), the Secretary shall include the following:

16 (A) Any base acres for the farm for a cov-
17 ered commodity.

18 (B) Any acreage on the farm enrolled in
19 the conservation reserve program or wetlands
20 reserve program under chapter 1 of subtitle D
21 of title XII of the Food Security Act of 1985
22 (16 U.S.C. 3830 et seq.).

23 (C) Any other acreage on the farm enrolled
24 in a Federal conservation program for which
25 payments are made in exchange for not pro-

1 ducing an agricultural commodity on the acre-
2 age.

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

8 (E) If the Secretary designates additional
9 oilseeds, any eligible oilseed acreage, which shall
10 be determined in the same manner as eligible
11 oilseed acreage under section 1101(a)(2) of the
12 Farm Security and Rural Investment Act of
13 2002 (7 U.S.C. 7911(a)(2)).

14 (3) SELECTION OF ACRES.—The Secretary shall
15 give the owner of the farm the opportunity to select
16 the base acres for peanuts or the base acres for cov-
17 ered commodities against which the reduction re-
18 quired by paragraph (1) will be made.

19 (4) EXCEPTION FOR DOUBLE-CROPPED ACRE-
20 AGE.—In applying paragraph (1), the Secretary
21 shall make an exception in the case of double crop-
22 ping, as determined by the Secretary.

23 (5) COORDINATED APPLICATION OF REQUIRE-
24 MENTS.—The Secretary shall take into account sec-

1 tion 1101(b) when applying the requirements of this
2 subsection.

3 (c) REDUCTION IN BASE ACRES.—

4 (1) REDUCTION AT OPTION OF OWNER.—

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

8 (B) EFFECT OF REDUCTION.—A reduction
9 under subparagraph (A) shall be permanent
10 and made in a manner prescribed by the Sec-
11 retary.

12 (2) REQUIRED ACTION BY SECRETARY.—

13 (A) IN GENERAL.—The Secretary shall
14 proportionately reduce base acres on a farm for
15 peanuts for land that has been subdivided and
16 developed for multiple residential units or other
17 nonfarming uses if the size of the tracts and
18 the density of the subdivision is such that the
19 land is unlikely to return to the previous agri-
20 cultural use, unless the producers on the farm
21 demonstrate that the land—

22 (i) remains devoted to commercial agri-
23 cultural production; or

24 (ii) is likely to be returned to the pre-
25 vious agricultural use.

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

4 (3) REVIEW AND REPORT.—Each year, to en-
5 sure, to the maximum extent practicable, that pay-
6 ments are received only by producers, the Secretary
7 shall submit to Congress a report that describes the
8 results of the actions taken under paragraph (2).

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

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

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

20 (A) a socially disadvantaged farmer or
21 rancher (as defined in section 355(e) of the
22 Consolidated Farm and Rural Development Act
23 (7 U.S.C. 2003(e)); or

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

1 (3) DATA COLLECTION AND PUBLICATION.—

2 The Secretary shall—

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

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

10 **SEC. 1303. AVAILABILITY OF DIRECT PAYMENTS FOR PEA-**
11 **NUTS.**

12 (a) PAYMENT REQUIRED.—For each of the 2008
13 through 2012 crop years for peanuts, the Secretary shall
14 make direct payments to the producers on a farm for
15 which a payment yield and base acres for peanuts are es-
16 tablished.

17 (b) PAYMENT RATE.—Except as provided in section
18 1105, the payment rate used to make direct payments
19 with respect to peanuts for a crop year shall be equal to
20 \$36 per ton.

21 (c) PAYMENT AMOUNT.—The amount of the direct
22 payment to be paid to the producers on a farm for peanuts
23 for a crop year shall be equal to the product of the fol-
24 lowing:

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

3 (2) The payment acres on the farm.

4 (3) The payment yield for the farm.

5 (d) TIME FOR PAYMENT.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), in the case of each of the 2008 through
8 2012 crop years, the Secretary may not make direct
9 payments under this section before October 1 of the
10 calendar year in which the crop is harvested.

11 (2) ADVANCE PAYMENTS.—

12 (A) OPTION.—

13 (i) IN GENERAL.—At the option of the
14 producers on a farm, the Secretary shall
15 pay in advance up to 22 percent of the di-
16 rect payment for peanuts for any of the
17 2008 through 2011 crop years to the pro-
18 ducers on a farm.

19 (ii) 2008 CROP YEAR.—If the pro-
20 ducers on a farm elect to receive advance
21 direct payments under clause (i) for pea-
22 nuts for the 2008 crop year, as soon as
23 practicable after the election, the Secretary
24 shall make the advance direct payment to
25 the producers on the farm.

1 (B) MONTH.—

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

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

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

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

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

19 (3) REPAYMENT OF ADVANCE PAYMENTS.—If a
20 producer on a farm that receives an advance direct
21 payment for a crop year ceases to be a producer on
22 that farm, or the extent to which the producer
23 shares in the risk of producing a crop changes, be-
24 fore the date the remainder of the direct payment is
25 made, the producer shall be responsible for repaying

1 the Secretary the applicable amount of the advance
2 payment, as determined by the Secretary.

3 **SEC. 1304. AVAILABILITY OF COUNTER-CYCLICAL PAY-**
4 **MENTS FOR PEANUTS.**

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

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

15 (1) The higher of the following:

16 (A) The national average market price for
17 peanuts received by producers during the 12-
18 month marketing year for peanuts, as deter-
19 mined by the Secretary.

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

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

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

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

7 (1) the target price for peanuts; and

8 (2) the effective price determined under sub-
9 section (b) for peanuts.

10 (e) PAYMENT AMOUNT.—If counter-cyclical pay-
11 ments are required to be paid for any of the 2008 through
12 2012 crops of peanuts, the amount of the counter-cyclical
13 payment to be paid to the producers on a farm for that
14 crop year shall be equal to the product of the following:

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

17 (2) The payment acres on the farm.

18 (3) The payment yield for the farm.

19 (f) TIME FOR PAYMENTS.—

20 (1) GENERAL RULE.—Except as provided in
21 paragraph (2), if the Secretary determines under
22 subsection (a) that counter-cyclical payments are re-
23 quired to be made under this section for a crop of
24 peanuts, beginning October 1, or as soon as prac-
25 ticable after the end of the marketing year, the Sec-

1 retary shall make the counter-cyclical payments for
2 the crop.

3 (2) AVAILABILITY OF PARTIAL PAYMENTS.—

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

12 (B) ELECTION.—

13 (i) IN GENERAL.—The Secretary shall
14 allow producers on a farm to make an elec-
15 tion to receive partial payments under sub-
16 paragraph (A) at any time but not later
17 than 60 days prior to the end of the mar-
18 keting year for the crop.

19 (ii) DATE OF ISSUANCE.—The Sec-
20 retary shall issue the partial payment after
21 the date of an announcement by the Sec-
22 retary but not later than 30 days prior to
23 the end of the marketing year.

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

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

7 (B) the final partial payment shall be
8 made beginning October 1, or as soon as prac-
9 ticable thereafter, after the end of the applica-
10 ble marketing year for that crop.

11 (4) AMOUNT OF PARTIAL PAYMENTS.—

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

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

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

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

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

10 **SEC. 1305. PRODUCER AGREEMENT REQUIRED AS CONDI-**
11 **TION ON PROVISION OF PAYMENTS.**

12 (a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—

13 (1) REQUIREMENTS.—Before the producers on
14 a farm may receive direct payments or counter-cycli-
15 cal payments under this subtitle, or average crop
16 revenue election payments under section 1105, with
17 respect to the farm, the producers shall agree, dur-
18 ing the crop year for which the payments are made
19 and in exchange for the payments—

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

1 (B) to comply with applicable wetland pro-
2 tection requirements under subtitle C of title
3 XII of that Act (16 U.S.C. 3821 et seq.);

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

6 (D) to use the land on the farm, in a
7 quantity equal to the attributable base acres for
8 peanuts and any base acres for the farm under
9 subtitle A, for an agricultural or conserving use,
10 and not for a nonagricultural commercial, in-
11 dustrial, or residential use, as determined by
12 the Secretary; and

13 (E) to effectively control noxious weeds
14 and otherwise maintain the land in accordance
15 with sound agricultural practices, as determined
16 by the Secretary, if the agricultural or con-
17 serving use involves the noncultivation of any
18 portion of the land referred to in subparagraph
19 (D).

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

24 (3) MODIFICATION.—At the request of the
25 transferee or owner, the Secretary may modify the

1 requirements of this subsection if the modifications
2 are consistent with the objectives of this subsection,
3 as determined by the Secretary.

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

6 (1) TERMINATION.—

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

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

23 (2) EXCEPTION.—If a producer entitled to a di-
24 rect payment, counter-cyclical payment, or average
25 crop revenue election payment dies, becomes incom-

1 petent, or is otherwise unable to receive the pay-
2 ment, the Secretary shall make the payment, in ac-
3 cordance with rules issued by the Secretary.

4 (c) ACREAGE REPORTS.—

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

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

15 (d) TENANTS AND SHARECROPPERS.—In carrying
16 out this subtitle, the Secretary shall provide adequate safe-
17 guards to protect the interests of tenants and share-
18 croppers.

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

1 **SEC. 1306. PLANTING FLEXIBILITY.**

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

5 (b) LIMITATIONS REGARDING CERTAIN COMMOD-
6 ITIES.—

7 (1) GENERAL LIMITATION.—The planting of an
8 agricultural commodity specified in paragraph (3)
9 shall be prohibited on base acres for peanuts unless
10 the commodity, if planted, is destroyed before har-
11 vest.

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

17 (3) COVERED AGRICULTURAL COMMODITIES.—
18 Paragraphs (1) and (2) apply to the following agri-
19 cultural commodities:

20 (A) Fruits.

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

23 (C) Wild rice.

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

1 (1) in any region in which there is a history of
2 double-cropping of peanuts with agricultural com-
3 modities specified in subsection (b)(3), as deter-
4 mined by the Secretary, in which case the double-
5 cropping shall be permitted;

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

12 (3) by the producers on a farm that the Sec-
13 retary determines has an established planting his-
14 tory of a specific agricultural commodity specified in
15 subsection (b)(3), except that—

16 (A) the quantity planted may not exceed
17 the average annual planting history of such ag-
18 ricultural commodity by the producers on the
19 farm in the 1991 through 1995 or 1998
20 through 2001 crop years (excluding any crop
21 year in which no plantings were made), as de-
22 termined by the Secretary; and

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

1 **SEC. 1307. MARKETING ASSISTANCE LOANS AND LOAN DE-**
2 **FICIENCY PAYMENTS FOR PEANUTS.**

3 (a) **NONRECOURSE LOANS AVAILABLE.**—

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

9 (2) **TERMS AND CONDITIONS.**—The loans shall
10 be made under terms and conditions that are pre-
11 scribed by the Secretary and at the loan rate estab-
12 lished under subsection (b).

13 (3) **ELIGIBLE PRODUCTION.**—The producers on
14 a farm shall be eligible for a marketing assistance
15 loan under this subsection for any quantity of pea-
16 nuts produced on the farm.

17 (4) **OPTIONS FOR OBTAINING LOAN.**—A mar-
18 keting assistance loan under this subsection, and
19 loan deficiency payments under subsection (e), may
20 be obtained at the option of the producers on a farm
21 through—

22 (A) a designated marketing association or
23 marketing cooperative of producers that is ap-
24 proved by the Secretary; or

25 (B) the Farm Service Agency.

1 (5) STORAGE OF LOAN PEANUTS.—As a condi-
2 tion on the Secretary’s approval of an individual or
3 entity to provide storage for peanuts for which a
4 marketing assistance loan is made under this sec-
5 tion, the individual or entity shall agree—

6 (A) to provide such storage on a non-
7 discriminatory basis; and

8 (B) to comply with such additional require-
9 ments as the Secretary considers appropriate to
10 accomplish the purposes of this section and pro-
11 mote fairness in the administration of the bene-
12 fits of this section.

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

15 (A) IN GENERAL.—Beginning with the
16 2008 crop of peanuts, to ensure proper storage
17 of peanuts for which a loan is made under this
18 section, the Secretary shall pay handling and
19 other associated costs (other than storage costs)
20 incurred at the time at which the peanuts are
21 placed under loan, as determined by the Sec-
22 retary.

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

1 (i) require the repayment of handling
2 and other associated costs paid under sub-
3 paragraph (A) for all peanuts pledged as
4 collateral for a loan that is redeemed under
5 this section; and

6 (ii) pay storage, handling, and other
7 associated costs for all peanuts pledged as
8 collateral that are forfeited under this sec-
9 tion.

10 (7) **MARKETING.**—A marketing association or
11 cooperative may market peanuts for which a loan is
12 made under this section in any manner that con-
13 forms to consumer needs, including the separation of
14 peanuts by type and quality.

15 (b) **LOAN RATE.**—Except as provided in section
16 1105, the loan rate for a marketing assistance loan for
17 peanuts under subsection (a) shall be equal to \$355 per
18 ton.

19 (c) **TERM OF LOAN.**—

20 (1) **IN GENERAL.**—A marketing assistance loan
21 for peanuts under subsection (a) shall have a term
22 of 9 months beginning on the first day of the first
23 month after the month in which the loan is made.

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

4 (d) REPAYMENT RATE.—

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

9 (A) the loan rate established for peanuts
10 under subsection (b), plus interest (determined
11 in accordance with section 163 of the Federal
12 Agriculture Improvement and Reform Act of
13 1996 (7 U.S.C. 7283)); or

14 (B) a rate that the Secretary determines
15 will—

16 (i) minimize potential loan forfeitures;

17 (ii) minimize the accumulation of
18 stocks of peanuts by the Federal Govern-
19 ment;

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

22 and

23 (iv) allow peanuts produced in the
24 United States to be marketed freely and

1 competitively, both domestically and inter-
2 nationally.

3 (2) AUTHORITY TO TEMPORARILY ADJUST RE-
4 PAYMENT RATES.—

5 (A) ADJUSTMENT AUTHORITY.—In the
6 event of a severe disruption to marketing,
7 transportation, or related infrastructure, the
8 Secretary may modify the repayment rate oth-
9 erwise applicable under this subsection for mar-
10 keting assistance loans for peanuts under sub-
11 section (a).

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

17 (e) LOAN DEFICIENCY PAYMENTS.—

18 (1) AVAILABILITY.—The Secretary may make
19 loan deficiency payments available to producers on a
20 farm that, although eligible to obtain a marketing
21 assistance loan for peanuts under subsection (a),
22 agree to forgo obtaining the loan for the peanuts in
23 return for loan deficiency payments under this sub-
24 section.

1 (2) COMPUTATION.—A loan deficiency payment
2 under this subsection shall be computed by multi-
3 plying—

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

6 (B) the quantity of the peanuts produced
7 by the producers, excluding any quantity for
8 which the producers obtain a marketing assist-
9 ance loan under subsection (a).

10 (3) PAYMENT RATE.—For purposes of this sub-
11 section, the payment rate shall be the amount by
12 which—

13 (A) the loan rate established under sub-
14 section (b); exceeds

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

17 (4) EFFECTIVE DATE FOR PAYMENT RATE DE-
18 TERMINATION.—The Secretary shall determine the
19 amount of the loan deficiency payment to be made
20 under this subsection to the producers on a farm
21 with respect to a quantity of peanuts using the pay-
22 ment rate in effect under paragraph (3) as of the
23 date the producers request the payment.

24 (f) COMPLIANCE WITH CONSERVATION AND WET-
25 LANDS REQUIREMENTS.—As a condition of the receipt of

1 a marketing assistance loan under subsection (a), the pro-
2 ducer shall comply with applicable conservation require-
3 ments under subtitle B of title XII of the Food Security
4 Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wet-
5 land protection requirements under subtitle C of title XII
6 of that Act (16 U.S.C. 3821 et seq.) during the term of
7 the loan.

8 (g) REIMBURSABLE AGREEMENTS AND PAYMENT OF
9 ADMINISTRATIVE EXPENSES.—The Secretary may imple-
10 ment any reimbursable agreements or provide for the pay-
11 ment of administrative expenses under this subtitle only
12 in a manner that is consistent with such activities in re-
13 gard to other commodities.

14 **SEC. 1308. ADJUSTMENTS OF LOANS.**

15 (a) ADJUSTMENT AUTHORITY.—The Secretary may
16 make appropriate adjustments in the loan rates for pea-
17 nuts for differences in grade, type, quality, location, and
18 other factors.

19 (b) MANNER OF ADJUSTMENT.—The adjustments
20 under subsection (a) shall, to the maximum extent prac-
21 ticable, be made in such a manner that the average loan
22 level for peanuts will, on the basis of the anticipated inci-
23 dence of the factors, be equal to the level of support deter-
24 mined in accordance with this subtitle and subtitles B, D,
25 and E.

1 (c) ADJUSTMENT ON COUNTY BASIS.—

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

8 (2) PROHIBITION.—Adjustments under this
9 subsection shall not result in an increase in the na-
10 tional average loan rate for any year.

11 **Subtitle D—Sugar**

12 **SEC. 1401. SUGAR PROGRAM.**

13 (a) IN GENERAL.—Section 156 of the Federal Agri-
14 culture Improvement and Reform Act of 1996 (7 U.S.C.
15 7272) is amended to read as follows:

16 **“SEC. 156. SUGAR PROGRAM.**

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

20 “(1) 18.00 cents per pound for raw cane sugar
21 for the 2008 crop year;

22 “(2) 18.25 cents per pound for raw cane sugar
23 for the 2009 crop year;

24 “(3) 18.50 cents per pound for raw cane sugar
25 for the 2010 crop year;

1 “(4) 18.75 cents per pound for raw cane sugar
2 for the 2011 crop year; and

3 “(5) 18.75 cents per pound for raw cane sugar
4 for the 2012 crop year.

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

8 “(1) 22.9 cents per pound for refined beet
9 sugar for the 2008 crop year; and

10 “(2) a rate that is equal to 128.5 percent of the
11 loan rate per pound of raw cane sugar for the appli-
12 cable crop year under subsection (a) for each of the
13 2009 through 2012 crop years.

14 “(c) TERM OF LOANS.—

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

19 “(A) the end of the 9-month period begin-
20 ning on the first day of the first month after
21 the month in which the loan is made; or

22 “(B) the end of the fiscal year in which the
23 loan is made.

24 “(2) SUPPLEMENTAL LOANS.—In the case of a
25 loan made under this section in the last 3 months

1 of a fiscal year, the processor may repledge the
2 sugar as collateral for a second loan in the subse-
3 quent fiscal year, except that the second loan shall—

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

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

8 “(d) LOAN TYPE; PROCESSOR ASSURANCES.—

9 “(1) NONRECOURSE LOANS.—The Secretary
10 shall carry out this section through the use of non-
11 recourse loans.

12 “(2) PROCESSOR ASSURANCES.—

13 “(A) IN GENERAL.—The Secretary shall
14 obtain from each processor that receives a loan
15 under this section such assurances as the Sec-
16 retary considers adequate to ensure that the
17 processor will provide payments to producers
18 that are proportional to the value of the loan
19 received by the processor for the sugar beets
20 and sugarcane delivered by producers to the
21 processor.

22 “(B) MINIMUM PAYMENTS.—

23 “(i) IN GENERAL.—Subject to clause
24 (ii), the Secretary may establish appro-

1 appropriate minimum payments for purposes of
2 this paragraph.

3 “(ii) LIMITATION.—In the case of
4 sugar beets, the minimum payment estab-
5 lished under clause (i) shall not exceed the
6 rate of payment provided for under the ap-
7 plicable contract between a sugar beet pro-
8 ducer and a sugar beet processor.

9 “(3) ADMINISTRATION.—The Secretary may
10 not impose or enforce any prenotification require-
11 ment, or similar administrative requirement not oth-
12 erwise in effect on May 13, 2002, that has the effect
13 of preventing a processor from electing to forfeit the
14 loan collateral (of an acceptable grade and quality)
15 on the maturity of the loan.

16 “(e) LOANS FOR IN-PROCESS SUGAR.—

17 “(1) DEFINITION OF IN-PROCESS SUGARS AND
18 SYRUPS.—In this subsection, the term ‘in-process
19 sugars and syrups’ does not include raw sugar, liq-
20 uid sugar, invert sugar, invert syrup, or other fin-
21 ished product that is otherwise eligible for a loan
22 under subsection (a) or (b).

23 “(2) AVAILABILITY.—The Secretary shall make
24 nonrecourse loans available to processors of a crop

1 of domestically grown sugarcane and sugar beets for
2 in-process sugars and syrups derived from the crop.

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

8 “(4) FURTHER PROCESSING ON FORFEITURE.—

9 “(A) IN GENERAL.—As a condition of the
10 forfeiture of in-process sugars and syrups serv-
11 ing as collateral for a loan under paragraph (2),
12 the processor shall, within such reasonable time
13 period as the Secretary may prescribe and at no
14 cost to the Commodity Credit Corporation, con-
15 vert the in-process sugars and syrups into raw
16 cane sugar or refined beet sugar of acceptable
17 grade and quality for sugars eligible for loans
18 under subsection (a) or (b).

19 “(B) TRANSFER TO CORPORATION.—Once
20 the in-process sugars and syrups are fully proc-
21 essed into raw cane sugar or refined beet sugar,
22 the processor shall transfer the sugar to the
23 Commodity Credit Corporation.

24 “(C) PAYMENT TO PROCESSOR.—On trans-
25 fer of the sugar, the Secretary shall make a

1 payment to the processor in an amount equal to
2 the amount obtained by multiplying—

3 “(i) the difference between—

4 “(I) the loan rate for raw cane
5 sugar or refined beet sugar, as appro-
6 priate; and

7 “(II) the loan rate the processor
8 received under paragraph (3); by

9 “(ii) the quantity of sugar transferred
10 to the Secretary.

11 “(5) LOAN CONVERSION.—If the processor does
12 not forfeit the collateral as described in paragraph
13 (4), but instead further processes the in-process sug-
14 ars and syrups into raw cane sugar or refined beet
15 sugar and repays the loan on the in-process sugars
16 and syrups, the processor may obtain a loan under
17 subsection (a) or (b) for the raw cane sugar or re-
18 fined beet sugar, as appropriate.

19 “(6) TERM OF LOAN.—The term of a loan
20 made under this subsection for a quantity of in-proc-
21 ess sugars and syrups, when combined with the term
22 of a loan made with respect to the raw cane sugar
23 or refined beet sugar derived from the in-process
24 sugars and syrups, may not exceed 9 months, con-
25 sistent with subsection (c).

1 “(f) AVOIDING FORFEITURES; CORPORATION INVEN-
2 TORY DISPOSITION.—

3 “(1) IN GENERAL.—Subject to subsection
4 (d)(3), to the maximum extent practicable, the Sec-
5 retary shall operate the program established under
6 this section at no cost to the Federal Government by
7 avoiding the forfeiture of sugar to the Commodity
8 Credit Corporation.

9 “(2) INVENTORY DISPOSITION.—

10 “(A) IN GENERAL.—To carry out para-
11 graph (1), the Commodity Credit Corporation
12 may accept bids to obtain raw cane sugar or re-
13 fined beet sugar in the inventory of the Com-
14 modity Credit Corporation from (or otherwise
15 make available such commodities, on appro-
16 priate terms and conditions, to) processors of
17 sugarcane and processors of sugar beets (acting
18 in conjunction with the producers of the sugar-
19 cane or sugar beets processed by the proc-
20 essors) in return for the reduction of production
21 of raw cane sugar or refined beet sugar, as ap-
22 propriate.

23 “(B) BIOENERGY FEEDSTOCK.—If a re-
24 duction in the quantity of production accepted
25 under subparagraph (A) involves sugar beets or

1 sugarcane that has already been planted, the
2 sugar beets or sugarcane so planted may not be
3 used for any commercial purpose other than as
4 a bioenergy feedstock.

5 “(C) ADDITIONAL AUTHORITY.—The au-
6 thority provided under this paragraph is in ad-
7 dition to any authority of the Commodity Credit
8 Corporation under any other law.

9 “(g) INFORMATION REPORTING.—

10 “(1) DUTY OF PROCESSORS AND REFINERS TO
11 REPORT.—A sugarcane processor, cane sugar re-
12 finer, and sugar beet processor shall furnish the Sec-
13 retary, on a monthly basis, such information as the
14 Secretary may require to administer sugar pro-
15 grams, including the quantity of purchases of sugarcane,
16 sugar beets, and sugar, and production, impor-
17 tation, distribution, and stock levels of sugar.

18 “(2) DUTY OF PRODUCERS TO REPORT.—

19 “(A) PROPORTIONATE SHARE STATES.—As
20 a condition of a loan made to a processor for
21 the benefit of a producer, the Secretary shall
22 require each producer of sugarcane located in a
23 State (other than the Commonwealth of Puerto
24 Rico) in which there are in excess of 250 pro-
25 ducers of sugarcane to report, in the manner

1 prescribed by the Secretary, the sugarcane
2 yields and acres planted to sugarcane of the
3 producer.

4 “(B) OTHER STATES.—The Secretary may
5 require each producer of sugarcane or sugar
6 beets not covered by subparagraph (A) to re-
7 port, in a manner prescribed by the Secretary,
8 the yields of, and acres planted to, sugarcane or
9 sugar beets, respectively, of the producer.

10 “(3) DUTY OF IMPORTERS TO REPORT.—

11 “(A) IN GENERAL.—Except as provided in
12 subparagraph (B), the Secretary shall require
13 an importer of sugars, syrups, or molasses to be
14 used for human consumption or to be used for
15 the extraction of sugar for human consumption
16 to report, in the manner prescribed by the Sec-
17 retary, the quantities of the products imported
18 by the importer and the sugar content or equiv-
19 alent of the products.

20 “(B) TARIFF-RATE QUOTAS.—Subpara-
21 graph (A) shall not apply to sugars, syrups, or
22 molasses that are within the quantities of tariff-
23 rate quotas that are subject to the lower rate
24 of duties.

1 “(4) COLLECTION OF INFORMATION ON MEX-
2 ICO.—

3 “(A) COLLECTION.—The Secretary shall
4 collect—

5 “(i) information on the production,
6 consumption, stocks, and trade of sugar in
7 Mexico, including United States exports of
8 sugar to Mexico; and

9 “(ii) publicly available information on
10 Mexican production, consumption, and
11 trade of high fructose corn syrups.

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

16 “(5) PENALTY.—Any person willfully failing or
17 refusing to furnish the information required to be
18 reported by paragraph (1), (2), or (3), or furnishing
19 willfully false information, shall be subject to a civil
20 penalty of not more than \$10,000 for each such vio-
21 lation.

22 “(6) MONTHLY REPORTS.—Taking into consid-
23 eration the information received under this sub-
24 section, the Secretary shall publish on a monthly

1 basis composite data on production, imports, dis-
2 tribution, and stock levels of sugar.

3 “(h) SUBSTITUTION OF REFINED SUGAR.—For pur-
4 poses of Additional U.S. Note 6 to chapter 17 of the Har-
5 monized Tariff Schedule of the United States and the re-
6 export programs and polyhydric alcohol program adminis-
7 tered by the Secretary, all refined sugars (whether derived
8 from sugar beets or sugarcane) produced by cane sugar
9 refineries and beet sugar processors shall be fully substi-
10 tutable for the export of sugar and sugar-containing prod-
11 ucts under those programs.

12 “(i) EFFECTIVE PERIOD.—This section shall be ef-
13 fective only for the 2008 through 2012 crops of sugar
14 beets and sugarcane.”.

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

21 **SEC. 1402. UNITED STATES MEMBERSHIP IN THE INTER-**
22 **NATIONAL SUGAR ORGANIZATION.**

23 The Secretary shall work with the Secretary of State
24 to restore United States membership in the International

1 Sugar Organization not later than 1 year after the date
2 of enactment of this Act.

3 **SEC. 1403. FLEXIBLE MARKETING ALLOTMENTS FOR**
4 **SUGAR.**

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

7 (1) by redesignating paragraphs (1), (2), (3),
8 and (4) as paragraphs (2), (4), (5), and (6), respec-
9 tively;

10 (2) by inserting before paragraph (2) (as so re-
11 designated) the following:

12 “(1) HUMAN CONSUMPTION.—The term
13 ‘human consumption’, when used in the context of a
14 reference to sugar (whether in the form of sugar, in-
15 process sugar, syrup, molasses, or in some other
16 form) for human consumption, includes sugar for
17 use in human food, beverages, or similar products.”;
18 and

19 (3) by inserting after paragraph (2) (as so re-
20 designated) the following:

21 “(3) MARKET.—

22 “(A) IN GENERAL.—The term ‘market’
23 means to sell or otherwise dispose of in com-
24 merce in the United States.

1 “(B) INCLUSIONS.—The term ‘market’ in-
2 cludes—

3 “(i) the forfeiture of sugar under the
4 loan program for sugar established under
5 section 156 of the Federal Agriculture Im-
6 provement and Reform Act of 1996 (7
7 U.S.C. 7272);

8 “(ii) with respect to any integrated
9 processor and refiner, the movement of
10 raw cane sugar into the refining process;
11 and

12 “(iii) the sale of sugar for the produc-
13 tion of ethanol or other bioenergy product,
14 if the disposition of the sugar is adminis-
15 tered by the Secretary under section 9010
16 of the Farm Security and Rural Invest-
17 ment Act of 2002.

18 “(C) MARKETING YEAR.—Forfeited sugar
19 described in subparagraph (B)(i) shall be con-
20 sidered to have been marketed during the crop
21 year for which a loan is made under the loan
22 program described in that subparagraph.”.

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

1 **“SEC. 359b. FLEXIBLE MARKETING ALLOTMENTS FOR**
2 **SUGAR.**

3 “(a) SUGAR ESTIMATES.—

4 “(1) IN GENERAL.—Not later than August 1
5 before the beginning of each of the 2008 through
6 2012 crop years for sugarcane and sugar beets, the
7 Secretary shall estimate—

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

11 “(B) the quantity of sugar that would pro-
12 vide for reasonable carryover stocks;

13 “(C) the quantity of sugar that will be
14 available from carry-in stocks for human con-
15 sumption in the United States during the crop
16 year;

17 “(D) the quantity of sugar that will be
18 available from the domestic processing of sugarcane,
19 sugar beets, and in-process beet sugar;
20 and

21 “(E) the quantity of sugars, syrups, and
22 molasses that will be imported for human con-
23 sumption or to be used for the extraction of
24 sugar for human consumption in the United
25 States during the crop year, whether the arti-

1 cles are under a tariff-rate quota or are in ex-
2 cess or outside of a tariff-rate quota.

3 “(2) EXCLUSION.—The estimates under this
4 subsection shall not apply to sugar imported for the
5 production of polyhydric alcohol or to any sugar re-
6 fined and reexported in refined form or in products
7 containing sugar.

8 “(3) REESTIMATES.—The Secretary shall make
9 reestimates of sugar consumption, stocks, produc-
10 tion, and imports for a crop year as necessary, but
11 not later than the beginning of each of the second
12 through fourth quarters of the crop year.

13 “(b) SUGAR ALLOTMENTS.—

14 “(1) ESTABLISHMENT.—By the beginning of
15 each crop year, the Secretary shall establish for that
16 crop year appropriate allotments under section 359c
17 for the marketing by processors of sugar processed
18 from sugar cane or sugar beets or in-process beet
19 sugar (whether the sugar beets or in-process beet
20 sugar was produced domestically or imported) at a
21 level that is—

22 “(A) sufficient to maintain raw and refined
23 sugar prices above forfeiture levels so that there
24 will be no forfeitures of sugar to the Commodity
25 Credit Corporation under the loan program for

1 sugar established under section 156 of the Fed-
2 eral Agriculture Improvement and Reform Act
3 of 1996 (7 U.S.C. 7272); but

4 “(B) not less than 85 percent of the esti-
5 mated quantity of sugar for domestic human
6 consumption for the crop year.

7 “(2) PRODUCTS.—The Secretary may include
8 sugar products, the majority content of which is su-
9 crose for human consumption, derived from sugar
10 cane, sugar beets, molasses, or sugar in the allot-
11 ments established under paragraph (1) if the Sec-
12 retary determines it to be appropriate for purposes
13 of this part.

14 “(c) COVERAGE OF ALLOTMENTS.—

15 “(1) IN GENERAL.—The marketing allotments
16 under this part shall apply to the marketing by proc-
17 essors of sugar intended for domestic human con-
18 sumption that has been processed from sugar cane,
19 sugar beets, or in-process beet sugar, whether such
20 sugar beets or in-process beet sugar was produced
21 domestically or imported.

22 “(2) EXCEPTIONS.—Consistent with the admin-
23 istration of marketing allotments for each of the
24 2002 through 2007 crop years, the marketing allot-
25 ments shall not apply to sugar sold—

1 “(A) to facilitate the exportation of the
2 sugar to a foreign country, except that the ex-
3 ports of sugar shall not be eligible to receive
4 credits under reexport programs for refined
5 sugar or sugar containing products adminis-
6 tered by the Secretary;

7 “(B) to enable another processor to fulfill
8 an allocation established for that processor; or

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

15 “(3) REQUIREMENT.—The sale of sugar de-
16 scribed in paragraph (2)(B) shall be—

17 “(A) made prior to May 1; and

18 “(B) reported to the Secretary.

19 “(d) PROHIBITIONS.—

20 “(1) IN GENERAL.—During all or part of any
21 crop year for which marketing allotments have been
22 established, no processor of sugar beets or sugarcane
23 shall market for domestic human consumption a
24 quantity of sugar in excess of the allocation estab-
25 lished for the processor, except—

1 “(A) to enable another processor to fulfill
2 an allocation established for that other proc-
3 essor; or

4 “(B) to facilitate the exportation of the
5 sugar.

6 “(2) CIVIL PENALTY.—Any processor who
7 knowingly violates paragraph (1) shall be liable to
8 the Commodity Credit Corporation for a civil penalty
9 in an amount equal to 3 times the United States
10 market value, at the time of the commission of the
11 violation, of that quantity of sugar involved in the
12 violation.”.

13 (c) ESTABLISHMENT OF FLEXIBLE MARKETING AL-
14 LOTMENTS.—Section 359c of the Agricultural Adjustment
15 Act of 1938 (7 U.S.C. 1359cc) is amended—

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

18 “(b) OVERALL ALLOTMENT QUANTITY.—

19 “(1) IN GENERAL.—The Secretary shall estab-
20 lish the overall quantity of sugar to be allotted for
21 the crop year (referred to in this part as the ‘overall
22 allotment quantity’) at a level that is—

23 “(A) sufficient to maintain raw and refined
24 sugar prices above forfeiture levels to avoid for-

1 forfeiture of sugar to the Commodity Credit Cor-
2 poration; but

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

6 “(2) ADJUSTMENT.—Subject to paragraph (1),
7 the Secretary shall adjust the overall allotment
8 quantity to maintain—

9 “(A) raw and refined sugar prices above
10 forfeiture levels to avoid the forfeiture of sugar
11 to the Commodity Credit Corporation; and

12 “(B) adequate supplies of raw and refined
13 sugar in the domestic market.”;

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

16 (3) in subsection (g)(1)—

17 (A) by striking “(1) IN GENERAL.—The
18 Secretary” and inserting the following:

19 “(1) ADJUSTMENTS.—

20 “(A) IN GENERAL.—Subject to subpara-
21 graph (B), the Secretary”; and

22 (B) by adding at the end the following:

23 “(B) LIMITATION.—In carrying out sub-
24 paragraph (A), the Secretary may not reduce
25 the overall allotment quantity to a quantity of

1 less than 85 percent of the estimated quantity
2 of sugar for domestic human consumption for
3 the crop year.”; and

4 (4) by striking subsection (h).

5 (d) ALLOCATION OF MARKETING ALLOTMENTS.—

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

8 (1) in paragraph (1)(F), by striking “Except as
9 otherwise provided in section 359f(c)(8), if” and in-
10 sserting “If”; and

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

13 “(G) SALE OF FACTORIES OF A PROC-
14 ESSOR TO ANOTHER PROCESSOR.—

15 “(i) EFFECT OF SALE.—Subject to
16 subparagraphs (E) and (F), if 1 or more
17 factories of a processor of beet sugar (but
18 not all of the assets of the processor) are
19 sold to another processor of beet sugar
20 during a crop year, the Secretary shall as-
21 sign a pro rata portion of the allocation of
22 the seller to the allocation of the buyer to
23 reflect the historical contribution of the
24 production of the sold 1 or more factories
25 to the total allocation of the seller, unless

1 the buyer and the seller have agreed upon
2 the transfer of a different portion of the
3 allocation of the seller, in which case, the
4 Secretary shall transfer that portion
5 agreed upon by the buyer and seller.

6 “(ii) APPLICATION OF ALLOCATION.—

7 The assignment of the allocation under
8 clause (i) shall apply—

9 “(I) during the remainder of the
10 crop year for which the sale described
11 in clause (i) occurs; and

12 “(II) during each subsequent
13 crop year.

14 “(iii) USE OF OTHER FACTORIES TO
15 FILL ALLOCATION.—If the assignment of
16 the allocation under clause (i) to the buyer
17 for the 1 or more purchased factories can-
18 not be filled by the production of the 1 or
19 more purchased factories, the remainder of
20 the allocation may be filled by beet sugar
21 produced by the buyer from other factories
22 of the buyer.

23 “(H) NEW ENTRANTS STARTING PRODUC-
24 TION, REOPENING, OR ACQUIRING AN EXISTING
25 FACTORY WITH PRODUCTION HISTORY.—

1 “(i) DEFINITION OF NEW ENTRANT.—

2 “(I) IN GENERAL.—In this sub-
3 paragraph, the term ‘new entrant’
4 means an individual, corporation, or
5 other entity that—

6 “(aa) does not have an allo-
7 cation of the beet sugar allotment
8 under this part;

9 “(bb) is not affiliated with
10 any other individual, corporation,
11 or entity that has an allocation of
12 beet sugar under this part (re-
13 ferred to in this clause as a ‘third
14 party’); and

15 “(cc) will process sugar
16 beets produced by sugar beet
17 growers under contract with the
18 new entrant for the production of
19 sugar at the new or re-opened
20 factory that is the basis for the
21 new entrant allocation.

22 “(II) AFFILIATION.—For pur-
23 poses of subclause (I)(bb), a new en-
24 trant and a third party shall be con-
25 sidered to be affiliated if—

1 “(aa) the third party has an
2 ownership interest in the new en-
3 trant;

4 “(bb) the new entrant and
5 the third party have owners in
6 common;

7 “(cc) the third party has the
8 ability to exercise control over the
9 new entrant by organizational
10 rights, contractual rights, or any
11 other means;

12 “(dd) the third party has a
13 contractual relationship with the
14 new entrant by which the new
15 entrant will make use of the fa-
16 cilities or assets of the third
17 party; or

18 “(ee) there are any other
19 similar circumstances by which
20 the Secretary determines that the
21 new entrant and the third party
22 are affiliated.

23 “(ii) ALLOCATION FOR A NEW EN-
24 TRANT THAT HAS CONSTRUCTED A NEW
25 FACTORY OR REOPENED A FACTORY THAT

1 WAS NOT OPERATED SINCE BEFORE
2 1998.—If a new entrant constructs a new
3 sugar beet processing factory, or acquires
4 and reopens a sugar beet processing fac-
5 tory that last processed sugar beets prior
6 to the 1998 crop year and there is no allo-
7 cation currently associated with the fac-
8 tory, the Secretary shall—

9 “(I) assign an allocation for beet
10 sugar to the new entrant that pro-
11 vides a fair and equitable distribution
12 of the allocations for beet sugar so as
13 to enable the new entrant to achieve a
14 factory utilization rate comparable to
15 the factory utilization rates of other
16 similarly-situated processors; and

17 “(II) reduce the allocations for
18 beet sugar of all other processors on
19 a pro rata basis to reflect the alloca-
20 tion to the new entrant.

21 “(iii) ALLOCATION FOR A NEW EN-
22 TRANT THAT HAS ACQUIRED AN EXISTING
23 FACTORY WITH A PRODUCTION HISTORY.—

24 “(I) IN GENERAL.—If a new en-
25 trant acquires an existing factory that

1 has processed sugar beets from the
2 1998 or subsequent crop year and has
3 a production history, on the mutual
4 agreement of the new entrant and the
5 company currently holding the alloca-
6 tion associated with the factory, the
7 Secretary shall transfer to the new en-
8 trant a portion of the allocation of the
9 current allocation holder to reflect the
10 historical contribution of the produc-
11 tion of the 1 or more sold factories to
12 the total allocation of the current allo-
13 cation holder, unless the new entrant
14 and current allocation holder have
15 agreed upon the transfer of a dif-
16 ferent portion of the allocation of the
17 current allocation holder, in which
18 case, the Secretary shall transfer that
19 portion agreed upon by the new en-
20 trant and the current allocation hold-
21 er.

22 “(II) PROHIBITION.—In the ab-
23 sence of a mutual agreement de-
24 scribed in subclause (I), the new en-

1 trant shall be ineligible for a beet
2 sugar allocation.

3 “(iv) APPEALS.—Any decision made
4 under this subsection may be appealed to
5 the Secretary in accordance with section
6 359i.”.

7 (e) REASSIGNMENT OF DEFICITS.—Section 359e(b)
8 of the Agricultural Adjustment Act of 1938 (7 U.S.C.
9 1359ee(b)) is amended in paragraphs (1)(D) and (2)(C),
10 by inserting “of raw cane sugar” after “imports” each
11 place it appears.

12 (f) PROVISIONS APPLICABLE TO PRODUCERS.—Sec-
13 tion 359f(c) of the Agricultural Adjustment Act of 1938
14 (7 U.S.C. 1359ff(c)) is amended—

15 (1) by striking paragraph (8);

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

18 (3) by inserting before paragraph (2) (as so re-
19 designated) the following:

20 “(1) DEFINITION OF SEED.—

21 “(A) IN GENERAL.—In this subsection, the
22 term ‘seed’ means only those varieties of seed
23 that are dedicated to the production of sugar-
24 cane from which is produced sugar for human
25 consumption.

1 “(B) EXCLUSION.—The term ‘seed’ does
2 not include seed of a high-fiber cane variety
3 dedicated to other uses, as determined by the
4 Secretary”;

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

6 (A) in the first sentence—

7 (i) by striking “paragraph (1)” and
8 inserting “paragraph (2)”; and

9 (ii) by inserting “sugar produced
10 from” after “quantity of”; and

11 (B) in the second sentence, by striking
12 “paragraph (7)” and inserting “paragraph
13 (8)”;

14 (5) in the first sentence of paragraph (6)(C) (as
15 so redesignated), by inserting “for sugar” before “in
16 excess of the farm’s proportionate share”; and

17 (6) in paragraph (8) (as so redesignated), by
18 inserting “sugar from” after “the amount of”.

19 (g) SPECIAL RULES.—Section 359g of the Agricul-
20 tural Adjustment Act of 1938 (7 U.S.C. 1359gg) is
21 amended—

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

24 “(a) TRANSFER OF ACREAGE BASE HISTORY.—

1 “(1) TRANSFER AUTHORIZED.—For the pur-
2 pose of establishing proportionate shares for sugarcane farms under section 359f(c), the Secretary, on
3 cane farms under section 359f(c), the Secretary, on
4 application of any producer, with the written consent
5 of all owners of a farm, may transfer the acreage
6 base history of the farm to any other parcels of land
7 of the applicant.

8 “(2) CONVERTED ACREAGE BASE.—

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

17 “(B) NOTIFICATION.—Not later than 90
18 days after the Secretary becomes aware of a
19 conversion of any sugarcane acreage base to a
20 nonagricultural use, the Secretary shall notify
21 the 1 or more affected landowners of the trans-
22 ferability of the applicable sugarcane acreage
23 base.

24 “(C) INITIAL TRANSFER PERIOD.—The
25 owner of the base attributable to the acreage at

1 the time of the conversion shall be afforded 90
2 days from the date of the receipt of the notifi-
3 cation under subparagraph (B) to transfer the
4 base to 1 or more farms owned by the owner.

5 “(D) GROWER OF RECORD.—If a transfer
6 under subparagraph (C) cannot be accom-
7 plished during the period specified in that sub-
8 paragraph, the grower of record with regard to
9 the acreage base on the date on which the acre-
10 age was converted to nonagricultural use
11 shall—

12 “(i) be notified; and

13 “(ii) have 90 days from the date of
14 the receipt of the notification to transfer
15 the base to 1 or more farms operated by
16 the grower.

17 “(E) POOL DISTRIBUTION.—

18 “(i) IN GENERAL.—If transfers under
19 subparagraphs (B) and (C) cannot be ac-
20 complished during the periods specified in
21 those subparagraphs, the county committee
22 of the Farm Service Agency for the appli-
23 cable county shall place the acreage base in
24 a pool for possible assignment to other
25 farms.

1 “(ii) ACCEPTANCE OF REQUESTS.—

2 After providing reasonable notice to farm
3 owners, operators, and growers of record
4 in the county, the county committee shall
5 accept requests from owners, operators,
6 and growers of record in the county.

7 “(iii) ASSIGNMENT.—The county com-
8 mittee shall assign the acreage base to
9 other farms in the county that are eligible
10 and capable of accepting the acreage base,
11 based on a random drawing from among
12 the requests received under clause (ii).

13 “(F) STATEWIDE REALLOCATION.—

14 “(i) IN GENERAL.—Any acreage base
15 remaining unassigned after the transfers
16 and processes described in subparagraphs
17 (A) through (E) shall be made available to
18 the State committee of the Farm Service
19 Agency for allocation among the remaining
20 county committees in the State rep-
21 resenting counties with farms eligible for
22 assignment of the base, based on a random
23 drawing.

24 “(ii) ALLOCATION.—Any county com-
25 mittee receiving acreage base under this

1 subparagraph shall allocate the acreage
2 base to eligible farms using the process de-
3 scribed in subparagraph (E).

4 “(G) STATUS OF REASSIGNED BASE.—
5 After acreage base has been reassigned in ac-
6 cordance with this subparagraph, the acreage
7 base shall—

8 “(i) remain on the farm; and

9 “(ii) be subject to the transfer provi-
10 sions of paragraph (1).”; and

11 (2) in subsection (d)—

12 (A) in paragraph (1)—

13 (i) by inserting “affected” before
14 “crop-share owners” each place it appears;
15 and

16 (ii) by striking “, and from the proc-
17 essing company holding the applicable allo-
18 cation for such shares,”; and

19 (B) in paragraph (2), by striking “based
20 on” and all that follows through the end of sub-
21 paragraph (B) and inserting “based on—

22 “(A) the number of acres of sugarcane
23 base being transferred; and

24 “(B) the pro rata amount of allocation at
25 the processing company holding the applicable

1 allocation that equals the contribution of the
2 grower to allocation of the processing company
3 for the sugarcane acreage base being trans-
4 ferred.”.

5 (h) APPEALS.—Section 359i of the Agricultural Ad-
6 justment Act of 1938 (7 U.S.C. 1359ii) is amended—

7 (1) in subsection (a), by inserting “or 359g(d)”
8 after “359f”; and

9 (2) by striking subsection (c).

10 (i) REALLOCATING SUGAR QUOTA IMPORT SHORT-
11 FALLS.—Section 359k of the Agricultural Adjustment Act
12 of 1938 (7 U.S.C. 1359kk) is repealed.

13 (j) ADMINISTRATION OF TARIFF RATE QUOTAS.—
14 Part VII of subtitle B of title III of the Agricultural Ad-
15 justment Act of 1938 (7 U.S.C. 1359aa) (as amended by
16 subsection (i)) is amended by adding at the end the fol-
17 lowing:

18 **“SEC. 359k. ADMINISTRATION OF TARIFF RATE QUOTAS.**

19 **“(a) ESTABLISHMENT.—**

20 **“(1) IN GENERAL.—**Except as provided in para-
21 graph (2) and notwithstanding any other provision
22 of law, at the beginning of the quota year, the Sec-
23 retary shall establish the tariff-rate quotas for raw
24 cane sugar and refined sugars at the minimum level
25 necessary to comply with obligations under inter-

1 national trade agreements that have been approved
2 by Congress.

3 “(2) EXCEPTION.—Paragraph (1) shall not
4 apply to specialty sugar.

5 “(b) ADJUSTMENT.—

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

11 “(A) the Secretary shall take action to in-
12 crease the supply of sugar in accordance with
13 sections 359c(b)(2) and 359e(b), including an
14 increase in the tariff-rate quota for raw cane
15 sugar to accommodate the reassignment to im-
16 ports; and

17 “(B) if there is still a shortage of sugar in
18 the United States market, and marketing of do-
19 mestic sugar has been maximized, and domestic
20 raw cane sugar refining capacity has been
21 maximized, the Secretary may increase the tar-
22 iff-rate quota for refined sugars sufficient to ac-
23 commodate the supply increase, if the further
24 increase will not threaten to result in the for-
25 feiture of sugar pledged as collateral for a loan

1 under section 156 of the Federal Agriculture
2 Improvement and Reform Act of 1996 (7
3 U.S.C. 7272).

4 “(2) ON OR AFTER APRIL 1.—On or after April
5 1 of each fiscal year—

6 “(A) the Secretary may take action to in-
7 crease the supply of sugar in accordance with
8 sections 359c(b)(2) and 359e(b), including an
9 increase in the tariff-rate quota for raw cane
10 sugar to accommodate the reassignment to im-
11 ports; and

12 “(B) if there is still a shortage of sugar in
13 the United States market, and marketing of do-
14 mestic sugar has been maximized, the Secretary
15 may increase the tariff-rate quota for raw cane
16 sugar if the further increase will not threaten to
17 result in the forfeiture of sugar pledged as col-
18 lateral for a loan under section 156 of the Fed-
19 eral Agriculture Improvement and Reform Act
20 of 1996 (7 U.S.C. 7272).”.

21 (k) PERIOD OF EFFECTIVENESS.—Part VII of sub-
22 title B of title III of the Agricultural Adjustment Act of
23 1938 (7 U.S.C. 1359aa) (as amended by subsection (j))
24 is amended by adding at the end the following:

1 **“SEC. 359I. PERIOD OF EFFECTIVENESS.**

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

4 “(b) TRANSITION.—The Secretary shall administer
5 flexible marketing allotments for sugar for the 2007 crop
6 year for sugar on the terms and conditions provided in
7 this part as in effect on the day before the date of enact-
8 ment of this section.”.

9 **SEC. 1404. STORAGE FACILITY LOANS.**

10 Section 1402(c) of the Farm Security and Rural In-
11 vestment Act of 2002 (7 U.S.C. 7971(c)) is amended—

12 (1) in paragraph (1), by striking “and” at the
13 end;

14 (2) by redesignating paragraph (2) as para-
15 graph (3);

16 (3) by inserting after paragraph (1) the fol-
17 lowing:

18 “(2) not include any penalty for prepayment;
19 and”; and

20 (4) in paragraph (3) (as redesignated by para-
21 graph (2)), by inserting “other” after “on such”.

22 **SEC. 1405. COMMODITY CREDIT CORPORATION STORAGE**
23 **PAYMENTS.**

24 Subtitle E of the Federal Agriculture Improvement
25 and Reform Act of 1996 (7 U.S.C. 7281 et seq.) is amend-
26 ed by adding at the end the following:

1 **“SEC. 167. COMMODITY CREDIT CORPORATION STORAGE**
2 **PAYMENTS.**

3 “(a) INITIAL CROP YEARS.—Notwithstanding any
4 other provision of law, for each of the 2008 through 2011
5 crop years, the Commodity Credit Corporation shall estab-
6 lish rates for the storage of forfeited sugar in an amount
7 that is not less than—

8 “(1) in the case of refined sugar, 15 cents per
9 hundredweight of refined sugar per month; and

10 “(2) in the case of raw cane sugar, 10 cents per
11 hundredweight of raw cane sugar per month.

12 “(b) SUBSEQUENT CROP YEARS.—For each of the
13 2012 and subsequent crop years, the Commodity Credit
14 Corporation shall establish rates for the storage of for-
15 feited sugar in the same manner as was used on the day
16 before the date of enactment of this section.”.

17 **Subtitle E—Dairy**

18 **SEC. 1501. DAIRY PRODUCT PRICE SUPPORT PROGRAM.**

19 (a) DEFINITION OF NET REMOVALS.—In this sec-
20 tion, the term “net removals” means—

21 (1) the sum of—

22 (A) the quantity of a product described in
23 subsection (b) purchased by the Commodity
24 Credit Corporation under this section; and

1 (B) the quantity of the product exported
2 under section 153 of the Food Security Act of
3 1985 (15 U.S.C. 713a–14); less

4 (2) the quantity of the product sold for unre-
5 stricted use by the Commodity Credit Corporation.

6 (b) SUPPORT ACTIVITIES.—During the period begin-
7 ning on January 1, 2008, and ending December 31, 2012,
8 the Secretary shall support the price of cheddar cheese,
9 butter, and nonfat dry milk through the purchase of such
10 products made from milk produced in the United States.

11 (c) PURCHASE PRICE.—To carry out subsection (b)
12 during the period specified in that subsection, the Sec-
13 retary shall purchase—

14 (1) cheddar cheese in blocks at not less than
15 \$1.13 per pound;

16 (2) cheddar cheese in barrels at not less than
17 \$1.10 per pound;

18 (3) butter at not less than \$1.05 per pound;

19 and

20 (4) nonfat dry milk at not less than \$0.80 per
21 pound.

22 (d) TEMPORARY PRICE ADJUSTMENT TO AVOID EX-
23 CESS INVENTORIES.—

24 (1) ADJUSTMENTS AUTHORIZED.—The Sec-
25 retary may adjust the minimum purchase prices es-

1 tablished under subsection (c) only as permitted
2 under this subsection.

3 (2) CHEESE INVENTORIES IN EXCESS OF
4 200,000,000 POUNDS.—If net removals for a period of
5 12 consecutive months exceed 200,000,000 pounds
6 of cheese, but do not exceed 400,000,000 pounds,
7 the Secretary may reduce the purchase prices under
8 paragraphs (1) and (2) of subsection (c) during the
9 immediately following month by not more than 10
10 cents per pound.

11 (3) CHEESE INVENTORIES IN EXCESS OF
12 400,000,000 POUNDS.—If net removals for a period of
13 12 consecutive months exceed 400,000,000 pounds
14 of cheese, the Secretary may reduce the purchase
15 prices under paragraphs (1) and (2) of subsection
16 (c) during the immediately following month by not
17 more than 20 cents per pound.

18 (4) BUTTER INVENTORIES IN EXCESS OF
19 450,000,000 POUNDS.—If net removals for a period of
20 12 consecutive months exceed 450,000,000 pounds
21 of butter, but do not exceed 650,000,000 pounds,
22 the Secretary may reduce the purchase price under
23 subsection (c)(3) during the immediately following
24 month by not more than 10 cents per pound.

1 (5) BUTTER INVENTORIES IN EXCESS OF
2 650,000,000 POUNDS.—If net removals for a period of
3 12 consecutive months exceed 650,000,000 pounds
4 of butter, the Secretary may reduce the purchase
5 price under subsection (c)(3) during the immediately
6 following month by not more than 20 cents per
7 pound.

8 (6) NONFAT DRY MILK INVENTORIES IN EX-
9 CESS OF 600,000,000 POUNDS.—If net removals for a
10 period of 12 consecutive months exceed 600,000,000
11 pounds of nonfat dry milk, but do not exceed
12 800,000,000 pounds, the Secretary may reduce the
13 purchase price under subsection (c)(4) during the
14 immediately following month by not more than 5
15 cents per pound.

16 (7) NONFAT DRY MILK INVENTORIES IN EX-
17 CESS OF 800,000,000 POUNDS.—If net removals for a
18 period of 12 consecutive months exceed 800,000,000
19 pounds of nonfat dry milk, the Secretary may reduce
20 the purchase price under subsection (c)(4) during
21 the immediately following month by not more than
22 10 cents per pound.

23 (e) UNIFORM PURCHASE PRICE.—The prices that
24 the Secretary pays for cheese, butter, or nonfat dry milk,

1 respectively, under subsection (b) shall be uniform for all
2 regions of the United States.

3 (f) SALES FROM INVENTORIES.—In the case of each
4 commodity specified in subsection (c) that is available for
5 unrestricted use in the inventory of the Commodity Credit
6 Corporation, the Secretary may sell the commodity at the
7 market prices prevailing for that commodity at the time
8 of sale, except that the sale price may not be less than
9 110 percent of the minimum purchase price specified in
10 subsection (c) for that commodity.

11 **SEC. 1502. DAIRY FORWARD PRICING PROGRAM.**

12 (a) PROGRAM REQUIRED.—The Secretary shall es-
13 tablish a program under which milk producers and cooper-
14 ative associations of producers are authorized to volun-
15 tarily enter into forward price contracts with milk han-
16 dlers.

17 (b) MINIMUM MILK PRICE REQUIREMENTS.—Pay-
18 ments made by milk handlers to milk producers and coop-
19 erative associations of producers, and prices received by
20 milk producers and cooperative associations, in accordance
21 with the terms of a forward price contract authorized by
22 subsection (a), shall be treated as satisfying—

23 (1) all uniform and minimum milk price re-
24 quirements of subparagraphs (B) and (F) of para-
25 graph (5) of section 8c of the Agricultural Adjust-

1 ment Act (7 U.S.C. 608c), reenacted with amend-
2 ments by the Agricultural Marketing Agreement Act
3 of 1937; and

4 (2) the total payment requirement of subpara-
5 graph (C) of that paragraph.

6 (c) MILK COVERED BY PROGRAM.—

7 (1) COVERED MILK.—The program shall apply
8 only with respect to the marketing of federally regu-
9 lated milk that—

10 (A) is not classified as Class I milk or oth-
11 erwise intended for fluid use; and

12 (B) is in the current of interstate or for-
13 eign commerce or directly burdens, obstructs, or
14 affects interstate or foreign commerce in feder-
15 ally regulated milk.

16 (2) RELATION TO CLASS I MILK.—To assist
17 milk handlers in complying with paragraph (1)(A)
18 without having to segregate or otherwise individually
19 track the source and disposition of milk, a milk han-
20 dler may allocate milk receipts from producers, co-
21 operatives, and other sources that are not subject to
22 a forward contract to satisfy the obligations of the
23 handler with regard to Class I milk usage.

24 (d) VOLUNTARY PROGRAM.—

1 (1) IN GENERAL.—A milk handler may not re-
2 quire participation in a forward pricing contract as
3 a condition of the handler receiving milk from a pro-
4 ducer or cooperative association of producers.

5 (2) PRICING.—A producer or cooperative asso-
6 ciation described in paragraph (1) may continue to
7 have their milk priced in accordance with the min-
8 imum payment provisions of the Federal milk mar-
9 keting order.

10 (3) COMPLAINTS.—

11 (A) IN GENERAL.—The Secretary shall in-
12 vestigate complaints made by producers or co-
13 operative associations of coercion by handlers to
14 enter into forward contracts.

15 (B) ACTION.—If the Secretary finds evi-
16 dence of coercion, the Secretary shall take ap-
17 propriate action.

18 (e) DURATION.—

19 (1) NEW CONTRACTS.—No forward price con-
20 tract may be entered into under the program estab-
21 lished under this section after September 30, 2012.

22 (2) APPLICATION.—No forward contract en-
23 tered into under the program may extend beyond
24 September 30, 2015.

1 **SEC. 1503. DAIRY EXPORT INCENTIVE PROGRAM.**

2 (a) EXTENSION.—Section 153(a) of the Food Secu-
3 rity Act of 1985 (15 U.S.C. 713a–14(a)) is amended by
4 striking “2007” and inserting “2012”.

5 (b) COMPLIANCE WITH TRADE AGREEMENTS.—Sec-
6 tion 153 of the Food Security Act of 1985 (15 U.S.C.
7 713a–14) is amended—

8 (1) in subsection (c), by striking paragraph (3)
9 and inserting the following:

10 “(3) the maximum volume of dairy product ex-
11 ports allowable consistent with the obligations of the
12 United States under the Uruguay Round Agree-
13 ments approved under section 101 of the Uruguay
14 Round Agreements Act (19 U.S.C. 3511) is exported
15 under the program each year (minus the volume sold
16 under section 1163 of this Act during that year), ex-
17 cept to the extent that the export of such a volume
18 under the program would, in the judgment of the
19 Secretary, exceed the limitations on the value per-
20 mitted under subsection (f); and”;

21 (2) in subsection (f), by striking paragraph (1)
22 and inserting the following:

23 “(1) FUNDS AND COMMODITIES.—Except as
24 provided in paragraph (2), the Commodity Credit
25 Corporation shall in each year use money and com-
26 modities for the program under this section in the

1 maximum amount consistent with the obligations of
2 the United States under the Uruguay Round Agree-
3 ments approved under section 101 of the Uruguay
4 Round Agreements Act (19 U.S.C. 3511), minus the
5 amount expended under section 1163 of this Act
6 during that year.”.

7 **SEC. 1504. REVISION OF FEDERAL MARKETING ORDER**
8 **AMENDMENT PROCEDURES.**

9 Section 8c of the Agricultural Adjustment Act (7
10 U.S.C. 608c), reenacted with amendments by the Agricul-
11 tural Marketing Agreement Act of 1937, is amended by
12 striking subsection (17) and inserting the following:

13 “(17) PROVISIONS APPLICABLE TO AMEND-
14 MENTS.—

15 “(A) APPLICABILITY TO AMENDMENTS.—

16 The provisions of this section and section 8d
17 applicable to orders shall be applicable to
18 amendments to orders.

19 “(B) SUPPLEMENTAL RULES OF PRAC-
20 TICE.—

21 “(i) IN GENERAL.—Not later than 60
22 days after the date of enactment of this
23 subparagraph, the Secretary shall issue,
24 using informal rulemaking, supplemental
25 rules of practice to define guidelines and

1 timeframes for the rulemaking process re-
2 lating to amendments to orders.

3 “(ii) ISSUES.—At a minimum, the
4 supplemental rules of practice shall estab-
5 lish—

6 “(I) proposal submission require-
7 ments;

8 “(II) pre-hearing information
9 session specifications;

10 “(III) written testimony and data
11 request requirements;

12 “(IV) public participation time-
13 frames; and

14 “(V) electronic document submis-
15 sion standards.

16 “(iii) EFFECTIVE DATE.—The supple-
17 mental rules of practice shall take effect
18 not later than 120 days after the date of
19 enactment of this subparagraph, as deter-
20 mined by the Secretary.

21 “(C) HEARING TIMEFRAMES.—

22 “(i) IN GENERAL.—Not more than 30
23 days after the receipt of a proposal for an
24 amendment hearing regarding a milk mar-
25 keting order, the Secretary shall—

1 “(I) issue a notice providing an
2 action plan and expected timeframes
3 for completion of the hearing not
4 more than 120 days after the date of
5 the issuance of the notice;

6 “(II)(aa) issue a request for ad-
7 ditional information to be used by the
8 Secretary in making a determination
9 regarding the proposal; and

10 “(bb) if the additional informa-
11 tion is not provided to the Secretary
12 within the timeframe requested by the
13 Secretary, issue a denial of the re-
14 quest; or

15 “(III) issue a denial of the re-
16 quest.

17 “(ii) REQUIREMENT.—A post-hearing
18 brief may be filed under this paragraph
19 not later than 60 days after the date of an
20 amendment hearing regarding a milk mar-
21 keting order.

22 “(iii) RECOMMENDED DECISIONS.—A
23 recommended decision on a proposed
24 amendment to an order shall be issued not

1 later than 90 days after the deadline for
2 the submission of post-hearing briefs.

3 “(iv) FINAL DECISIONS.—A final deci-
4 sion on a proposed amendment to an order
5 shall be issued not later than 60 days after
6 the deadline for submission of comments
7 and exceptions to the recommended deci-
8 sion issued under clause (iii).

9 “(D) INDUSTRY ASSESSMENTS.—If the
10 Secretary determines it is necessary to improve
11 or expedite rulemaking under this subsection,
12 the Secretary may impose an assessment on the
13 affected industry to supplement appropriated
14 funds for the procurement of service providers,
15 such as court reporters.

16 “(E) USE OF INFORMAL RULEMAKING.—
17 The Secretary may use rulemaking under sec-
18 tion 553 of title 5, United States Code, to
19 amend orders, other than provisions of orders
20 that directly affect milk prices.

21 “(F) AVOIDING DUPLICATION.—The Sec-
22 retary shall not be required to hold a hearing
23 on any amendment proposed to be made to a
24 milk marketing order in response to an applica-

1 tion for a hearing on the proposed amendment
2 if—

3 “(i) the application requesting the
4 hearing is received by the Secretary not
5 later than 90 days after the date on which
6 the Secretary has announced the decision
7 on a previously proposed amendment to
8 that order; and

9 “(ii) the 2 proposed amendments are
10 essentially the same, as determined by the
11 Secretary.

12 “(G) MONTHLY FEED AND FUEL COSTS
13 FOR MAKE ALLOWANCES.—As part of any hear-
14 ing to adjust make allowances under marketing
15 orders commencing prior to September 30,
16 2012, the Secretary shall—

17 “(i) determine the average monthly
18 prices of feed and fuel incurred by dairy
19 producers in the relevant marketing area;

20 “(ii) consider the most recent monthly
21 feed and fuel price data available; and

22 “(iii) consider those prices in deter-
23 mining whether or not to adjust make al-
24 lowances.”.

1 **SEC. 1505. DAIRY INDEMNITY PROGRAM.**

2 Section 3 of Public Law 90–484 (7 U.S.C. 450l) is
3 amended by striking “2007” and inserting “2012”.

4 **SEC. 1506. MILK INCOME LOSS CONTRACT PROGRAM.**

5 (a) DEFINITIONS.—In this section:

6 (1) CLASS I MILK.—The term “Class I milk”
7 means milk (including milk components) classified
8 as Class I milk under a Federal milk marketing
9 order.

10 (2) ELIGIBLE PRODUCTION.—The term “eligi-
11 ble production” means milk produced by a producer
12 in a participating State.

13 (3) FEDERAL MILK MARKETING ORDER.—The
14 term “Federal milk marketing order” means an
15 order issued under section 8c of the Agricultural Ad-
16 justment Act (7 U.S.C. 608c), reenacted with
17 amendments by the Agricultural Marketing Agree-
18 ment Act of 1937.

19 (4) PARTICIPATING STATE.—The term “partici-
20 pating State” means each State.

21 (5) PRODUCER.—The term “producer” means
22 an individual or entity that directly or indirectly (as
23 determined by the Secretary)—

24 (A) shares in the risk of producing milk;
25 and

1 (B) makes contributions (including land,
2 labor, management, equipment, or capital) to
3 the dairy farming operation of the individual or
4 entity that are at least commensurate with the
5 share of the individual or entity of the proceeds
6 of the operation.

7 (b) PAYMENTS.—The Secretary shall offer to enter
8 into contracts with producers on a dairy farm located in
9 a participating State under which the producers receive
10 payments on eligible production.

11 (c) AMOUNT.—Payments to a producer under this
12 section shall be calculated by multiplying (as determined
13 by the Secretary)—

14 (1) the payment quantity for the producer dur-
15 ing the applicable month established under sub-
16 section (e);

17 (2) the amount equal to—

18 (A) \$16.94 per hundredweight, as adjusted
19 under subsection (d); less

20 (B) the Class I milk price per hundred-
21 weight in Boston under the applicable Federal
22 milk marketing order; by

23 (3)(A) for the period beginning October 1,
24 2007, and ending September 30, 2008, 34 percent;

1 (B) for the period beginning October 1, 2008,
2 and ending August 31, 2012, 45 percent; and

3 (C) for the period beginning September 1,
4 2012, and thereafter, 34 percent.

5 (d) PAYMENT RATE ADJUSTMENT FOR FEED
6 PRICES.—

7 (1) INITIAL ADJUSTMENT AUTHORITY.—During
8 the period beginning on January 1, 2008, and end-
9 ing on August 31, 2012, if the National Average
10 Dairy Feed Ration Cost for a month during that pe-
11 riod is greater than \$7.35 per hundredweight, the
12 amount specified in subsection (c)(2)(A) used to de-
13 termine the payment rate for that month shall be in-
14 creased by 45 percent of the percentage by which
15 the National Average Dairy Feed Ration Cost ex-
16 ceeds \$7.35 per hundredweight.

17 (2) SUBSEQUENT ADJUSTMENT AUTHORITY.—
18 For any month beginning on or after September 1,
19 2012, if the National Average Dairy Feed Ration
20 Cost for the month is greater than \$9.50 per hun-
21 dredweight, the amount specified in subsection
22 (c)(2)(A) used to determine the payment rate for
23 that month shall be increased by 45 percent of the
24 percentage by which the National Average Dairy
25 Feed Ration Cost exceeds \$9.50 per hundredweight.

1 (3) NATIONAL AVERAGE DAIRY FEED RATION
2 COST.—For each month, the Secretary shall cal-
3 culate a National Average Dairy Feed Ration Cost
4 per hundredweight using the same procedures (ad-
5 justed to a hundredweight basis) used to calculate
6 the feed components of the estimated price of 16%
7 Mixed Dairy Feed per pound noted on page 33 of
8 the USDA March 2008 Agricultural Prices publica-
9 tion (including the data and factors noted in foot-
10 note 4).

11 (e) PAYMENT QUANTITY.—

12 (1) IN GENERAL.—Subject to paragraph (2),
13 the payment quantity for a producer during the ap-
14 plicable month under this section shall be equal to
15 the quantity of eligible production marketed by the
16 producer during the month.

17 (2) LIMITATION.—

18 (A) IN GENERAL.—The payment quantity
19 for all producers on a single dairy operation for
20 which the producers receive payments under
21 subsection (b) shall not exceed—

22 (i) for the period beginning October 1,
23 2007, and ending September 30, 2008,
24 2,400,000 pounds;

1 (ii) for the period beginning October
2 1, 2008, and ending August 31, 2012,
3 2,985,000 pounds for each fiscal year; and
4 (iii) effective beginning September 1,
5 2012, 2,400,000 pounds per fiscal year.

6 (B) STANDARDS.—For purposes of deter-
7 mining whether producers are producers on sep-
8 arate dairy operations or a single dairy oper-
9 ation, the Secretary shall apply the same stand-
10 ards as were applied in implementing the dairy
11 program under section 805 of the Agriculture,
12 Rural Development, Food and Drug Adminis-
13 tration, and Related Agencies Appropriations
14 Act, 2001 (as enacted into law by Public Law
15 106–387; 114 Stat. 1549A–50).

16 (3) RECONSTITUTION.—The Secretary shall en-
17 sure that a producer does not reconstitute a dairy
18 operation for the sole purpose of receiving additional
19 payments under this section.

20 (f) PAYMENTS.—A payment under a contract under
21 this section shall be made on a monthly basis not later
22 than 60 days after the last day of the month for which
23 the payment is made.

24 (g) SIGNUP.—The Secretary shall offer to enter into
25 contracts under this section during the period beginning

1 on the date that is 90 days after the date of enactment
2 of this Act and ending on September 30, 2012.

3 (h) DURATION OF CONTRACT.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), any contract entered into by producers on
6 a dairy farm under this section shall cover eligible
7 production marketed by the producers on the dairy
8 farm during the period starting with the first day of
9 month the producers on the dairy farm enter into
10 the contract and ending on September 30, 2012.

11 (2) VIOLATIONS.—If a producer violates the
12 contract, the Secretary may—

13 (A) terminate the contract and allow the
14 producer to retain any payments received under
15 the contract; or

16 (B) allow the contract to remain in effect
17 and require the producer to repay a portion of
18 the payments received under the contract based
19 on the severity of the violation.

20 **SEC. 1507. DAIRY PROMOTION AND RESEARCH PROGRAM.**

21 (a) EXTENSION OF DAIRY PROMOTION AND RE-
22 SEARCH AUTHORITY.—Section 113(e)(2) of the Dairy
23 Production Stabilization Act of 1983 (7 U.S.C.
24 4504(e)(2)) is amended by striking “2007” and inserting
25 “2012”.

1 (b) DEFINITION OF UNITED STATES FOR PRO-
2 MOTION PROGRAM.—Section 111 of the Dairy Production
3 Stabilization Act of 1983 (7 U.S.C. 4502) is amended—

4 (1) by striking subsection (l) and inserting the
5 following:

6 “(l) the term ‘United States’, when used in a geo-
7 graphical sense, means all of the States, the District of
8 Columbia, and the Commonwealth of Puerto Rico;”;

9 (2) in subsection (m), by striking “(as defined
10 in subsection (l))”.

11 (c) DEFINITION OF UNITED STATES FOR RESEARCH
12 PROGRAM.—Section 130 of the Dairy Production Sta-
13 bilization Act of 1983 (7 U.S.C. 4531) is amended by
14 striking paragraph (12) and inserting the following:

15 “(12) the term ‘United States’, when used in a
16 geographical sense, means all of the States, the Dis-
17 trict of Columbia, and the Commonwealth of Puerto
18 Rico.”.

19 (d) ASSESSMENT RATE FOR IMPORTED DAIRY PROD-
20 UCTS.—Section 113(g) of the Dairy Production Stabiliza-
21 tion Act of 1983 (7 U.S.C. 4504(g)) is amended by strik-
22 ing paragraph (3) and inserting the following:

23 “(3) RATE.—

24 “(A) IN GENERAL.—The rate of assess-
25 ment for milk produced in the United States

1 prescribed by the order shall be 15 cents per
2 hundredweight of milk for commercial use or
3 the equivalent thereof, as determined by the
4 Secretary.

5 “(B) IMPORTED DAIRY PRODUCTS.—The
6 rate of assessment for imported dairy products
7 prescribed by the order shall be 7.5 cents per
8 hundredweight of milk for commercial use or
9 the equivalent thereof, as determined by the
10 Secretary.”.

11 (e) TIME AND METHOD OF IMPORTER PAYMENTS.—
12 Section 113(g)(6) of the Dairy Production Stabilization
13 Act of 1983 (7 U.S.C. 4504(g)(6)) is amended—

14 (1) by striking subparagraph (B); and
15 (2) by redesignating subparagraph (C) as sub-
16 paragraph (B).

17 (f) REFUND OF ASSESSMENTS ON CERTAIN IM-
18 PORTED DAIRY PRODUCTS.—Section 113(g) of the Dairy
19 Production Stabilization Act of 1983 (7 U.S.C. 4504(g))
20 is amended by adding at the end the following:

21 “(7) REFUND OF ASSESSMENTS ON CERTAIN
22 IMPORTED PRODUCTS.—

23 “(A) IN GENERAL.—An importer shall be
24 entitled to a refund of any assessment paid
25 under this subsection on imported dairy prod-

1 ucts imported under a contract entered into
2 prior to the date of enactment of the Food,
3 Conservation, and Energy Act of 2008.

4 “(B) EXPIRATION.—Refunds under sub-
5 paragraph (A) shall expire 1 year after the date
6 of enactment of the Food, Conservation, and
7 Energy Act of 2008.”.

8 **SEC. 1508. REPORT ON DEPARTMENT OF AGRICULTURE RE-**
9 **PORTING PROCEDURES FOR NONFAT DRY**
10 **MILK.**

11 Not later than 90 days after the date of enactment
12 of this Act, the Secretary shall submit to the Committee
13 on Agriculture of the House of Representatives and the
14 Committee on Agriculture, Nutrition, and Forestry of the
15 Senate a report regarding Department of Agriculture re-
16 porting procedures for nonfat dry milk and the impact of
17 the procedures on Federal milk marketing order minimum
18 prices during the period beginning on July 1, 2006, and
19 ending on the date of enactment of this Act.

20 **SEC. 1509. FEDERAL MILK MARKETING ORDER REVIEW**
21 **COMMISSION.**

22 (a) ESTABLISHMENT.—Subject to the availability of
23 appropriations to carry out this section, the Secretary
24 shall establish a commission to be known as the “Federal
25 Milk Marketing Order Review Commission” (referred to

1 in this section as the “commission”), which shall conduct
2 a comprehensive review and evaluation of—

3 (1) the Federal milk marketing order system in
4 effect on the date of establishment of the commis-
5 sion; and

6 (2) non-Federal milk marketing order systems.

7 (b) ELEMENTS OF REVIEW AND EVALUATION.—As
8 part of the review and evaluation under subsection (a),
9 the commission shall consider legislative and regulatory
10 options for—

11 (1) ensuring that the competitiveness of dairy
12 products with other competing products in the mar-
13 ketplace is preserved and enhanced;

14 (2) enhancing the competitiveness of American
15 dairy producers in world markets;

16 (3) ensuring the competitiveness and trans-
17 parency in dairy pricing;

18 (4) streamlining and expediting the process by
19 which amendments to Federal milk market orders
20 are adopted;

21 (5) simplifying the Federal milk marketing
22 order system;

23 (6) evaluating whether the Federal milk mar-
24 keting order system serves the interests of dairy pro-
25 ducers, consumers, and dairy processors; and

1 (7) evaluating the nutritional composition of
2 milk, including the potential benefits and costs of
3 adjusting the milk content standards.

4 (c) MEMBERSHIP.—

5 (1) COMPOSITION.—The commission shall con-
6 sist of 14 members.

7 (2) MEMBERS.—As soon as practicable after
8 the date on which funds are first made available to
9 carry out this section, the Secretary shall appoint
10 members to the commission according to the fol-
11 lowing requirements:

12 (A) At least 1 member shall represent a
13 national consumer organization.

14 (B) At least 4 members shall represent
15 land-grant universities or NLGCA Institutions
16 (as defined in section 1404 of the National Ag-
17 ricultural Research, Extension, and Teaching
18 Policy Act of 1977 (7 U.S.C. 3103)) with ac-
19 credited dairy economic programs, with at least
20 2 of those members being experts in the field
21 of economics.

22 (C) At least 1 member shall represent the
23 food and beverage retail sector.

24 (D) 4 dairy producers and 4 dairy proc-
25 essors, appointed so as to balance geographical

1 distribution of milk production and dairy proc-
2 essing, reflect all segments of dairy processing,
3 and represent all regions of the United States
4 equitably, including States that operate outside
5 of a Federal milk marketing order.

6 (3) CHAIR.—The commission shall elect 1 of
7 the appointed members of the commission to serve
8 as chairperson for the duration of the proceedings of
9 the commission.

10 (4) VACANCY.—Any vacancy occurring before
11 the termination of the commission shall be filled in
12 the same manner as the original appointment.

13 (5) COMPENSATION.—Members of the commis-
14 sion shall serve without compensation, but shall be
15 reimbursed by the Secretary from existing budget
16 authority for necessary and reasonable expenses in-
17 curred in the performance of the duties of the com-
18 mission.

19 (d) REPORT.—

20 (1) IN GENERAL.—Not later than 2 years after
21 the date of the first meeting of the commission, the
22 commission shall submit to Congress and the Sec-
23 retary a report describing the results of the review
24 and evaluation conducted under this section, includ-
25 ing such recommendations regarding the legislative

1 and regulatory options considered under subsection
2 (b) as the commission considers to be appropriate.

3 (2) OPINIONS.—The report findings shall re-
4 flect, to the maximum extent practicable, a con-
5 sensus opinion of the commission members, but the
6 report may include majority and minority findings
7 regarding those matters for which consensus was not
8 reached.

9 (e) ADVISORY NATURE.—The commission is wholly
10 advisory in nature, and the recommendations of the com-
11 mission are nonbinding.

12 (f) NO EFFECT ON EXISTING PROGRAMS.—The Sec-
13 retary shall not allow the existence of the commission to
14 impede, delay, or otherwise affect any decisionmaking
15 process of the Department of Agriculture, including any
16 rulemaking procedures planned, proposed, or near comple-
17 tion.

18 (g) ADMINISTRATIVE ASSISTANCE.—The Secretary
19 shall provide administrative support to the commission,
20 and expend to carry out this section such funds as nec-
21 essary from budget authority available to the Secretary.

22 (h) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated such sums as are nec-
24 essary to carry out this section.

1 (i) **TERMINATION.**—The commission shall terminate
2 effective on the date of the submission of the report under
3 subsection (d).

4 **SEC. 1510. MANDATORY REPORTING OF DAIRY COMMOD-**
5 **ITIES.**

6 (a) **ELECTRONIC REPORTING.**—Section 273 of the
7 Agricultural Marketing Act of 1946 (7 U.S.C. 1637b) is
8 amended—

9 (1) by redesignating subsection (d) as sub-
10 section (e); and

11 (2) by inserting after subsection (c) the fol-
12 lowing:

13 “(d) **ELECTRONIC REPORTING.**—

14 “(1) **IN GENERAL.**—Subject to the availability
15 of funds under paragraph (3), the Secretary shall es-
16 tablish an electronic reporting system to carry out
17 this section.

18 “(2) **FREQUENCY OF REPORTS.**—After the es-
19 tablishment of the electronic reporting system in ac-
20 cordance with paragraph (1), the Secretary shall in-
21 crease the frequency of the reports required under
22 this section.

23 “(3) **AUTHORIZATION OF APPROPRIATIONS.**—
24 There are authorized to be appropriated such sums
25 as are necessary to carry out this subsection.”.

1 (b) QUARTERLY AUDITS.—Section 273(c) of the Ag-
 2 ricultural Marketing Act of 1946 (7 U.S.C. 1637b(c)) is
 3 amended by striking paragraph (3) and inserting the fol-
 4 lowing:

5 “(3) VERIFICATION.—

6 “(A) IN GENERAL.—The Secretary shall
 7 take such actions as the Secretary considers
 8 necessary to verify the accuracy of the informa-
 9 tion submitted or reported under this subtitle.

10 “(B) QUARTERLY AUDITS.—The Secretary
 11 shall quarterly conduct an audit of information
 12 submitted or reported under this subtitle and
 13 compare such information with other related
 14 dairy market statistics.”.

15 **Subtitle F—Administration**

16 **SEC. 1601. ADMINISTRATION GENERALLY.**

17 (a) USE OF COMMODITY CREDIT CORPORATION.—
 18 Except as otherwise provided in this title, the Secretary
 19 shall use the funds, facilities, and authorities of the Com-
 20 modity Credit Corporation to carry out this title.

21 (b) DETERMINATIONS BY SECRETARY.—A deter-
 22 mination made by the Secretary under this title shall be
 23 final and conclusive.

24 (c) REGULATIONS.—

1 (1) IN GENERAL.—Except as otherwise pro-
2 vided in this subsection, not later than 90 days after
3 the date of enactment of this Act, the Secretary and
4 the Commodity Credit Corporation, as appropriate,
5 shall promulgate such regulations as are necessary
6 to implement this title and the amendments made by
7 this title.

8 (2) PROCEDURE.—The promulgation of the reg-
9 ulations and administration of this title and the
10 amendments made by this title shall be made with-
11 out regard to—

12 (A) chapter 35 of title 44, United States
13 Code (commonly known as the “Paperwork Re-
14 duction Act”);

15 (B) the Statement of Policy of the Sec-
16 retary of Agriculture effective July 24, 1971
17 (36 Fed. Reg. 13804), relating to notices of
18 proposed rulemaking and public participation in
19 rulemaking; and

20 (C) the notice and comment provisions of
21 section 553 of title 5, United States Code.

22 (3) CONGRESSIONAL REVIEW OF AGENCY RULE-
23 MAKING.—In carrying out this subsection, the Sec-
24 retary shall use the authority provided under section
25 808 of title 5, United States Code.

1 (4) INTERIM REGULATIONS.—Notwithstanding
2 paragraphs (1) and (2), the Secretary shall imple-
3 ment the amendments made by sections 1603 and
4 1604 for the 2009 crop, fiscal, or program year, as
5 appropriate, through the promulgation of an interim
6 rule.

7 (d) ADJUSTMENT AUTHORITY RELATED TO TRADE
8 AGREEMENTS COMPLIANCE.—

9 (1) REQUIRED DETERMINATION; ADJUST-
10 MENT.—If the Secretary determines that expendi-
11 tures under this title that are subject to the total al-
12 lowable domestic support levels under the Uruguay
13 Round Agreements (as defined in section 2 of the
14 Uruguay Round Agreements Act (19 U.S.C. 3501))
15 will exceed such allowable levels for any applicable
16 reporting period, the Secretary shall, to the max-
17 imum extent practicable, make adjustments in the
18 amount of such expenditures during that period to
19 ensure that such expenditures do not exceed such al-
20 lowable levels.

21 (2) CONGRESSIONAL NOTIFICATION.—Before
22 making any adjustment under paragraph (1), the
23 Secretary shall submit to the Committee on Agri-
24 culture of the House of Representatives or the Com-
25 mittee on Agriculture, Nutrition, and Forestry of

1 the Senate a report describing the determination
2 made under that paragraph and the extent of the
3 adjustment to be made.

4 (e) TREATMENT OF ADVANCE PAYMENT OPTION.—
5 Section 1601(d) of the Farm Security and Rural Invest-
6 ment Act of 2002 (7 U.S.C. 7991(d)) is amended—

7 (1) in paragraph (1), by striking “and” at the
8 end;

9 (2) in paragraph (2), by striking the period at
10 the end and inserting “; and”; and

11 (3) by adding at the end the following:

12 “(3) the advance payment of direct payments
13 and counter-cyclical payments under title I of the
14 Food, Conservation, and Energy Act of 2008.”.

15 **SEC. 1602. SUSPENSION OF PERMANENT PRICE SUPPORT**
16 **AUTHORITY.**

17 (a) AGRICULTURAL ADJUSTMENT ACT OF 1938.—
18 The following provisions of the Agricultural Adjustment
19 Act of 1938 shall not be applicable to the 2008 through
20 2012 crops of covered commodities, peanuts, and sugar
21 and shall not be applicable to milk during the period be-
22 ginning on the date of enactment of this Act through De-
23 cember 31, 2012:

24 (1) Parts II through V of subtitle B of title III
25 (7 U.S.C. 1326 et seq.).

1 (2) In the case of upland cotton, section 377 (7
2 U.S.C. 1377).

3 (3) Subtitle D of title III (7 U.S.C. 1379a et
4 seq.).

5 (4) Title IV (7 U.S.C. 1401 et seq.).

6 (b) AGRICULTURAL ACT OF 1949.—The following
7 provisions of the Agricultural Act of 1949 shall not be ap-
8 plicable to the 2008 through 2012 crops of covered com-
9 modities, peanuts, and sugar and shall not be applicable
10 to milk during the period beginning on the date of enact-
11 ment of this Act and through December 31, 2012:

12 (1) Section 101 (7 U.S.C. 1441).

13 (2) Section 103(a) (7 U.S.C. 1444(a)).

14 (3) Section 105 (7 U.S.C. 1444b).

15 (4) Section 107 (7 U.S.C. 1445a).

16 (5) Section 110 (7 U.S.C. 1445e).

17 (6) Section 112 (7 U.S.C. 1445g).

18 (7) Section 115 (7 U.S.C. 1445k).

19 (8) Section 201 (7 U.S.C. 1446).

20 (9) Title III (7 U.S.C. 1447 et seq.).

21 (10) Title IV (7 U.S.C. 1421 et seq.), other
22 than sections 404, 412, and 416 (7 U.S.C. 1424,
23 1429, and 1431).

24 (11) Title V (7 U.S.C. 1461 et seq.).

25 (12) Title VI (7 U.S.C. 1471 et seq.).

1 (c) SUSPENSION OF CERTAIN QUOTA PROVISIONS.—

2 The joint resolution entitled “A joint resolution relating
3 to corn and wheat marketing quotas under the Agricul-
4 tural Adjustment Act of 1938, as amended”, approved
5 May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be
6 applicable to the crops of wheat planted for harvest in the
7 calendar years 2008 through 2012.

8 **SEC. 1603. PAYMENT LIMITATIONS.**

9 (a) EXTENSION OF LIMITATIONS.—Sections 1001
10 and 1001C(a) of the Food Security Act of 1985 (7 U.S.C.
11 1308, 1308–3(a)) are amended by striking “Farm Secu-
12 rity and Rural Investment Act of 2002” each place it ap-
13 pears and inserting “Food, Conservation, and Energy Act
14 of 2008”.

15 (b) REVISION OF LIMITATIONS.—

16 (1) DEFINITIONS.—Section 1001(a) of the
17 Food Security Act of 1985 (7 U.S.C. 1308(a)) is
18 amended—

19 (A) in the matter preceding paragraph (1),
20 by inserting “through section 1001F” after
21 “section”;

22 (B) by striking paragraph (2) and redesign-
23 ating paragraph (3) as paragraph (5); and

24 (C) by inserting after paragraph (1) the
25 following:

1 “(2) FAMILY MEMBER.—The term ‘family
2 member’ means a person to whom a member in the
3 farming operation is related as lineal ancestor, lineal
4 descendant, sibling, spouse, or otherwise by mar-
5 riage.

6 “(3) LEGAL ENTITY.—The term ‘legal entity’
7 means an entity that is created under Federal or
8 State law and that—

9 “(A) owns land or an agricultural com-
10 modity; or

11 “(B) produces an agricultural commodity.

12 “(4) PERSON.—The term ‘person’ means a nat-
13 ural person, and does not include a legal entity.”.

14 (2) LIMITATION ON DIRECT PAYMENTS AND
15 COUNTER-CYCLICAL PAYMENTS.—Section 1001 of
16 the Food Security Act of 1985 (7 U.S.C. 1308) is
17 amended by striking subsections (b), (c), and (d)
18 and inserting the following:

19 “(b) LIMITATION ON DIRECT PAYMENTS, COUNTER-
20 CYCLICAL PAYMENTS, AND ACRE PAYMENTS FOR COV-
21 ERED COMMODITIES (OTHER THAN PEANUTS).—

22 “(1) DIRECT PAYMENTS.—The total amount of
23 direct payments received, directly or indirectly, by a
24 person or legal entity (except a joint venture or a
25 general partnership) for any crop year under subtitle

1 A of title I of the Food, Conservation, and Energy
2 Act of 2008 for 1 or more covered commodities (ex-
3 cept for peanuts) may not exceed—

4 “(A) in the case of a person or legal entity
5 that does not participate in the average crop
6 revenue election program under section 1105 of
7 that Act, \$40,000; or

8 “(B) in the case of a person or legal entity
9 that participates in the average crop revenue
10 election program under section 1105 of that
11 Act, an amount equal to—

12 “(i) the payment limit specified in
13 subparagraph (A); less

14 “(ii) the amount of the reduction in
15 direct payments under section 1105(a)(1)
16 of that Act.

17 “(2) COUNTER-CYCLICAL PAYMENTS.—In the
18 case of a person or legal entity (except a joint ven-
19 ture or a general partnership) that does not partici-
20 pate in the average crop revenue election program
21 under section 1105 of the Food, Conservation, and
22 Energy Act of 2008, the total amount of counter-cy-
23 clical payments received, directly or indirectly, by
24 the person or legal entity for any crop year under
25 subtitle A of title I of that Act for 1 or more covered

1 commodities (except for peanuts) may not exceed
2 \$65,000.

3 “(3) ACRE AND COUNTER-CYCLICAL PAY-
4 MENTS.—In the case of a person or legal entity (ex-
5 cept a joint venture or a general partnership) that
6 participates in the average crop revenue election pro-
7 gram under section 1105 of the Food, Conservation,
8 and Energy Act of 2008, the total amount of aver-
9 age crop revenue election payments and counter-cy-
10 clical payments received, directly or indirectly, by
11 the person or legal entity for any crop year for 1 or
12 more covered commodities (except for peanuts) may
13 not exceed the sum of—

14 “(A) \$65,000; and

15 “(B) the amount by which the direct pay-
16 ment limitation is reduced under paragraph
17 (1)(B).

18 “(c) LIMITATION ON DIRECT PAYMENTS, COUNTER-
19 CYCLICAL PAYMENTS, AND ACRE PAYMENTS FOR PEA-
20 NUTS.—

21 “(1) DIRECT PAYMENTS.—The total amount of
22 direct payments received, directly or indirectly, by a
23 person or legal entity (except a joint venture or a
24 general partnership) for any crop year under subtitle

1 C of title I of the Food, Conservation, and Energy
2 Act of 2008 for peanuts may not exceed—

3 “(A) in the case of a person or legal entity
4 that does not participate in the average crop
5 revenue election program under section 1105 of
6 that Act, \$40,000; or

7 “(B) in the case of a person or legal entity
8 that participates in the average crop revenue
9 election program under section 1105 of that
10 Act, an amount equal to—

11 “(i) the payment limit specified in
12 subparagraph (A); less

13 “(ii) the amount of the reduction in
14 direct payments under section 1105(a)(1)
15 of that Act.

16 “(2) COUNTER-CYCLICAL PAYMENTS.—In the
17 case of a person or legal entity (except a joint ven-
18 ture or a general partnership) that does not partici-
19 pate in the average crop revenue election program
20 under section 1105 of the Food, Conservation, and
21 Energy Act of 2008, the total amount of counter-cy-
22 clical payments received, directly or indirectly, by
23 the person or legal entity for any crop year under
24 subtitle C of title I of that Act for peanuts may not
25 exceed \$65,000.

1 “(3) ACRE AND COUNTER-CYCLICAL PAY-
2 MENTS.—In the case of a person or legal entity (ex-
3 cept a joint venture or a general partnership) that
4 participates in the average crop revenue election pro-
5 gram under section 1105 of the Food, Conservation,
6 and Energy Act of 2008, the total amount of aver-
7 age crop revenue election payments received, directly
8 or indirectly, by the person or legal entity for any
9 crop year for peanuts may not exceed the sum of—

10 “(A) \$65,000; and

11 “(B) the amount by which the direct pay-
12 ment limitation is reduced under paragraph
13 (1)(B).

14 “(d) LIMITATION ON APPLICABILITY.—Nothing in
15 this section authorizes any limitation on any benefit asso-
16 ciated with the marketing assistance loan program or the
17 loan deficiency payment program under title I of the Food,
18 Conservation, and Energy Act of 2008.”.

19 (3) DIRECT ATTRIBUTION.—Section 1001 of
20 the Food Security Act of 1985 (7 U.S.C. 1308) is
21 amended—

22 (A) by striking subsections (e) and (f) and
23 redesignating subsection (g) as subsection (h);
24 and

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

3 “(e) **ATTRIBUTION OF PAYMENTS.**—

4 “(1) **IN GENERAL.**—In implementing sub-
5 sections (b) and (c) and a program described in
6 paragraphs (1)(C) and (2)(B) of section 1001D(b),
7 the Secretary shall issue such regulations as are nec-
8 essary to ensure that the total amount of payments
9 are attributed to a person by taking into account the
10 direct and indirect ownership interests of the person
11 in a legal entity that is eligible to receive the pay-
12 ments.

13 “(2) **PAYMENTS TO A PERSON.**—Each payment
14 made directly to a person shall be combined with the
15 pro rata interest of the person in payments received
16 by a legal entity in which the person has a direct or
17 indirect ownership interest unless the payments of
18 the legal entity have been reduced by the pro rata
19 share of the person.

20 “(3) **PAYMENTS TO A LEGAL ENTITY.**—

21 “(A) **IN GENERAL.**—Each payment made
22 to a legal entity shall be attributed to those per-
23 sons who have a direct or indirect ownership in-
24 terest in the legal entity unless the payment to

1 the legal entity has been reduced by the pro
2 rata share of the person.

3 “(B) ATTRIBUTION OF PAYMENTS.—

4 “(i) PAYMENT LIMITS.—Except as
5 provided in clause (ii), payments made to
6 a legal entity shall not exceed the amounts
7 specified in subsections (b) and (c).

8 “(ii) EXCEPTION FOR JOINT VEN-
9 TURES AND GENERAL PARTNERSHIPS.—

10 Payments made to a joint venture or a
11 general partnership shall not exceed, for
12 each payment specified in subsections (b)
13 and (c), the amount determined by multi-
14 plying the maximum payment amount
15 specified in subsections (b) and (c) by the
16 number of persons and legal entities (other
17 than joint ventures and general partner-
18 ships) that comprise the ownership of the
19 joint venture or general partnership.

20 “(iii) REDUCTION.—Payments made
21 to a legal entity shall be reduced propor-
22 tionately by an amount that represents the
23 direct or indirect ownership in the legal en-
24 tity by any person or legal entity that has

1 otherwise exceeded the applicable max-
2 imum payment limitation.

3 “(4) 4 LEVELS OF ATTRIBUTION FOR EMBED-
4 DED LEGAL ENTITIES.—

5 “(A) IN GENERAL.—Attribution of pay-
6 ments made to legal entities shall be traced
7 through 4 levels of ownership in legal entities.

8 “(B) FIRST LEVEL.—Any payments made
9 to a legal entity (a first-tier legal entity) that
10 is owned in whole or in part by a person shall
11 be attributed to the person in an amount that
12 represents the direct ownership in the first-tier
13 legal entity by the person.

14 “(C) SECOND LEVEL.—

15 “(i) IN GENERAL.—Any payments
16 made to a first-tier legal entity that is
17 owned (in whole or in part) by another
18 legal entity (a second-tier legal entity)
19 shall be attributed to the second-tier legal
20 entity in proportion to the ownership of the
21 second-tier legal entity in the first-tier
22 legal entity.

23 “(ii) OWNERSHIP BY A PERSON.—If
24 the second-tier legal entity is owned (in
25 whole or in part) by a person, the amount

1 of the payment made to the first-tier legal
2 entity shall be attributed to the person in
3 the amount that represents the indirect
4 ownership in the first-tier legal entity by
5 the person.

6 “(D) THIRD AND FOURTH LEVELS.—

7 “(i) IN GENERAL.—Except as pro-
8 vided in clause (ii), the Secretary shall at-
9 tribute payments at the third and fourth
10 tiers of ownership in the same manner as
11 specified in subparagraph (C).

12 “(ii) FOURTH-TIER OWNERSHIP.—If
13 the fourth-tier of ownership is that of a
14 fourth-tier legal entity and not that of a
15 person, the Secretary shall reduce the
16 amount of the payment to be made to the
17 first-tier legal entity in the amount that
18 represents the indirect ownership in the
19 first-tier legal entity by the fourth-tier
20 legal entity.

21 “(f) SPECIAL RULES.—

22 “(1) MINOR CHILDREN.—

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B), payments received by a child

1 under the age of 18 shall be attributed to the
2 parents of the child.

3 “(B) REGULATIONS.—The Secretary shall
4 issue regulations specifying the conditions
5 under which payments received by a child under
6 the age of 18 will not be attributed to the par-
7 ents of the child.

8 “(2) MARKETING COOPERATIVES.—Subsections
9 (b) and (c) shall not apply to a cooperative associa-
10 tion of producers with respect to commodities pro-
11 duced by the members of the association that are
12 marketed by the association on behalf of the mem-
13 bers of the association but shall apply to the pro-
14 ducers as persons.

15 “(3) TRUSTS AND ESTATES.—

16 “(A) IN GENERAL.—With respect to irrev-
17 ocable trusts and estates, the Secretary shall
18 administer this section through section 1001F
19 in such manner as the Secretary determines will
20 ensure the fair and equitable treatment of the
21 beneficiaries of the trusts and estates.

22 “(B) IRREVOCABLE TRUST.—

23 “(i) IN GENERAL.—In order for a
24 trust to be considered an irrevocable trust,

1 the terms of the trust agreement shall
2 not—

3 “(I) allow for modification or ter-
4 mination of the trust by the grantor;

5 “(II) allow for the grantor to
6 have any future, contingent, or re-
7 mainder interest in the corpus of the
8 trust; or

9 “(III) except as provided in
10 clause (ii), provide for the transfer of
11 the corpus of the trust to the remain-
12 der beneficiary in less than 20 years
13 beginning on the date the trust is es-
14 tablished.

15 “(ii) EXCEPTION.—Clause (i)(III)
16 shall not apply in a case in which the
17 transfer is—

18 “(I) contingent on the remainder
19 beneficiary achieving at least the age
20 of majority; or

21 “(II) contingent on the death of
22 the grantor or income beneficiary.

23 “(C) REVOCABLE TRUST.—For the pur-
24 poses of this section through section 1001F, a

1 revocable trust shall be considered to be the
2 same person as the grantor of the trust.

3 “(4) CASH RENT TENANTS.—

4 “(A) DEFINITION.—In this paragraph, the
5 term ‘cash rent tenant’ means a person or legal
6 entity that rents land—

7 “(i) for cash; or

8 “(ii) for a crop share guaranteed as to
9 the amount of the commodity to be paid in
10 rent.

11 “(B) RESTRICTION.—A cash rent tenant
12 who makes a significant contribution of active
13 personal management, but not of personal
14 labor, with respect to a farming operation shall
15 be eligible to receive a payment described in
16 subsection (b) or (c) only if the tenant makes
17 a significant contribution of equipment to the
18 farming operation.

19 “(5) FEDERAL AGENCIES.—

20 “(A) IN GENERAL.—Notwithstanding sub-
21 section (d), a Federal agency shall not be eligi-
22 ble to receive any payment, benefit, or loan
23 under title I of the Food, Conservation, and
24 Energy Act of 2008 or title XII of this Act.

1 “(B) LAND RENTAL.—A lessee of land
2 owned by a Federal agency may receive a pay-
3 ment described in subsection (b), (c), or (d) if
4 the lessee otherwise meets all applicable cri-
5 teria.

6 “(6) STATE AND LOCAL GOVERNMENTS.—

7 “(A) IN GENERAL.—Notwithstanding sub-
8 section (d), except as provided in subsection
9 (g), a State or local government, or political
10 subdivision or agency of the government, shall
11 not be eligible to receive any payment, benefit,
12 or loan under title I of the Food, Conservation,
13 and Energy Act of 2008 or title XII of this Act.

14 “(B) TENANTS.—A lessee of land owned
15 by a State or local government, or political sub-
16 division or agency of the government, may re-
17 ceive payments described in subsections (b), (c),
18 and (d) if the lessee otherwise meets all applica-
19 ble criteria.

20 “(7) CHANGES IN FARMING OPERATIONS.—

21 “(A) IN GENERAL.—In the administration
22 of this section through section 1001F, the Sec-
23 retary may not approve any change in a farm-
24 ing operation that otherwise will increase the
25 number of persons to which the limitations

1 under this section are applied unless the Sec-
2 retary determines that the change is bona fide
3 and substantive.

4 “(B) FAMILY MEMBERS.—The addition of
5 a family member to a farming operation under
6 the criteria set out in section 1001A shall be
7 considered a bona fide and substantive change
8 in the farming operation.

9 “(8) DEATH OF OWNER.—

10 “(A) IN GENERAL.—If any ownership in-
11 terest in land or a commodity is transferred as
12 the result of the death of a program partici-
13 pant, the new owner of the land or commodity
14 may, if the person is otherwise eligible to par-
15 ticipate in the applicable program, succeed to
16 the contract of the prior owner and receive pay-
17 ments subject to this section without regard to
18 the amount of payments received by the new
19 owner.

20 “(B) LIMITATIONS ON PRIOR OWNER.—
21 Payments made under this paragraph shall not
22 exceed the amount to which the previous owner
23 was entitled to receive under the terms of the
24 contract at the time of the death of the prior
25 owner.

1 “(g) PUBLIC SCHOOLS.—

2 “(1) IN GENERAL.—Notwithstanding subsection
3 (f)(6)(A), a State or local government, or political
4 subdivision or agency of the government, shall be eli-
5 gible, subject to the limitation in paragraph (2), to
6 receive a payment described in subsection (b) or (c)
7 for land owned by the State or local government, or
8 political subdivision or agency of the government,
9 that is used to maintain a public school.

10 “(2) LIMITATION.—

11 “(A) IN GENERAL.—For each State, the
12 total amount of payments described in sub-
13 sections (b) and (c) that are received collectively
14 by the State and local government and all polit-
15 ical subdivisions or agencies of those govern-
16 ments shall not exceed \$500,000.

17 “(B) EXCEPTION.—The limitation in sub-
18 paragraph (A) shall not apply to States with a
19 population of less than 1,500,000.”

20 (c) REPEAL OF 3-ENTITY RULE.—Section 1001A of
21 the Food Security Act of 1985 (7 U.S.C. 1308–1) is
22 amended—

23 (1) in the section heading, by striking “**PRE-**
24 **VENTION OF CREATION OF ENTITIES TO QUAL-**

1 **IFY AS SEPARATE PERSONS**” and inserting “**NO-**
2 **TIFICATION OF INTERESTS**”; and

3 (2) by striking subsection (a) and inserting the
4 following:

5 “(a) **NOTIFICATION OF INTERESTS.**—To facilitate
6 administration of section 1001 and this section, each per-
7 son or legal entity receiving payments described in sub-
8 sections (b) and (c) of section 1001 as a separate person
9 or legal entity shall separately provide to the Secretary,
10 at such times and in such manner as prescribed by the
11 Secretary—

12 “(1) the name and social security number of
13 each person, or the name and taxpayer identification
14 number of each legal entity, that holds or acquires
15 an ownership interest in the separate person or legal
16 entity; and

17 “(2) the name and taxpayer identification num-
18 ber of each legal entity in which the person or legal
19 entity holds an ownership interest.”.

20 (d) **AMENDMENT FOR CONSISTENCY.**—Section
21 1001A of the Food Security Act of 1985 (7 U.S.C. 1308–
22 1) is amended by striking subsection (b) and inserting the
23 following:

24 “(b) **ACTIVELY ENGAGED.**—

1 “(1) IN GENERAL.—To be eligible to receive a
2 payment described in subsection (b) or (c) of section
3 1001, a person or legal entity shall be actively en-
4 gaged in farming with respect to a farming oper-
5 ation as provided in this subsection or subsection
6 (c).

7 “(2) CLASSES ACTIVELY ENGAGED.—Except as
8 provided in subsections (c) and (d)—

9 “(A) a person (including a person partici-
10 pating in a farming operation as a partner in
11 a general partnership, a participant in a joint
12 venture, a grantor of a revocable trust, or a
13 participant in a similar entity, as determined by
14 the Secretary) shall be considered to be actively
15 engaged in farming with respect to a farming
16 operation if—

17 “(i) the person makes a significant
18 contribution (based on the total value of
19 the farming operation) to the farming op-
20 eration of—

21 “(I) capital, equipment, or land;
22 and

23 “(II) personal labor or active per-
24 sonal management;

1 “(ii) the person’s share of the profits
2 or losses from the farming operation is
3 commensurate with the contributions of
4 the person to the farming operation; and

5 “(iii) the contributions of the person
6 are at risk;

7 “(B) a legal entity that is a corporation,
8 joint stock company, association, limited part-
9 nership, charitable organization, or other simi-
10 lar entity determined by the Secretary (includ-
11 ing any such legal entity participating in the
12 farming operation as a partner in a general
13 partnership, a participant in a joint venture, a
14 grantor of a revocable trust, or as a participant
15 in a similar legal entity as determined by the
16 Secretary) shall be considered as actively en-
17 gaged in farming with respect to a farming op-
18 eration if—

19 “(i) the legal entity separately makes
20 a significant contribution (based on the
21 total value of the farming operation) of
22 capital, equipment, or land;

23 “(ii) the stockholders or members col-
24 lectively make a significant contribution of

1 personal labor or active personal manage-
2 ment to the operation; and

3 “(iii) the standards provided in
4 clauses (ii) and (iii) of subparagraph (A),
5 as applied to the legal entity, are met by
6 the legal entity;

7 “(C) if a legal entity that is a general part-
8 nership, joint venture, or similar entity, as de-
9 termined by the Secretary, separately makes a
10 significant contribution (based on the total
11 value of the farming operation involved) of cap-
12 ital, equipment, or land, and the standards pro-
13 vided in clauses (ii) and (iii) of subparagraph
14 (A), as applied to the legal entity, are met by
15 the legal entity, the partners or members mak-
16 ing a significant contribution of personal labor
17 or active personal management shall be consid-
18 ered to be actively engaged in farming with re-
19 spect to the farming operation involved; and

20 “(D) in making determinations under this
21 subsection regarding equipment and personal
22 labor, the Secretary shall take into consider-
23 ation the equipment and personal labor nor-
24 mally and customarily provided by farm opera-

1 tors in the area involved to produce program
2 crops.

3 “(c) SPECIAL CLASSES ACTIVELY ENGAGED.—

4 “(1) LANDOWNER.—A person or legal entity
5 that is a landowner contributing the owned land to
6 a farming operation shall be considered to be ac-
7 tively engaged in farming with respect to the farm-
8 ing operation if—

9 “(A) the landowner receives rent or income
10 for the use of the land based on the production
11 on the land or the operating results of the oper-
12 ation; and

13 “(B) the person or legal entity meets the
14 standards provided in clauses (ii) and (iii) of
15 subsection (b)(2)(A).

16 “(2) ADULT FAMILY MEMBER.—If a majority of
17 the participants in a farming operation are family
18 members, an adult family member shall be consid-
19 ered to be actively engaged in farming with respect
20 to the farming operation if the person—

21 “(A) makes a significant contribution,
22 based on the total value of the farming oper-
23 ation, of active personal management or per-
24 sonal labor; and

1 “(B) with respect to such contribution,
2 meets the standards provided in clauses (ii) and
3 (iii) of subsection (b)(2)(A).

4 “(3) SHARECROPPER.—A sharecropper who
5 makes a significant contribution of personal labor to
6 a farming operation shall be considered to be ac-
7 tively engaged in farming with respect to the farm-
8 ing operation if the contribution meets the standards
9 provided in clauses (ii) and (iii) of subsection
10 (b)(2)(A).

11 “(4) GROWERS OF HYBRID SEED.—In deter-
12 mining whether a person or legal entity growing hy-
13 brid seed under contract shall be considered to be
14 actively engaged in farming, the Secretary shall not
15 take into consideration the existence of a hybrid seed
16 contract.

17 “(5) CUSTOM FARMING SERVICES.—

18 “(A) IN GENERAL.—A person or legal enti-
19 ty receiving custom farming services shall be
20 considered separately eligible for payment limi-
21 tation purposes if the person or legal entity is
22 actively engaged in farming based on subsection
23 (b)(2) or paragraphs (1) through (4) of this
24 subsection.

1 “(B) PROHIBITION.—No other rules with
2 respect to custom farming shall apply.

3 “(6) SPOUSE.—If 1 spouse (or estate of a de-
4 ceased spouse) is determined to be actively engaged,
5 the other spouse shall be determined to have met the
6 requirements of subsection (b)(2)(A)(i)(II).

7 “(d) CLASSES NOT ACTIVELY ENGAGED.—

8 “(1) CASH RENT LANDLORD.—A landlord con-
9 tributing land to a farming operation shall not be
10 considered to be actively engaged in farming with re-
11 spect to the farming operation if the landlord re-
12 ceives cash rent, or a crop share guaranteed as to
13 the amount of the commodity to be paid in rent, for
14 the use of the land.

15 “(2) OTHER PERSONS AND LEGAL ENTITIES.—
16 Any other person or legal entity that the Secretary
17 determines does not meet the standards described in
18 subsections (b)(2) and (c) shall not be considered to
19 be actively engaged in farming with respect to a
20 farming operation.”.

21 (e) DENIAL OF PROGRAM BENEFITS.—Section
22 1001B of the Food Security Act of 1985 (7 U.S.C. 1308–
23 2) is amended to read as follows:

1 **“SEC. 1001B. DENIAL OF PROGRAM BENEFITS.**

2 “(a) 2-YEAR DENIAL OF PROGRAM BENEFITS.—A
3 person or legal entity shall be ineligible to receive pay-
4 ments specified in subsections (b) and (c) of section 1001
5 for the crop year, and the succeeding crop year, in which
6 the Secretary determines that the person or legal entity—

7 “(1) failed to comply with section 1001A(b) and
8 adopted or participated in adopting a scheme or de-
9 vice to evade the application of section 1001, 1001A,
10 or 1001C; or

11 “(2) intentionally concealed the interest of the
12 person or legal entity in any farm or legal entity en-
13 gaged in farming.

14 “(b) EXTENDED INELIGIBILITY.—If the Secretary
15 determines that a person or legal entity, for the benefit
16 of the person or legal entity or the benefit of any other
17 person or legal entity, has knowingly engaged in, or aided
18 in the creation of a fraudulent document, failed to disclose
19 material information relevant to the administration of sec-
20 tions 1001 through 1001F, or committed other equally se-
21 rious actions (as identified in regulations issued by the
22 Secretary), the Secretary may for a period not to exceed
23 5 crop years deny the issuance of payments to the person
24 or legal entity.

25 “(c) PRO RATA DENIAL.—

1 “(1) IN GENERAL.—Payments otherwise owed
2 to a person or legal entity described in subsections
3 (a) or (b) shall be denied in a pro rata manner
4 based on the ownership interest of the person or
5 legal entity in a farm.

6 “(2) CASH RENT TENANT.—Payments other-
7 wise payable to a person or legal entity shall be de-
8 nied in a pro rata manner if the person or legal enti-
9 ty is a cash rent tenant on a farm owned or under
10 the control of a person or legal entity with respect
11 to which a determination has been made under sub-
12 section (a) or (b).

13 “(d) JOINT AND SEVERAL LIABILITY.—Any legal en-
14 tity (including partnerships and joint ventures) and any
15 member of any legal entity determined to have knowingly
16 participated in a scheme or device to evade, or that has
17 the purpose of evading, sections 1001, 1001A, or 1001C
18 shall be jointly and severally liable for any amounts that
19 are payable to the Secretary as the result of the scheme
20 or device (including amounts necessary to recover those
21 amounts).

22 “(e) RELEASE.—The Secretary may partially or fully
23 release from liability any person or legal entity who co-
24 operates with the Secretary in enforcing sections 1001,
25 1001A, and 1001C, and this section.”.

1 (f) CONFORMING AMENDMENT TO APPLY DIRECT
2 CONTRIBUTION TO NAP.—

3 (1) IN GENERAL.—Section 196(i) of the Fed-
4 eral Agriculture Improvement and Reform Act of
5 1996 (7 U.S.C. 7333(i)) is amended—

6 (A) by striking paragraphs (1) and (2) and
7 inserting the following:

8 “(1) DEFINITIONS.—In this subsection, the
9 terms ‘legal entity’ and ‘person’ have the meanings
10 given those terms in section 1001(a) of the Food Se-
11 curity Act of 1985 (7 U.S.C. 1308(a)).

12 “(2) PAYMENT LIMITATION.—The total amount
13 of payments received, directly or indirectly, by a per-
14 son or legal entity (excluding a joint venture or gen-
15 eral partnership) for any crop year may not exceed
16 \$100,000.”;

17 (B) by striking paragraph (4) and insert-
18 ing the following:

19 “(4) ADJUSTED GROSS INCOME LIMITATION.—
20 A person or legal entity that has an average ad-
21 justed gross income in excess of the average ad-
22 justed gross income limitation applicable under sec-
23 tion 1001D(b)(1)(A) of the Food Security Act of
24 1985 (7 U.S.C. 1308–3a(b)(1)(A)), or a successor

1 provision, shall not be eligible to receive noninsured
2 crop disaster assistance under this section.”; and

3 (C) in paragraph (5)—

4 (i) by striking “necessary to ensure”
5 and inserting “necessary—
6 “(A) to ensure”; and

7 (ii) by striking “this subsection.” and
8 inserting the following: “this subsection;
9 and

10 “(B) to ensure that payments under this
11 section are attributed to a person or legal entity
12 (excluding a joint venture or general partner-
13 ship) in accordance with the terms and condi-
14 tions of sections 1001 through 1001D of the
15 Food Security Act of 1985 (7 U.S.C. 1308 et
16 seq.), as determined by the Secretary.”.

17 (2) TRANSITION.—Section 196(i) of the Federal
18 Agriculture Improvement and Reform Act of 1996
19 (7 U.S.C. 7333(i)), as in effect on September 30,
20 2007, shall apply with respect to the 2007 and 2008
21 crops of any eligible crop.

22 (g) CONFORMING AMENDMENTS.—

23 (1) Section 1009(e) of the Food Security Act of
24 1985 (7 U.S.C. 1308a(e)) is amended in the second
25 sentence by striking “of \$50,000”.

1 (2) Section 609(b)(1) of the Emergency Live-
2 stock Feed Assistance Act of 1988 (7 U.S.C.
3 1471g(b)(1)) is amended by inserting “(before the
4 amendment made by section 1703(a) of the Food,
5 Conservation, and Energy Act of 2008)” after
6 “1985”.

7 (3) Section 524(b)(3) of the Federal Crop In-
8 surance Act (7 U.S.C. 1524(b)(3)) is amended by
9 inserting “(before the amendment made by section
10 1703(a) of the Food, Conservation, and Energy Act
11 of 2008)” after “1308(5))”.

12 (4) Section 10204(e)(1) of the Farm Security
13 and Rural Investment Act of 2002 (7 U.S.C.
14 8204(e)(1)) is amended by inserting “(before the
15 amendment made by section 1703(a) of the Food,
16 Conservation, and Energy Act of 2008)” after
17 “1308”.

18 (5) Section 1271(c)(3)(A) of the Food, Agri-
19 culture, Conservation, and Trade Act of 1990 (16
20 U.S.C. 2106a(c)(3)(A)) is amended by inserting
21 “(before the amendment made by section 1703(a) of
22 the Food, Conservation, and Energy Act of 2008)”
23 after “1308”.

24 (6) Section 291(2) of the Trade Act of 1974
25 (19 U.S.C. 2401(2)) is amended by inserting “(be-

1 fore the amendment made by section 1703(a) of the
2 Food, Conservation, and Energy Act of 2008)” be-
3 fore the period at the end.

4 (h) **TRANSITION.**—Section 1001, 1001A, and 1001B
5 of the Food Security Act of 1985 (7 U.S.C. 1308, 1308–
6 1, 1308–2), as in effect on September 30, 2007, shall con-
7 tinue to apply with respect to the 2007 and 2008 crops
8 of any covered commodity or peanuts.

9 **SEC. 1604. ADJUSTED GROSS INCOME LIMITATION.**

10 (a) **IN GENERAL.**—Section 1001D of the Food Secu-
11 rity Act of 1985 (7 U.S.C. 1308–3a(e)) is amended to
12 read as follows:

13 **“SEC. 1001D. ADJUSTED GROSS INCOME LIMITATION.**

14 **“(a) DEFINITIONS.—**

15 **“(1) IN GENERAL.—**In this section:

16 **“(A) AVERAGE ADJUSTED GROSS IN-**
17 **COME.—**The term ‘average adjusted gross in-
18 come’, with respect to a person or legal entity,
19 means the average of the adjusted gross income
20 or comparable measure of the person or legal
21 entity over the 3 taxable years preceding the
22 most immediately preceding complete taxable
23 year, as determined by the Secretary.

24 **“(B) AVERAGE ADJUSTED GROSS FARM IN-**
25 **COME.—**The term ‘average adjusted gross farm

1 income', with respect to a person or legal entity,
2 means the average of the portion of adjusted
3 gross income of the person or legal entity that
4 is attributable to activities related to farming,
5 ranching, or forestry for the 3 taxable years de-
6 scribed in subparagraph (A), as determined by
7 the Secretary in accordance with subsection (c).

8 “(C) AVERAGE ADJUSTED GROSS NON-
9 FARM INCOME.—The term ‘average adjusted
10 gross nonfarm income’, with respect to a person
11 or legal entity, means the difference between—

12 “(i) the average adjusted gross income
13 of the person or legal entity; and

14 “(ii) the average adjusted gross farm
15 income of the person or legal entity.

16 “(2) SPECIAL RULES FOR CERTAIN PERSONS
17 AND LEGAL ENTITIES.—In the case of a legal entity
18 that is not required to file a Federal income tax re-
19 turn or a person or legal entity that did not have
20 taxable income in 1 or more of the taxable years
21 used to determine the average under subparagraph
22 (A) or (B) of paragraph (1), the Secretary shall pro-
23 vide, by regulation, a method for determining the av-
24 erage adjusted gross income, the average adjusted
25 gross farm income, and the average adjusted gross

1 nonfarm income of the person or legal entity for
2 purposes of this section.

3 “(3) ALLOCATION OF INCOME.—On the request
4 of any person filing a joint tax return, the Secretary
5 shall provide for the allocation of average adjusted
6 gross income, average adjusted gross farm income,
7 and average adjusted gross nonfarm income among
8 the persons filing the return if—

9 “(A) the person provides a certified state-
10 ment by a certified public accountant or attor-
11 ney that specifies the method by which the av-
12 erage adjusted gross income, average adjusted
13 gross farm income, and average adjusted gross
14 nonfarm income would have been declared and
15 reported had the persons filed 2 separate re-
16 turns; and

17 “(B) the Secretary determines that the
18 method described in the statement is consistent
19 with the information supporting the filed joint
20 tax return.

21 “(b) LIMITATIONS.—

22 “(1) COMMODITY PROGRAMS.—

23 “(A) NONFARM LIMITATION.—Notwith-
24 standing any other provision of law, a person or
25 legal entity shall not be eligible to receive any

1 benefit described in subparagraph (C) during a
2 crop, fiscal, or program year, as appropriate, if
3 the average adjusted gross nonfarm income of
4 the person or legal entity exceeds \$500,000.

5 “(B) FARM LIMITATION.—Notwithstanding
6 any other provision of law, a person or legal en-
7 tity shall not be eligible to receive a direct pay-
8 ment under subtitle A or C of title I of the
9 Food, Conservation, and Energy Act of 2008
10 during a crop year, if the average adjusted
11 gross farm income of the person or legal entity
12 exceeds \$750,000.

13 “(C) COVERED BENEFITS.—Subparagraph
14 (A) applies with respect to the following:

15 “(i) A direct payment or counter-cycli-
16 cal payment under subtitle A or C of title
17 I of the Food, Conservation, and Energy
18 Act of 2008 or an average crop revenue
19 election payment under subtitle A of title
20 I of that Act.

21 “(ii) A marketing loan gain or loan
22 deficiency payment under subtitle B or C
23 of title I of the Food, Conservation, and
24 Energy Act of 2008.

1 “(iii) A payment or benefit under sec-
2 tion 196 of the Federal Agriculture Im-
3 provement and Reform Act of 1996 (7
4 U.S.C. 7333).

5 “(iv) A payment or benefit under sec-
6 tion 1506 of the Food, Conservation, and
7 Energy Act of 2008.

8 “(v) A payment or benefit under title
9 IX of the Trade Act of 1974 or subtitle B
10 of the Federal Crop Insurance Act.

11 “(2) CONSERVATION PROGRAMS.—

12 “(A) LIMITS.—

13 “(i) IN GENERAL.—Notwithstanding
14 any other provision of law, except as pro-
15 vided in clause (ii), a person or legal entity
16 shall not be eligible to receive any benefit
17 described in subparagraph (B) during a
18 crop, fiscal, or program year, as appro-
19 priate, if the average adjusted gross non-
20 farm income of the person or legal entity
21 exceeds \$1,000,000, unless not less than
22 66.66 percent of the average adjusted
23 gross income of the person or legal entity
24 is average adjusted gross farm income.

1 “(ii) EXCEPTION.—The Secretary
2 may waive the limitation established under
3 clause (i) on a case-by-case basis if the
4 Secretary determines that environmentally
5 sensitive land of special significance would
6 be protected.

7 “(B) COVERED BENEFITS.—Subparagraph
8 (A) applies with respect to the following:

9 “(i) A payment or benefit under title
10 XII of this Act.

11 “(ii) A payment or benefit under title
12 II of the Farm Security and Rural Invest-
13 ment Act of 2002 (Public Law 107–171;
14 116 Stat. 223) or title II of the Food,
15 Conservation, and Energy Act of 2008.

16 “(iii) A payment or benefit under sec-
17 tion 524(b) of the Federal Crop Insurance
18 Act (7 U.S.C. 1524(b)).

19 “(c) INCOME DETERMINATION.—

20 “(1) IN GENERAL.—In determining the average
21 adjusted gross farm income of a person or legal enti-
22 ty, the Secretary shall include income or benefits de-
23 rived from or related to—

24 “(A) the production of crops, including
25 specialty crops (as defined in section 3 of the

1 Specialty Crops Competitiveness Act of 2004 (7
2 U.S.C. 1621 note; Public Law 108–465)) and
3 unfinished raw forestry products;

4 “(B) the production of livestock (including
5 cattle, elk, reindeer, bison, horses, deer, sheep,
6 goats, swine, poultry, fish, and other
7 aquacultural products used for food, honeybees,
8 and other animals designated by the Secretary)
9 and products produced by, or derived from, live-
10 stock;

11 “(C) the production of farm-based renew-
12 able energy (as defined in section 9001 of the
13 Farm Security and Rural Investment Act of
14 2002 (7 U.S.C. 8101));

15 “(D) the sale, including the sale of ease-
16 ments and development rights, of farm, ranch,
17 or forestry land, water or hunting rights, or en-
18 vironmental benefits;

19 “(E) the rental or lease of land or equip-
20 ment used for farming, ranching, or forestry
21 operations, including water or hunting rights;

22 “(F) the processing (including packing),
23 storing (including shedding), and transporting
24 of farm, ranch, and forestry commodities, in-
25 cluding renewable energy;

1 “(G) the feeding, rearing, or finishing of
2 livestock;

3 “(H) the sale of land that has been used
4 for agriculture;

5 “(I) payments or other benefits received
6 under any program authorized under title I of
7 the Farm Security and Rural Investment Act of
8 2002 (7 U.S.C. 7901 et seq.) or title I of the
9 Food, Conservation, and Energy Act of 2008;

10 “(J) payments or other benefits received
11 under any program authorized under title XII
12 of this Act, title II of the Farm Security and
13 Rural Investment Act of 2002 (Public Law
14 107–171; 116 Stat. 223), or title II of the
15 Food, Conservation, and Energy Act of 2008;

16 “(K) payments or other benefits received
17 under section 196 of the Federal Agriculture
18 Improvement and Reform Act of 1996 (7
19 U.S.C. 7333);

20 “(L) payments or other benefits received
21 under title IX of the Trade Act of 1974 or sub-
22 title B of the Federal Crop Insurance Act;

23 “(M) risk management practices, including
24 benefits received under a program authorized
25 under the Federal Crop Insurance Act (7

1 U.S.C. 1501 et seq.) (including a catastrophic
2 risk protection plan offered under section
3 508(b) of that Act (7 U.S.C. 1508(b))); and

4 “(N) any other activity related to farming,
5 ranching, or forestry, as determined by the Sec-
6 retary.

7 “(2) INCOME DERIVED FROM FARMING, RANCH-
8 ING, OR FORESTRY.—In determining the average ad-
9 justed gross farm income of a person or legal entity,
10 in addition to the inclusions described in paragraph
11 (1), the Secretary shall include any income reported
12 on the Schedule F or other schedule used by the per-
13 son or legal entity to report income from farming,
14 ranching, or forestry operations to the Internal Rev-
15 enue Service, to the extent such income is not al-
16 ready included under paragraph (1).

17 “(3) SPECIAL RULE.—If not less than 66.66
18 percent of the average adjusted gross income of a
19 person or legal entity is derived from farming,
20 ranching, or forestry operations described in para-
21 graphs (1) and (2), in determining the average ad-
22 justed gross farm income of the person or legal enti-
23 ty, the Secretary shall also include—

24 “(A) the sale of equipment to conduct
25 farm, ranch, or forestry operations; and

1 “(B) the provision of production inputs
2 and services to farmers, ranchers, foresters, and
3 farm operations.

4 “(d) ENFORCEMENT.—

5 “(1) IN GENERAL.—To comply with subsection
6 (b), at least once every 3 years a person or legal en-
7 tity shall provide to the Secretary—

8 “(A) a certification by a certified public ac-
9 countant or another third party that is accept-
10 able to the Secretary that the average adjusted
11 gross income, average adjusted gross farm in-
12 come, and average adjusted gross nonfarm in-
13 come of the person or legal entity does not ex-
14 ceed the applicable limitation specified in that
15 subsection; or

16 “(B) information and documentation re-
17 garding the average adjusted gross income, av-
18 erage adjusted gross farm income, and average
19 adjusted gross nonfarm income of the person or
20 legal entity through other procedures estab-
21 lished by the Secretary.

22 “(2) DENIAL OF PROGRAM BENEFITS.—If the
23 Secretary determines that a person or legal entity
24 has failed to comply with this section, the Secretary
25 shall deny the issuance of applicable payments and

1 benefits specified in paragraphs (1)(C) and (2)(B) of
2 subsection (b) to the person or legal entity, under
3 similar terms and conditions as described in section
4 1001B.

5 “(3) AUDIT.—The Secretary shall establish sta-
6 tistically valid procedures under which the Secretary
7 shall conduct targeted audits of such persons or
8 legal entities as the Secretary determines are most
9 likely to exceed the limitations under subsection (b).

10 “(e) COMMENSURATE REDUCTION.—In the case of a
11 payment or benefit described in paragraphs (1)(C) and
12 (2)(B) of subsection (b) made in a crop, program, or fiscal
13 year, as appropriate, to an entity, general partnership, or
14 joint venture, the amount of the payment or benefit shall
15 be reduced by an amount that is commensurate with the
16 direct and indirect ownership interest in the entity, gen-
17 eral partnership, or joint venture of each person who has
18 an average adjusted gross income, average adjusted gross
19 farm income, or average adjusted gross nonfarm income
20 in excess of the applicable limitation specified in sub-
21 section (b).

22 “(f) EFFECTIVE PERIOD.—This section shall apply
23 only during the 2009 through 2012 crop, program, or fis-
24 cal years, as appropriate.”.

1 (b) TRANSITION.—Section 1001D of the Food Secu-
2 rity Act of 1985 (7 U.S.C. 1308–3a), as in effect on Sep-
3 tember 30, 2007, shall apply with respect to the 2007 and
4 2008 crop, fiscal, or program year, as appropriate, for
5 each program described in paragraphs (1)(C) and (2)(B)
6 of subsection (b) of that section (as amended by sub-
7 section (a)).

8 **SEC. 1605. AVAILABILITY OF QUALITY INCENTIVE PAY-**
9 **MENTS FOR COVERED OILSEED PRODUCERS.**

10 (a) INCENTIVE PAYMENTS REQUIRED.—Subject to
11 subsection (b) and the availability of appropriations under
12 subsection (h), the Secretary shall use funds made avail-
13 able under subsection (h) to provide quality incentive pay-
14 ments for the production of oilseeds with specialized traits
15 that enhance human health, as determined by the Sec-
16 retary.

17 (b) COVERED OILSEEDS.—The Secretary shall make
18 payments under this section only for the production of an
19 oilseed variety that has, as determined by the Secretary—

20 (1) been demonstrated to improve the health
21 profile of the oilseed for use in human consumption
22 by—

23 (A) reducing or eliminating the need to
24 partially hydrogenate the oil derived from the
25 oilseed for use in human consumption; or

1 (B) adopting new technology traits; and

2 (2) 1 or more impediments to commercializa-
3 tion.

4 (c) REQUEST FOR PROPOSALS.—

5 (1) ISSUANCE.—If funds are made available to
6 carry out this section for a crop year, the Secretary
7 shall issue a request for proposals for payments
8 under this section.

9 (2) MULTIYEAR PROPOSALS.—A proponent may
10 submit a multiyear proposal for payments under this
11 section.

12 (3) CONTENT OF PROPOSALS.—A proposal for
13 payments under this section shall include a descrip-
14 tion of—

15 (A) how use of the oilseed enhances human
16 health;

17 (B) the impediments to commercial use of
18 the oilseed;

19 (C) each oilseed variety described in sub-
20 section (b) and the value of the oilseed variety
21 as a matter of public policy;

22 (D) a range for the base price and pre-
23 miums per bushel or hundredweight to be paid
24 to producers;

1 (E) a per bushel or hundredweight amount
2 of incentive payments requested for each year
3 under this section that does not exceed $\frac{1}{3}$ of
4 the total premium offered for any year;

5 (F) the period of time, not to exceed 4
6 years, during which incentive payments are to
7 be provided to producers; and

8 (G) the targeted total quantity of produc-
9 tion and estimated acres needed to produce the
10 targeted quantity for each year under this sec-
11 tion.

12 (d) CONTRACTS FOR PRODUCTION.—

13 (1) IN GENERAL.—The Secretary shall approve
14 successful proposals submitted under subsection (c)
15 on a timely basis.

16 (2) TIMING OF PAYMENTS.—The Secretary
17 shall make payments to producers under this section
18 after the Secretary receives documentation that the
19 premium required under a contract has been paid to
20 covered producers.

21 (e) ADMINISTRATION.—

22 (1) IN GENERAL.—If funding provided for a
23 crop year is not fully allocated under the initial re-
24 quest for proposals under subsection (c), the Sec-

1 retary shall issue additional requests for proposals
2 for subsequent crop years under this section.

3 (2) PRORATED PAYMENTS.—If funding pro-
4 vided for a crop year is less than the amount other-
5 wise approved by the Secretary or for which ap-
6 proval is sought, the Secretary shall prorate the pay-
7 ments or approvals in a manner determined by the
8 Secretary so that the total payments do not exceed
9 the funding level.

10 (f) PROPRIETARY INFORMATION.—The Secretary
11 shall protect proprietary information provided to the Sec-
12 retary for the purpose of administering this section.

13 (g) PROGRAM COMPLIANCE AND PENALTIES.—

14 (1) GUARANTEE.—The proponent, if approved,
15 shall be required to guarantee that the oilseed on
16 which a payment is made by the Secretary under
17 this section is used for human consumption as de-
18 scribed in the proposal, as approved by the Sec-
19 retary.

20 (2) NONCOMPLIANCE.—If oilseeds on which a
21 payment is made by the Secretary under this section
22 are not actually used for the purpose the payment
23 is made, the proponent shall be required to pay to
24 the Secretary an amount equal to, as determined by
25 the Secretary—

1 (A) in the case of an inadvertent failure,
2 twice the amount of the payment made by the
3 Secretary under this section to the producer of
4 the oilseeds; and

5 (B) in any other case, up to twice the full
6 value of the oilseeds involved.

7 (3) DOCUMENTATION.—The Secretary may re-
8 quire such assurances and documentation as may be
9 needed to enforce the guarantee.

10 (4) ADDITIONAL PENALTIES.—

11 (A) IN GENERAL.—In addition to pay-
12 ments required under paragraph (2), the Sec-
13 retary may impose penalties on additional per-
14 sons that use oilseeds the use of which is re-
15 stricted under this section for a purpose other
16 than the intended use.

17 (B) AMOUNT.—The amount of a penalty
18 under this paragraph shall—

19 (i) be in an amount determined appro-
20 priated by the Secretary; but

21 (ii) not to exceed twice the full value
22 of the oilseeds.

23 (h) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated such sums as are nec-

1 essary to carry out this section for each of fiscal years
2 2009 through 2012.

3 **SEC. 1606. PERSONAL LIABILITY OF PRODUCERS FOR DEFICIENCIES.**
4

5 Section 164 of the Federal Agriculture Improvement
6 and Reform Act of 1996 (7 U.S.C. 7284) is amended by
7 striking “and title I of the Farm Security and Rural In-
8 vestment Act of 2002” each place it appears and inserting
9 “title I of the Farm Security and Rural Investment Act
10 of 2002, and title I of the Food, Conservation, and Energy
11 Act of 2008”.

12 **SEC. 1607. EXTENSION OF EXISTING ADMINISTRATIVE AUTHORITY REGARDING LOANS.**
13

14 Section 166 of the Federal Agriculture Improvement
15 and Reform Act of 1996 (7 U.S.C. 7286) is amended—

16 (1) by striking “and subtitle B and C of title
17 I of the Farm Security and Rural Investment Act of
18 2002” each place it appears and inserting “, title I
19 of the Farm Security and Rural Investment Act of
20 2002, and title I of the Food, Conservation, and En-
21 ergy Act of 2008”; and

22 (2) in subsection (c), by adding at the end the
23 following:

1 “(3) **TERMINATION OF AUTHORITY.**—The au-
2 thority to carry out paragraph (1) terminates effec-
3 tive ending with the 2009 crop year.”.

4 **SEC. 1608. ASSIGNMENT OF PAYMENTS.**

5 (a) **IN GENERAL.**—The provisions of section 8(g) of
6 the Soil Conservation and Domestic Allotment Act (16
7 U.S.C. 590h(g)), relating to assignment of payments, shall
8 apply to payments made under this title.

9 (b) **NOTICE.**—The producer making the assignment,
10 or the assignee, shall provide the Secretary with notice,
11 in such manner as the Secretary may require, of any as-
12 signment made under this section.

13 **SEC. 1609. TRACKING OF BENEFITS.**

14 As soon as practicable after the date of enactment
15 of this Act, the Secretary may track the benefits provided,
16 directly or indirectly, to individuals and entities under ti-
17 tles I and II and the amendments made by those titles.

18 **SEC. 1610. GOVERNMENT PUBLICATION OF COTTON PRICE**

19 **FORECASTS.**

20 Section 15 of the Agricultural Marketing Act (12
21 U.S.C. 1141j) is amended—

22 (1) by striking subsection (d); and

23 (2) by redesignating subsections (e) through (g)

24 as subsections (d) through (f), respectively.

1 **SEC. 1611. PREVENTION OF DECEASED INDIVIDUALS RE-**
2 **CEIVING PAYMENTS UNDER FARM COM-**
3 **MODITY PROGRAMS.**

4 (a) REGULATIONS.—Not later than 180 days after
5 the date of enactment of this Act, the Secretary shall pro-
6 mulgate regulations that—

7 (1) describe the circumstances under which, in
8 order to allow for the settlement of estates and for
9 related purposes, payments may be issued in the
10 name of a deceased individual; and

11 (2) preclude the issuance of payments to, and
12 on behalf of, deceased individuals that were not eligi-
13 ble for the payments.

14 (b) COORDINATION.—At least twice each year, the
15 Secretary shall reconcile the social security numbers of all
16 individuals who receive payments under this title, whether
17 directly or indirectly, with the Social Security Administra-
18 tion to determine if the individuals are alive.

19 **SEC. 1612. HARD WHITE WHEAT DEVELOPMENT PROGRAM.**

20 (a) DEFINITIONS.—In this section:

21 (1) ELIGIBLE HARD WHITE WHEAT SEED.—The
22 term “eligible hard white wheat seed” means hard
23 white wheat seed that, as determined by the Sec-
24 retary, is—

25 (A) certified;

1 (B) of a variety that is suitable for the
2 State in which the seed will be planted;

3 (C) rated at least superior with respect to
4 quality; and

5 (D) specifically approved under a seed es-
6 tablishment program established by the State
7 Department of Agriculture and the State Wheat
8 Commission of the 1 or more States in which
9 the seed will be planted.

10 (2) PROGRAM.—The term “program” means
11 the hard white wheat development program estab-
12 lished under subsection (b)(1).

13 (3) SECRETARY.—The term “Secretary” means
14 the Secretary of Agriculture, in consultation with the
15 State Departments of Agriculture and the State
16 Wheat Commissions of the States in regions in
17 which hard white wheat is produced, as determined
18 by the Secretary.

19 (b) ESTABLISHMENT.—

20 (1) IN GENERAL.—Subject to the availability of
21 appropriations, the Secretary shall establish a hard
22 white wheat development program in accordance
23 with paragraph (2) to promote the establishment of
24 hard white wheat as a viable market class of wheat
25 in the United States by encouraging production of at

1 least 240,000,000 bushels of hard white wheat by
2 2012.

3 (2) PAYMENTS.—

4 (A) IN GENERAL.—Subject to subpara-
5 graphs (B) and (C) and subsection (c), if funds
6 are made available for any of the 2009 through
7 2012 crops of hard white wheat, the Secretary
8 shall make available incentive payments to pro-
9 ducers of those crops.

10 (B) ACREAGE LIMITATION.—The Secretary
11 shall carry out subparagraph (A) subject to a
12 regional limitation determined by the Secretary
13 on the number of acres for which payments
14 may be received that takes into account plant-
15 ing history and potential planting, but does not
16 exceed a total of 2,900,000 acres or the equiva-
17 lent volume of production based on a yield of 50
18 bushels per acre.

19 (C) PAYMENT LIMITATIONS.—Payments to
20 producers on a farm described in subparagraph
21 (A) shall be—

22 (i) in an amount that is not less than
23 \$0.20 per bushel; and

1 (ii) in an amount that is not less than
2 \$2.00 per acre for planting eligible hard
3 white wheat seed.

4 (c) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated to carry out this section
6 \$35,000,000 for the period of fiscal years 2009 through
7 2012.

8 **SEC. 1613. DURUM WHEAT QUALITY PROGRAM.**

9 (a) IN GENERAL.—Subject to the availability of
10 funds under subsection (c), the Secretary shall provide
11 compensation to producers of durum wheat in an amount
12 not to exceed 50 percent of the actual cost of fungicides
13 applied to a crop of durum wheat of the producers to con-
14 trol Fusarium head blight (wheat scab) on acres certified
15 to have been planted to Durum wheat in a crop year.

16 (b) INSUFFICIENT FUNDS.—If the total amount of
17 funds appropriated for a fiscal year under subsection (c)
18 are insufficient to fulfill all eligible requests for compensa-
19 tion under this section, the Secretary shall prorate the
20 compensation payments in a manner determined by the
21 Secretary to be equitable.

22 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
23 authorized to be appropriated to carry out this section
24 \$10,000,000 for each of fiscal years 2009 through 2012.

1 **SEC. 1614. STORAGE FACILITY LOANS.**

2 (a) IN GENERAL.—As soon as practicable after the
3 date of enactment of this Act, the Secretary shall establish
4 a storage facility loan program to provide funds for pro-
5 ducers of grains, oilseeds, pulse crops, hay, renewable bio-
6 mass, and other storable commodities (other than sugar),
7 as determined by the Secretary, to construct or upgrade
8 storage and handling facilities for the commodities.

9 (b) ELIGIBLE PRODUCERS.—A storage facility loan
10 under this section shall be made available to any producer
11 described in subsection (a) that, as determined by the Sec-
12 retary—

13 (1) has a satisfactory credit history;

14 (2) has a need for increased storage capacity;

15 and

16 (3) demonstrates an ability to repay the loan.

17 (c) TERM OF LOANS.—A storage facility loan under
18 this section shall have a maximum term of 12 years.

19 (d) LOAN AMOUNT.—The maximum principal
20 amount of a storage facility loan under this section shall
21 be \$500,000.

22 (e) LOAN DISBURSEMENTS.—The Secretary shall
23 provide for 1 partial disbursement of loan principal and
24 1 final disbursement of loan principal, as determined to
25 be appropriate and subject to acceptable documentation,

1 to facilitate the purchase and construction of eligible facili-
2 ties.

3 (f) LOAN SECURITY.—Approval of a storage facility
4 loan under this section shall—

5 (1) require the borrower to provide loan secu-
6 rity to the Secretary, in the form of—

7 (A) a lien on the real estate parcel on
8 which the storage facility is located; or

9 (B) such other security as is acceptable to
10 the Secretary;

11 (2) under such rules and regulations as the
12 Secretary may prescribe, not require a severance
13 agreement from the holder of any prior lien on the
14 real estate parcel on which the storage facility is lo-
15 cated, if the borrower—

16 (A) agrees to increase the down payment
17 on the storage facility by an amount determined
18 appropriate by the Secretary; or

19 (B) provides other security acceptable to
20 the Secretary; and

21 (3) allow a borrower, upon the approval of the
22 Secretary, to define a subparcel of real estate as se-
23 curity for the storage facility loan if the subparcel
24 is—

1 (A) of adequate size and value to ade-
2 quately secure the loan; and

3 (B) not subject to any other liens or mort-
4 gages that are superior to the lien interest of
5 the Commodity Credit Corporation.

6 **SEC. 1615. STATE, COUNTY, AND AREA COMMITTEES.**

7 Section 8(b)(5)(B)(ii) of the Soil Conservation and
8 Domestic Allotment Act (16 U.S.C. 590h(b)(5)(B)(ii)) is
9 amended—

10 (1) by redesignating subclauses (I) and (II) as
11 items (aa) and (bb), respectively, and indenting ap-
12 propriately;

13 (2) in the matter preceding item (aa) (as redesi-
14 gnated by paragraph (1)), by striking “A committee
15 established” and inserting the following:

16 “(I) IN GENERAL.—Except as
17 provided in subclause (II), a com-
18 mittee established”; and

19 (3) by adding at the end the following:

20 “(II) COMBINATION OR CONSOLI-
21 DATION OF AREAS.—A committee es-
22 tablished by combining or consoli-
23 dating 2 or more county or area com-
24 mittees shall consist of not fewer than
25 3 nor more than 11 members that—

1 “(aa) are fairly representa-
2 tive of the agricultural producers
3 within the area covered by the
4 county, area, or local committee;
5 and

6 “(bb) are elected by the ag-
7 ricultural producers that partici-
8 pate or cooperate in programs
9 administered within the area
10 under the jurisdiction of the
11 county, area, or local committee.

12 “(III) REPRESENTATION OF SO-
13 CIALLY DISADVANTAGED FARMERS
14 AND RANCHERS.—The Secretary shall
15 develop procedures to maintain rep-
16 resentation of socially disadvantaged
17 farmers and ranchers on combined or
18 consolidated committees.

19 “(IV) ELIGIBILITY FOR MEMBER-
20 SHIP.—Notwithstanding any other
21 producer eligibility requirements for
22 service on county or area committees,
23 if a county or area is consolidated or
24 combined, a producer shall be eligible
25 to serve only as a member of the

1 county or area committee that the
2 producer elects to administer the farm
3 records of the producer.”.

4 **SEC. 1616. PROHIBITION ON CHARGING CERTAIN FEES.**

5 Public Law 108–470 (7 U.S.C. 7416a) is amended—

6 (1) in subsection (a), by striking “may” and in-
7 serting “shall”; and

8 (2) by adding at the end the following:

9 “(c) PROHIBITION ON CHARGING CERTAIN FEES.—

10 The Secretary may not charge any fees or related costs
11 for the collection of commodity assessments pursuant to
12 this Act.”.

13 **SEC. 1617. SIGNATURE AUTHORITY.**

14 (a) IN GENERAL.—In carrying out this title and title
15 II and amendments made by those titles, if the Secretary
16 approves a document, the Secretary shall not subsequently
17 determine the document is inadequate or invalid because
18 of the lack of authority of any person signing the docu-
19 ment on behalf of the applicant or any other individual,
20 entity, general partnership, or joint venture, or the docu-
21 ments relied upon were determined inadequate or invalid,
22 unless the person signing the program document know-
23 ingly and willfully falsified the evidence of signature au-
24 thority or a signature.

25 (b) AFFIRMATION.—

1 (1) IN GENERAL.—Nothing in this section pro-
2 hibits the Secretary from asking a proper party to
3 affirm any document that otherwise would be consid-
4 ered approved under subsection (a).

5 (2) NO RETROACTIVE EFFECT.—A denial of
6 benefits based on a lack of affirmation under para-
7 graph (1) shall not be retroactive with respect to
8 third-party producers who were not the subject of
9 the erroneous representation of authority, if the
10 third-party producers—

11 (A) relied on the prior approval by the Sec-
12 retary of the documents in good faith; and

13 (B) substantively complied with all pro-
14 gram requirements

15 **SEC. 1618. MODERNIZATION OF FARM SERVICE AGENCY.**

16 Not later than 180 days after the date of enactment
17 of this Act, the Secretary shall transmit to the Committee
18 on Agriculture and the Committee on Appropriations of
19 the House of Representatives and the Committee on Agri-
20 culture, Nutrition, and Forestry and the Committee on
21 Appropriations of the Senate a report prepared by a third
22 party that describes—

23 (1) the data processing and information tech-
24 nology challenges experienced in local offices of the
25 Farm Service Agency;

1 (2) the impact of those challenges on service to
2 producers, on efficiency of personnel, and on imple-
3 mentation of this Act;

4 (3) the need for information technology system
5 upgrades of the Farm Service Agency relative to
6 other agencies of the Department of Agriculture;

7 (4) the detailed plan needed to fulfill the needs
8 of the Department that are identified in paragraph
9 (3), including hardware, software, and infrastructure
10 requirements;

11 (5) the estimated cost and timeframe for long-
12 term modernization and stabilization of Farm Serv-
13 ice Agency information technology systems;

14 (6) the benefits associated with such moderniza-
15 tion and stabilization; and

16 (7) an evaluation of the existence of appropriate
17 oversight within the Department to ensure that
18 funds needed for systems upgrades can be appro-
19 priately managed.

20 **SEC. 1619. INFORMATION GATHERING.**

21 (a) GEOSPATIAL SYSTEMS.—The Secretary shall en-
22 sure that all the geospatial data of the agencies of the
23 Department of Agriculture are portable and standardized.

24 (b) LIMITATION ON DISCLOSURES.—

1 (1) DEFINITION OF AGRICULTURAL OPER-
2 ATION.—In this subsection, the term “agricultural
3 operation” includes the production and marketing of
4 agricultural commodities and livestock.

5 (2) PROHIBITION.—Except as provided in para-
6 graphs (3) and (4), the Secretary, any officer or em-
7 ployee of the Department of Agriculture, or any con-
8 tractor or cooperator of the Department, shall not
9 disclose—

10 (A) information provided by an agricul-
11 tural producer or owner of agricultural land
12 concerning the agricultural operation, farming
13 or conservation practices, or the land itself, in
14 order to participate in programs of the Depart-
15 ment; or

16 (B) geospatial information otherwise main-
17 tained by the Secretary about agricultural land
18 or operations for which information described in
19 subparagraph (A) is provided.

20 (3) AUTHORIZED DISCLOSURES.—

21 (A) LIMITED RELEASE OF INFORMA-
22 TION.—If the Secretary determines that the in-
23 formation described in paragraph (2) will not
24 be subsequently disclosed except in accordance
25 with paragraph (4), the Secretary may release

1 or disclose the information to a person or Fed-
2 eral, State, local, or tribal agency working in
3 cooperation with the Secretary in any Depart-
4 ment program—

5 (i) when providing technical or finan-
6 cial assistance with respect to the agricul-
7 tural operation, agricultural land, or farm-
8 ing or conservation practices; or

9 (ii) when responding to a disease or
10 pest threat to agricultural operations, if
11 the Secretary determines that a threat to
12 agricultural operations exists and the dis-
13 closure of information to a person or co-
14 operating government entity is necessary
15 to assist the Secretary in responding to the
16 disease or pest threat as authorized by law.

17 (4) EXCEPTIONS.—Nothing in this subsection
18 affects—

19 (A) the disclosure of payment information
20 (including payment information and the names
21 and addresses of recipients of payments) under
22 any Department program that is otherwise au-
23 thorized by law;

24 (B) the disclosure of information described
25 in paragraph (2) if the information has been

1 transformed into a statistical or aggregate form
2 without naming any—

3 (i) individual owner, operator, or pro-
4 ducer; or

5 (ii) specific data gathering site; or

6 (C) the disclosure of information described
7 in paragraph (2) pursuant to the consent of the
8 agricultural producer or owner of agricultural
9 land.

10 (5) **CONDITION OF OTHER PROGRAMS.**—The
11 participation of the agricultural producer or owner
12 of agricultural land in, or receipt of any benefit
13 under, any program administered by the Secretary
14 may not be conditioned on the consent of the agri-
15 cultural producer or owner of agricultural land
16 under paragraph (4)(C).

17 (6) **WAIVER OF PRIVILEGE OR PROTECTION.**—
18 The disclosure of information under paragraph (2)
19 shall not constitute a waiver of any applicable privi-
20 lege or protection under Federal law, including trade
21 secret protection.

22 **SEC. 1620. LEASING OF OFFICE SPACE.**

23 Not later than 1 year after the date of enactment
24 of this Act, the Secretary shall submit to the Committee
25 on Agriculture and the Committee on Appropriations of

1 the House of Representatives and the Committee on Agri-
2 culture, Nutrition, and Forestry and the Committee on
3 Appropriations of the Senate a report that describes—

4 (1) the costs and time associated with com-
5 plying with leasing procedures of the General Serv-
6 ices Administration relative to the previous inde-
7 pendent leasing procedures of the Department of
8 Agriculture;

9 (2) the additional staffing needs associated with
10 complying with those procedures; and

11 (3) the value added to the leasing process and
12 the ability of the Department to secure best-value
13 leases by complying with the General Services Ad-
14 ministration leasing procedures.

15 **SEC. 1621. GEOGRAPHICALLY DISADVANTAGED FARMERS**
16 **AND RANCHERS.**

17 (a) DEFINITIONS.—In this section:

18 (1) AGRICULTURAL COMMODITY.—The term
19 “agricultural commodity” has the meaning given the
20 term in section 102 of the Agricultural Trade Act of
21 1978 (7 U.S.C. 5602).

22 (2) GEOGRAPHICALLY DISADVANTAGED FARM-
23 ER OR RANCHER.—The term “geographically dis-
24 advantaged farmer or rancher” has the meaning
25 given the term in section 10906(a) of the Farm Se-

1 security and Rural Investment Act of 2002 (7 U.S.C.
2 2204 note; Public Law 107–171).

3 (b) AUTHORIZATION.—Subject to the availability of
4 funds under subsection (d), the Secretary may provide
5 geographically disadvantaged farmers or ranchers direct
6 reimbursement payments for activities described in sub-
7 section (c).

8 (c) TRANSPORTATION.—

9 (1) IN GENERAL.—Subject to paragraphs (2)
10 and (3), the Secretary may provide direct reimburse-
11 ment payments to a geographically disadvantaged
12 farmer or rancher to transport an agricultural com-
13 modity, or inputs used to produce an agricultural
14 commodity, during a fiscal year.

15 (2) PROOF OF ELIGIBILITY.—To be eligible to
16 receive assistance under paragraph (1), a geographi-
17 cally disadvantaged farmer or rancher shall dem-
18 onstrate to the Secretary that transportation of the
19 agricultural commodity or inputs occurred over a
20 distance of more than 30 miles, as determined by
21 the Secretary.

22 (3) AMOUNT.—

23 (A) IN GENERAL.—Subject to paragraph
24 (2), the amount of direct reimbursement pay-
25 ments made to a geographically disadvantaged

1 farmer or rancher under this section for a fiscal
2 year shall equal the product obtained by multi-
3 plying—

4 (i) the amount of costs incurred by
5 the geographically disadvantaged farmer or
6 rancher for transportation of the agricul-
7 tural commodity or inputs during the fiscal
8 year; and

9 (ii)(I) the percentage of the allowance
10 for that fiscal year under section 5941 of
11 title 5, United States Code, for Federal
12 employees stationed in Alaska and Hawaii;
13 or

14 (II) in the case of an insular area (as
15 defined in section 1404 of the National
16 Agricultural Research, Extension, and
17 Teaching Policy Act of 1977 (7 U.S.C.
18 3103)), a comparable percentage of the al-
19 lowance for the fiscal year, as determined
20 by the Secretary.

21 (B) LIMITATION.—The total amount of di-
22 rect reimbursement payments provided by the
23 Secretary under this section shall not exceed
24 \$15,000,000 for a fiscal year.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as are nec-
3 essary to carry out this section for each of fiscal years
4 2009 through 2012.

5 **SEC. 1622. IMPLEMENTATION.**

6 The Secretary shall make available to the Farm Serv-
7 ice Agency to carry out this title \$50,000,000.

8 **SEC. 1623. REPEALS.**

9 (a) COMMISSION ON APPLICATION OF PAYMENT LIM-
10 ITATIONS.—Section 1605 of the Farm Security and Rural
11 Investment Act of 2002 (7 U.S.C. 7993) is repealed.

12 (b) RENEWED AVAILABILITY OF MARKET LOSS AS-
13 SISTANCE AND CERTAIN EMERGENCY ASSISTANCE TO
14 PERSONS THAT FAILED TO RECEIVE ASSISTANCE
15 UNDER EARLIER AUTHORITIES.—Section 1617 of the
16 Farm Security and Rural Investment Act of 2002 (7
17 U.S.C. 8000) is repealed.

1 **TITLE II—CONSERVATION**
2 **Subtitle A—Definitions and Highly**
3 **Erodible Land and Wetland**
4 **Conservation**

5 **SEC. 2001. DEFINITIONS RELATING TO CONSERVATION**

6 **TITLE OF FOOD SECURITY ACT OF 1985.**

7 (a) **BEGINNING FARMER OR RANCHER.**—Section
8 1201(a) of the Food Security Act of 1985 (16 U.S.C.
9 3801(a)) is amended—

10 (1) by redesignating paragraphs (2) through
11 (6), (7) through (11), (12), (13) through (15), (16),
12 (17), and (18) as paragraphs (3) through (7), (9)
13 through (13), (15), (20) through (22), (24), (26),
14 and (27), respectively; and

15 (2) by inserting after paragraph (1) the fol-
16 lowing new paragraph:

17 “(2) **BEGINNING FARMER OR RANCHER.**—The
18 term ‘beginning farmer or rancher’ has the meaning
19 given the term in section 343(a)(8) of the Consoli-
20 dated Farm and Rural Development Act (7 U.S.C.
21 1991(a)(8)).”.

22 (b) **FARM.**—Section 1201(a) of the Food Security
23 Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting
24 after paragraph (7), as redesignated by subsection (a)(1),
25 the following new paragraph:

1 “(8) FARM.—The term ‘farm’ means a farm
2 that—

3 “(A) is under the general control of one
4 operator;

5 “(B) has one or more owners;

6 “(C) consists of one or more tracts of land,
7 whether or not contiguous;

8 “(D) is located within a county or region,
9 as determined by the Secretary; and

10 “(E) may contain lands that are incidental
11 to the production of perennial crops, including
12 conserving uses, forestry, and livestock, as de-
13 termined by the Secretary.”.

14 (c) INDIAN TRIBE.—Section 1201(a) of the Food Se-
15 curity Act of 1985 (16 U.S.C. 3801(a)) is amended by
16 inserting after paragraph (13), as redesignated by sub-
17 section (a)(1), the following new paragraph:

18 “(14) INDIAN TRIBE.—The term ‘Indian tribe’
19 has the meaning given the term in section 4(e) of
20 the Indian Self-Determination and Education Assist-
21 ance Act (25 U.S.C. 450b(e)).”.

22 (d) INTEGRATED PEST MANAGEMENT; LIVESTOCK;
23 NONINDUSTRIAL PRIVATE FOREST LAND; PERSON AND
24 LEGAL ENTITY.—Section 1201(a) of the Food Security
25 Act of 1985 (16 U.S.C. 3801(a)) is amended by inserting

1 after paragraph (15), as redesignated by subsection
2 (a)(1), the following new paragraphs:

3 “(16) INTEGRATED PEST MANAGEMENT.—The
4 term ‘integrated pest management’ means a sustain-
5 able approach to managing pests by combining bio-
6 logical, cultural, physical, and chemical tools in a
7 way that minimizes economic, health, and environ-
8 mental risks.

9 “(17) LIVESTOCK.—The term ‘livestock’ means
10 all animals raised on farms, as determined by the
11 Secretary.

12 “(18) NONINDUSTRIAL PRIVATE FOREST
13 LAND.—The term ‘nonindustrial private forest land’
14 means rural land, as determined by the Secretary,
15 that—

16 “(A) has existing tree cover or is suitable
17 for growing trees; and

18 “(B) is owned by any nonindustrial private
19 individual, group, association, corporation, In-
20 dian tribe, or other private legal entity that has
21 definitive decisionmaking authority over the
22 land.

23 “(19) PERSON AND LEGAL ENTITY.—For pur-
24 poses of applying payment limitations under subtitle
25 D, the terms ‘person’ and ‘legal entity’ have the

1 meanings given those terms in section 1001(a) of
2 this Act (7 U.S.C. 1308(a)).”.

3 (e) SOCIALLY DISADVANTAGED FARMER OR RANCH-
4 ER.—Section 1201(a) of the Food Security Act of 1985
5 (16 U.S.C. 3801(a)) is amended by inserting after para-
6 graph (22), as redesignated by subsection (a)(1), the fol-
7 lowing new paragraph:

8 “(23) SOCIALLY DISADVANTAGED FARMER OR
9 RANCHER.—The term ‘socially disadvantaged farmer
10 or rancher’ has the meaning given the term in sec-
11 tion 2501(e)(2) of the Food, Agriculture, Conserva-
12 tion, and Trade Act of 1990 (7 U.S.C.
13 2279(e)(2)).”.

14 (f) TECHNICAL ASSISTANCE.—Section 1201(a) of the
15 Food Security Act of 1985 (16 U.S.C. 3801(a)) is amend-
16 ed by inserting after paragraph (24), as redesignated by
17 subsection (a)(1), the following new paragraph:

18 “(25) TECHNICAL ASSISTANCE.—The term
19 ‘technical assistance’ means technical expertise, in-
20 formation, and tools necessary for the conservation
21 of natural resources on land active in agricultural,
22 forestry, or related uses. The term includes the fol-
23 lowing:

24 “(A) Technical services provided directly to
25 farmers, ranchers, and other eligible entities,

1 such as conservation planning, technical con-
2 sultation, and assistance with design and imple-
3 mentation of conservation practices.

4 “(B) Technical infrastructure, including
5 activities, processes, tools, and agency functions
6 needed to support delivery of technical services,
7 such as technical standards, resource inven-
8 tories, training, data, technology, monitoring,
9 and effects analyses.”.

10 **SEC. 2002. REVIEW OF GOOD FAITH DETERMINATIONS RE-**
11 **LATED TO HIGHLY ERODIBLE LAND CON-**
12 **SERVATION.**

13 Section 1212 of the Food Security Act of 1985 (16
14 U.S.C. 3812) is amended by striking subsection (f) and
15 inserting the following new subsection:

16 “(f) GRADUATED PENALTIES.—

17 “(1) INELIGIBILITY.—No person shall become
18 ineligible under section 1211 for program loans, pay-
19 ments, and benefits as a result of the failure of the
20 person to actively apply a conservation plan, if the
21 Secretary determines that the person has acted in
22 good faith and without an intent to violate this sub-
23 title.

24 “(2) ELIGIBLE REVIEWERS.—A determination
25 of the Secretary, or a designee of the Secretary,

1 under paragraph (1) shall be reviewed by the appli-
2 cable—

3 “(A) State Executive Director, with the
4 technical concurrence of the State Conserva-
5 tionist; or

6 “(B) district director, with the technical
7 concurrence of the area conservationist.

8 “(3) PERIOD FOR IMPLEMENTATION.—A person
9 who meets the requirements of paragraph (1) shall
10 be allowed a reasonable period of time, as deter-
11 mined by the Secretary, but not to exceed 1 year,
12 during which to implement the measures and prac-
13 tices necessary to be considered to be actively apply-
14 ing the conservation plan of the person.

15 “(4) PENALTIES.—

16 “(A) APPLICATION.—This paragraph ap-
17 plies if the Secretary determines that—

18 “(i) a person has failed to comply
19 with section 1211 with respect to highly
20 erodible cropland, and has acted in good
21 faith and without an intent to violate sec-
22 tion 1211; or

23 “(ii) the violation—

24 “(I) is technical and minor in na-
25 ture; and

1 “(II) has a minimal effect on the
2 erosion control purposes of the con-
3 servation plan applicable to the land
4 on which the violation has occurred.

5 “(B) REDUCTION.—If this paragraph ap-
6 plies under subparagraph (A), the Secretary
7 shall, in lieu of applying the ineligibility provi-
8 sions of section 1211, reduce program benefits
9 described in section 1211 that the producer
10 would otherwise be eligible to receive in a crop
11 year by an amount commensurate with the seri-
12 ousness of the violation, as determined by the
13 Secretary.

14 “(5) SUBSEQUENT CROP YEARS.—Any person
15 whose benefits are reduced for any crop year under
16 this subsection shall continue to be eligible for all of
17 the benefits described in section 1211 for any subse-
18 quent crop year if, prior to the beginning of the sub-
19 sequent crop year, the Secretary determines that the
20 person is actively applying a conservation plan ac-
21 cording to the schedule specified in the plan.”.

22 **SEC. 2003. REVIEW OF GOOD FAITH DETERMINATIONS RE-**
23 **LATED TO WETLAND CONSERVATION.**

24 Section 1222(h) of the Food Security Act of 1985
25 (16 U.S.C. 3822(h)) is amended—

1 (1) by redesignating paragraph (2) as para-
2 graph (3);

3 (2) by inserting after paragraph (1) the fol-
4 lowing new paragraph:

5 “(2) ELIGIBLE REVIEWERS.—A determination
6 of the Secretary, or a designee of the Secretary,
7 under paragraph (1) shall be reviewed by the appli-
8 cable—

9 “(A) State Executive Director, with the
10 technical concurrence of the State Conserva-
11 tionist; or

12 “(B) district director, with the technical
13 concurrence of the area conservationist.”; and

14 (3) in paragraph (3) (as redesignated by para-
15 graph (1)), by inserting “be” before “actively”.

16 **Subtitle B—Conservation Reserve**
17 **Program**

18 **SEC. 2101. EXTENSION OF CONSERVATION RESERVE PRO-**
19 **GRAM.**

20 Section 1231(a) of the Food Security Act of 1985
21 (16 U.S.C. 3831(a)) is amended—

22 (1) by striking “2007 calendar year” and in-
23 serting “2012 fiscal year”; and

1 (2) by inserting before the period the following:
2 “and to address issues raised by State, regional, and
3 national conservation initiatives”; and

4 **SEC. 2102. LAND ELIGIBLE FOR ENROLLMENT IN CON-**
5 **SERVATION RESERVE.**

6 Section 1231(b) of the Food Security Act of 1985
7 (16 U.S.C. 3831(b)) is amended—

8 (1) in paragraph (1)(B)—

9 (A) by striking “Farm Security and Rural
10 Investment Act of 2002” and inserting “Food,
11 Conservation, and Energy Act of 2008”; and

12 (B) by striking the period at the end and
13 inserting a semicolon; and

14 (2) in paragraph (4)—

15 (A) in subparagraph (C), by striking “; or”
16 and inserting a semicolon;

17 (B) in subparagraph (D), by striking
18 “and” at the end and inserting “or”; and

19 (C) in subparagraph (E), by inserting “or”
20 after the semicolon at the end.

21 **SEC. 2103. MAXIMUM ENROLLMENT OF ACREAGE IN CON-**
22 **SERVATION RESERVE.**

23 Section 1231(d) of the Food Security Act of 1985
24 (16 U.S.C. 3831(d)) is amended—

1 (1) by striking “2007 calendar years” and in-
2 serting “2009 fiscal years”;

3 (2) by striking “(16 U.S.C.” and inserting
4 “(16 U.S.C.”; and

5 (3) by adding at the end the following new sen-
6 tence: “During fiscal years 2010, 2011, and 2012,
7 the Secretary may maintain up to 32,000,000 acres
8 in the conservation reserve at any 1 time.”.

9 **SEC. 2104. DESIGNATION OF CONSERVATION PRIORITY**
10 **AREAS.**

11 Section 1231(f) of the Food Security Act of 1985 (16
12 U.S.C. 3831(f)) is amended by striking “the Chesapeake
13 Bay Region (Pennsylvania, Maryland, and Virginia)” and
14 inserting “the Chesapeake Bay Region”.

15 **SEC. 2105. TREATMENT OF MULTI-YEAR GRASSES AND LEG-**
16 **UMES.**

17 Subsection (g) of section 1231 of the Food Security
18 Act of 1985 (16 U.S.C. 3831) is amended to read as fol-
19 lows:

20 “(g) MULTI-YEAR GRASSES AND LEGUMES.—

21 “(1) IN GENERAL.—For purposes of this sub-
22 chapter, alfalfa and other multi-year grasses and
23 legumes in a rotation practice, approved by the Sec-
24 retary, shall be considered agricultural commodities.

1 “(2) CROPPING HISTORY.—Alfalfa, when grown
2 as part of a rotation practice, as determined by the
3 Secretary, is an agricultural commodity subject to
4 the cropping history criteria under subsection
5 (b)(1)(B) for the purpose of determining whether
6 highly erodible cropland has been planted or consid-
7 ered planted for 4 of the 6 years referred to in such
8 subsection.”.

9 **SEC. 2106. REVISED PILOT PROGRAM FOR ENROLLMENT OF**
10 **WETLAND AND BUFFER ACREAGE IN CON-**
11 **SERVATION RESERVE.**

12 (a) REVISED PROGRAM.—

13 (1) IN GENERAL.—Title XII of the Food Secu-
14 rity Act of 1985 is amended by inserting after sec-
15 tion 1231 (16 U.S.C. 3831) the following new sec-
16 tion:

17 **“SEC. 1231B. PILOT PROGRAM FOR ENROLLMENT OF WET-**
18 **LAND AND BUFFER ACREAGE IN CONSERVA-**
19 **TION RESERVE.**

20 “(a) PROGRAM REQUIRED.—

21 “(1) IN GENERAL.—During the 2008 through
22 2012 fiscal years, the Secretary shall carry out a
23 program in each State under which the Secretary
24 shall enroll eligible acreage described in subsection
25 (b).

1 “(2) PARTICIPATION AMONG STATES.—The
2 Secretary shall ensure, to the maximum extent prac-
3 ticable, that owners and operators in each State
4 have an equitable opportunity to participate in the
5 program established under this section.

6 “(b) ELIGIBLE ACREAGE.—

7 “(1) WETLAND AND RELATED LAND.—Subject
8 to subsections (c) and (d), an owner or operator may
9 enroll in the conservation reserve, pursuant to the
10 program established under this section, land—

11 “(A) that is wetland (including a converted
12 wetland described in section 1222(b)(1)(A))
13 that had a cropping history during at least 3 of
14 the immediately preceding 10 crop years;

15 “(B) on which a constructed wetland is to
16 be developed that will receive flow from a row
17 crop agriculture drainage system and is de-
18 signed to provide nitrogen removal in addition
19 to other wetland functions;

20 “(C) that was devoted to commercial pond-
21 raised aquaculture in any year during the pe-
22 riod of calendar years 2002 through 2007; or

23 “(D) that, after January 1, 1990, and be-
24 fore December 31, 2002, was—

1 “(i) cropped during at least 3 of 10
2 crop years; and

3 “(ii) subject to the natural overflow of
4 a prairie wetland.

5 “(2) BUFFER ACREAGE.—Subject to sub-
6 sections (c) and (d), an owner or operator may en-
7 roll in the conservation reserve, pursuant to the pro-
8 gram established under this section, buffer acreage
9 that—

10 “(A) with respect to land described in sub-
11 paragraph (A), (B), or (C) of paragraph (1)—

12 “(i) is contiguous to such land

13 “(ii) is used to protect such land; and

14 “(iii) is of such width as the Secretary
15 determines is necessary to protect such
16 land, taking into consideration and accom-
17 modating the farming practices (including
18 the straightening of boundaries to accom-
19 modate machinery) used with respect to
20 the cropland that surrounds such land; and

21 “(B) with respect to land described in sub-
22 paragraph (D) of paragraph (1), enhances a
23 wildlife benefit to the extent practicable in
24 terms of upland to wetland ratios, as deter-
25 mined by the Secretary.

1 “(c) PROGRAM LIMITATIONS.—

2 “(1) ACREAGE LIMITATION.—The Secretary
3 may enroll in the conservation reserve, pursuant to
4 the program established under this section, not more
5 than—

6 “(A) 100,000 acres in any State; and

7 “(B) a total of 1,000,000 acres.

8 “(2) RELATIONSHIP TO MAXIMUM ENROLL-
9 MENT.—Subject to paragraph (3), any acreage en-
10 rolled in the conservation reserve under this section
11 shall be considered acres maintained in the conserva-
12 tion reserve.

13 “(3) RELATIONSHIP TO OTHER ENROLLED
14 ACREAGE.—Acreage enrolled in the conservation re-
15 serve under this section shall not affect for any fis-
16 cal year the quantity of—

17 “(A) acreage enrolled to establish con-
18 servation buffers as part of the program an-
19 nounced on March 24, 1998 (63 Fed. Reg.
20 14109); or

21 “(B) acreage enrolled into the conservation
22 reserve enhancement program announced on
23 May 27, 1998 (63 Fed. Reg. 28965).

24 “(4) REVIEW; POTENTIAL INCREASE IN EN-
25 ROLLMENT ACREAGE.—The Secretary shall conduct

1 a review of the program established under this sec-
2 tion with respect to each State that has enrolled
3 land in the conservation reserve pursuant to the pro-
4 gram. As a result of the review, the Secretary may
5 increase the number of acres that may be enrolled
6 in a State under the program to not more than
7 200,000 acres, notwithstanding paragraph (1)(A).

8 “(d) OWNER OR OPERATOR ENROLLMENT LIMITA-
9 TIONS.—

10 “(1) WETLAND AND RELATED LAND.—

11 “(A) WETLANDS AND CONSTRUCTED WET-
12 LANDS.—The maximum size of any land de-
13 scribed in subparagraph (A) or (B) of sub-
14 section (b)(1) that an owner or operator may
15 enroll in the conservation reserve, pursuant to
16 the program established under this section,
17 shall be 40 contiguous acres.

18 “(B) FLOODED FARMLAND.—The max-
19 imum size of any land described in subpara-
20 graph (D) of subsection (b)(1) that an owner or
21 operator may enroll in the conservation reserve,
22 pursuant to the program established under this
23 section, shall be 20 contiguous acres.

24 “(C) COVERAGE.—All acres described in
25 subparagraph (A) or (B), including acres that

1 are ineligible for payment, shall be covered by
2 the conservation contract.

3 “(2) BUFFER ACREAGE.—The maximum size of
4 any buffer acreage described in subsection (b)(2)
5 that an owner or operator may enroll in the con-
6 servation reserve under this section shall be deter-
7 mined by the Secretary in consultation with the
8 State Technical Committee.

9 “(3) TRACTS.—Except for land described in
10 subsection (b)(1)(C) and buffer acreage related to
11 such land, the maximum size of any eligible acreage
12 described in subsection (b)(1) in a tract of an owner
13 or operator enrolled in the conservation reserve
14 under this section shall be 40 acres.

15 “(e) DUTIES OF OWNERS AND OPERATORS.—During
16 the term of a contract entered into under the program
17 established under this section, an owner or operator shall
18 agree—

19 “(1) to restore the hydrology of the wetland
20 within the eligible acreage to the maximum extent
21 practicable, as determined by the Secretary;

22 “(2) to establish vegetative cover (which may
23 include emerging vegetation in water and bottom-
24 land hardwoods, cypress, and other appropriate tree

1 species) on the eligible acreage, as determined by the
2 Secretary;

3 “(3) to a general prohibition of commercial use
4 of the enrolled land; and

5 “(4) to carry out other duties described in sec-
6 tion 1232.

7 “(f) DUTIES OF THE SECRETARY.—

8 “(1) IN GENERAL.—Except as provided in para-
9 graphs (2) and (3), in return for a contract entered
10 into under this section, the Secretary shall—

11 “(A) make payments to the owner or oper-
12 ator based on rental rates for cropland; and

13 “(B) provide assistance to the owner or op-
14 erator in accordance with sections 1233 and
15 1234.

16 “(2) CONTRACT OFFERS AND PAYMENTS.—The
17 Secretary shall use the method of determination de-
18 scribed in section 1234(c)(2)(B) to determine the ac-
19 ceptability of contract offers and the amount of rent-
20 al payments under this section.

21 “(3) INCENTIVES.—The amounts payable to
22 owners and operators in the form of rental payments
23 under contracts entered into under this section shall
24 reflect incentives that are provided to owners and

1 operators to enroll filterstrips in the conservation re-
2 serve under section 1234.”.

3 (2) REPEAL OF SUPERCEDED PROGRAM.—Sec-
4 tion 1231 of the Food Security Act of 1985 (16
5 U.S.C. 3831) is amended—

6 (A) by striking subsection (h); and

7 (B) by redesignating subsections (i) and (j)
8 as subsections (h) and (i), respectively.

9 (b) CONFORMING CHANGES TO EMERGENCY FOR-
10 ESTRY CONSERVATION RESERVE PROGRAM.—Subsection
11 (k) of section 1231 of the Food Security Act of 1985 (16
12 U.S.C. 3831) is amended—

13 (1) by striking “(k) EMERGENCY FORESTRY
14 CONSERVATION RESERVE PROGRAM.—” and insert-
15 ing the following:

16 **“SEC. 1231A. EMERGENCY FORESTRY CONSERVATION RE-
17 SERVE PROGRAM.”;**

18 (2) by striking “subsection” each place it ap-
19 pears (other than paragraph (3)(C)(ii)) and insert-
20 ing “section”;

21 (3) by redesignating paragraphs (1), (2), and
22 (3) as subsections (a), (b), and (c), respectively;

23 (4) in subsection (a), as so redesignated, by re-
24 designating subparagraphs (A) and (B) as para-
25 graphs (1) and (2), respectively; and

1 (5) in subsection (c), as so redesignated—

2 (A) by redesignating subparagraphs (A)
3 through (I) as paragraphs (1) through (9), re-
4 spectively;

5 (B) in paragraph (1), as so redesignated,
6 by striking “subparagraph (B)” and “subpara-
7 graph (G)” and inserting “paragraph (2)” and
8 “paragraph (7)”, respectively;

9 (C) in paragraph (3), as so redesignated—

10 (i) by redesignating clauses (i) and
11 (ii) as subparagraphs (A) and (B), respec-
12 tively; and

13 (ii) by striking “subsection (d)” and
14 inserting “section 1231(d)”;

15 (D) in paragraph (4), as so redesignated,
16 by redesignating clauses (i) and (ii) as subpara-
17 graphs (A) and (B), respectively;

18 (E) in paragraph (5), as so redesignated—

19 (i) by redesignating clauses (i)
20 through (v) as subparagraphs (A) through
21 (E), respectively, and subclauses (I) and
22 (II) as clauses (i) and (ii), respectively;

23 (ii) in subparagraph (B), as so redesi-
24 gnated, by striking “clause (i)(I)” and in-
25 serting “subparagraph (A)(i)”; and

1 (iii) in subparagraph (C), as so redesi-
2 gnated, by striking “clause (i)(II)” and in-
3 serting “subparagraph (A)(ii)”; and
4 (F) in paragraph (9), as so redesignated,
5 by redesignating clauses (i) through (iii) as sub-
6 paragraphs (A) through (C), respectively, and
7 subclauses (I) through (III) as clauses (i)
8 through (iii), respectively.

9 **SEC. 2107. ADDITIONAL DUTY OF PARTICIPANTS UNDER**
10 **CONSERVATION RESERVE CONTRACTS.**

11 Section 1232(a) of the Food Security Act of 1985
12 (16 U.S.C. 3832(a)) is amended—

13 (1) by redesignating paragraphs (5) through
14 (10) as paragraphs (6) through (11), respectively;
15 and

16 (2) by inserting after paragraph (4) the fol-
17 lowing new paragraph:

18 “(5) to undertake management on the land as
19 needed throughout the term of the contract to imple-
20 ment the conservation plan;”.

1 **SEC. 2108. MANAGED HAYING, GRAZING, OR OTHER COM-**
2 **MERCIAL USE OF FORAGE ON ENROLLED**
3 **LAND AND INSTALLATION OF WIND TUR-**
4 **BINES.**

5 (a) **GENERAL PROHIBITION; EXCEPTIONS.**—Section
6 1232(a) of the Food Security Act of 1985 (16 U.S.C.
7 3832(a)) is amended by striking paragraph (8), as reded-
8 igned by section 2107, and inserting the following new
9 paragraph:

10 “(8) not to conduct any harvesting or grazing,
11 nor otherwise make commercial use of the forage, on
12 land that is subject to the contract, nor adopt any
13 similar practice specified in the contract by the Sec-
14 retary as a practice that would tend to defeat the
15 purposes of the contract, except that the Secretary
16 may permit, consistent with the conservation of soil,
17 water quality, and wildlife habitat (including habitat
18 during nesting seasons for birds in the area)—

19 “(A) managed harvesting (including the
20 managed harvesting of biomass), except that in
21 permitting managed harvesting, the Secretary,
22 in coordination with the State technical com-
23 mittee—

24 “(i) shall develop appropriate vegeta-
25 tion management requirements; and

1 “(ii) shall identify periods during
2 which managed harvesting may be con-
3 ducted;

4 “(B) harvesting and grazing or other com-
5 mercial use of the forage on the land that is
6 subject to the contract in response to a drought
7 or other emergency;

8 “(C) routine grazing or prescribed grazing
9 for the control of invasive species, except that
10 in permitting such routine grazing or prescribed
11 grazing, the Secretary, in coordination with the
12 State technical committee—

13 “(i) shall develop appropriate vegeta-
14 tion management requirements and stock-
15 ing rates for the land that are suitable for
16 continued routine grazing; and

17 “(ii) shall establish the frequency dur-
18 ing which routine grazing may be con-
19 ducted, taking into consideration regional
20 differences such as—

21 “(I) climate, soil type, and nat-
22 ural resources;

23 “(II) the number of years that
24 should be required between routine
25 grazing activities; and

1 “(III) how often during a year in
2 which routine grazing is permitted
3 that routine grazing should be allowed
4 to occur; and

5 “(D) the installation of wind turbines, ex-
6 cept that in permitting the installation of wind
7 turbines, the Secretary shall determine the
8 number and location of wind turbines that may
9 be installed, taking into account—

10 “(i) the location, size, and other phys-
11 ical characteristics of the land;

12 “(ii) the extent to which the land con-
13 tains wildlife and wildlife habitat; and

14 “(iii) the purposes of the conservation
15 reserve program under this subchapter;”.

16 (b) RENTAL PAYMENT REDUCTION.—Section 1232
17 of the Food Security Act of 1985 (16 U.S.C. 3832) is
18 amended by adding at the end the following new sub-
19 section:

20 “(d) RENTAL PAYMENT REDUCTION FOR CERTAIN
21 AUTHORIZED USES OF ENROLLED LAND.—In the case of
22 an authorized activity under subsection (a)(8) on land that
23 is subject to a contract under this subchapter, the Sec-
24 retary shall reduce the rental payment otherwise payable

1 under the contract by an amount commensurate with the
2 economic value of the authorized activity.”.

3 **SEC. 2109. COST SHARING PAYMENTS RELATING TO TREES,**
4 **WINDBREAKS, SHELTERBELTS, AND WILD-**
5 **LIFE CORRIDORS.**

6 Section 1234(b) of the Food Security Act of 1985
7 (16 U.S.C. 3834(b)) is amended by striking paragraph (3)
8 and inserting the following new paragraph:

9 “(3) TREES, WINDBREAKS, SHELTERBELTS,
10 AND WILDLIFE CORRIDORS.—

11 “(A) APPLICABILITY.—This paragraph ap-
12 plies to—

13 “(i) land devoted to the production of
14 hardwood trees, windbreaks, shelterbelts,
15 or wildlife corridors under a contract en-
16 tered into under this subchapter after No-
17 vember 28, 1990;

18 “(ii) land converted to such produc-
19 tion under section 1235A; and

20 “(iii) land on which an owner or oper-
21 ator agrees to conduct thinning authorized
22 by section 1232(a)(9), if the thinning is
23 necessary to improve the condition of re-
24 sources on the land.

25 “(B) PAYMENTS.—

1 “(i) PERCENTAGE.—In making cost
2 share payments to an owner or operator of
3 land described in subparagraph (A), the
4 Secretary shall pay 50 percent of the rea-
5 sonable and necessary costs incurred by
6 the owner or operator for maintaining
7 trees or shrubs, including the cost of re-
8 planting (if the trees or shrubs were lost
9 due to conditions beyond the control of the
10 owner or operator) or thinning.

11 “(ii) DURATION.—The Secretary shall
12 make payments as described in clause (i)
13 for a period of not less than 2 years, but
14 not more than 4 years, beginning on the
15 date of—

16 “(I) the planting of the trees or
17 shrubs; or

18 “(II) the thinning of existing
19 stands to improve the condition of re-
20 sources on the land.”.

21 **SEC. 2110. EVALUATION AND ACCEPTANCE OF CONTRACT**
22 **OFFERS, ANNUAL RENTAL PAYMENTS, AND**
23 **PAYMENT LIMITATIONS.**

24 (a) EVALUATION AND ACCEPTANCE OF CONTRACT
25 OFFERS.—Section 1234(c) of the Food Security Act of

1 1985 (16 U.S.C. 3834(e)) is amended by striking para-
2 graph (3) and inserting the following new paragraph:

3 “(3) ACCEPTANCE OF CONTRACT OFFERS.—

4 “(A) EVALUATION OF OFFERS.—In deter-
5 mining the acceptability of contract offers, the
6 Secretary may take into consideration the ex-
7 tent to which enrollment of the land that is the
8 subject of the contract offer would improve soil
9 resources, water quality, or wildlife habitat or
10 provide other environmental benefits.

11 “(B) ESTABLISHMENT OF DIFFERENT CRI-
12 TERIA IN VARIOUS STATES AND REGIONS.—The
13 Secretary may establish different criteria for
14 determining the acceptability of contract offers
15 in various States and regions of the United
16 States based on the extent to which water qual-
17 ity or wildlife habitat may be improved or ero-
18 sion may be abated.

19 “(C) LOCAL PREFERENCE.—In deter-
20 mining the acceptability of contract offers for
21 new enrollments, the Secretary shall accept, to
22 the maximum extent practicable, an offer from
23 an owner or operator that is a resident of the
24 county in which the land is located or of a con-
25 tiguous county if, as determined by the Sec-

1 retary, the land would provide at least equiva-
2 lent conservation benefits to land under com-
3 peting offers.”.

4 (b) ANNUAL SURVEY OF DRYLAND AND IRRIGATED
5 CASH RENTAL RATES.—

6 (1) ANNUAL ESTIMATES REQUIRED.—Section
7 1234(e) of the Food Security Act of 1985 (16
8 U.S.C. 3834(c)) is amended by adding at the end
9 the following new paragraph:

10 “(5) RENTAL RATES.—

11 “(A) ANNUAL ESTIMATES.—The Secretary
12 (acting through the National Agricultural Sta-
13 tistics Service) shall conduct an annual survey
14 of per acre estimates of county average market
15 dryland and irrigated cash rental rates for crop-
16 land and pastureland in all counties or equiva-
17 lent subdivisions within each State that have
18 20,000 acres or more of cropland and
19 pastureland.

20 “(B) PUBLIC AVAILABILITY OF ESTI-
21 MATES.—The estimates derived from the an-
22 nual survey conducted under subparagraph (A)
23 shall be maintained on a website of the Depart-
24 ment of Agriculture for use by the general pub-
25 lic.”.

1 (2) FIRST SURVEY.—The first survey required
2 by paragraph (5) of section 1234(c) of the Food Se-
3 curity Act of 1985 (16 U.S.C. 3834(c)), as added by
4 subsection (a), shall be conducted not later than 1
5 year after the date of enactment of this Act.

6 (c) PAYMENT LIMITATIONS.—Section 1234(f) of the
7 Food Security Act of 1985 (16 U.S.C. 3834(f)) is amend-
8 ed—

9 (1) in paragraph (1), by striking “made to a
10 person” and inserting “received by a person or legal
11 entity, directly or indirectly,”;

12 (2) by striking paragraph (2); and

13 (3) in paragraph (4), by striking “any person”
14 and inserting “any person or legal entity”.

15 **SEC. 2111. CONSERVATION RESERVE PROGRAM TRANSI-**
16 **TION INCENTIVES FOR BEGINNING FARMERS**
17 **OR RANCHERS AND SOCIALLY DISADVAN-**
18 **TAGED FARMERS OR RANCHERS.**

19 (a) CONTRACT MODIFICATION AUTHORITY.—Section
20 1235(c)(1)(B) of the Food Security Act of 1985 (16
21 U.S.C. 3835(c)(1)(B)) is amended—

22 (1) in clause (ii), by striking “or” at the end;

23 (2) by redesignating clause (iii) as clause (iv);

24 and

1 (3) by inserting after clause (ii) the following
2 new clause:

3 “(iii) to facilitate a transition of land
4 subject to the contract from a retired or
5 retiring owner or operator to a beginning
6 farmer or rancher or socially disadvan-
7 taged farmer or rancher for the purpose of
8 returning some or all of the land into pro-
9 duction using sustainable grazing or crop
10 production methods; or”.

11 (b) TRANSITION OPTION.—Section 1235 of the Food
12 Security Act of 1985 (16 U.S.C. 3835) is amended by
13 adding at the end the following new subsection:

14 “(f) TRANSITION OPTION FOR CERTAIN FARMERS OR
15 RANCHERS.—

16 “(1) DUTIES OF THE SECRETARY.—In the case
17 of a contract modification approved in order to fa-
18 cilitate the transfer, as described in subsection
19 (c)(1)(B)(iii), of land to a beginning farmer or
20 rancher or socially disadvantaged farmer or rancher
21 (in this subsection referred to as a ‘covered farmer
22 or rancher’), the Secretary shall—

23 “(A) beginning on the date that is 1 year
24 before the date of termination of the contract—

1 “(i) allow the covered farmer or
2 rancher, in conjunction with the retired or
3 retiring owner or operator, to make con-
4 servation and land improvements; and

5 “(ii) allow the covered farmer or
6 rancher to begin the certification process
7 under the Organic Foods Production Act
8 of 1990 (7 U.S.C. 6501 et seq.);

9 “(B) beginning on the date of termination
10 of the contract, require the retired or retiring
11 owner or operator to sell or lease (under a long-
12 term lease or a lease with an option to pur-
13 chase) to the covered farmer or rancher the
14 land subject to the contract for production pur-
15 poses;

16 “(C) require the covered farmer or rancher
17 to develop and implement a conservation plan;

18 “(D) provide to the covered farmer or
19 rancher an opportunity to enroll in the con-
20 servation stewardship program or the environ-
21 mental quality incentives program by not later
22 than the date on which the farmer or rancher
23 takes possession of the land through ownership
24 or lease; and

1 “(E) continue to make annual payments to
 2 the retired or retiring owner or operator for not
 3 more than an additional 2 years after the date
 4 of termination of the contract, if the retired or
 5 retiring owner or operator is not a family mem-
 6 ber (as defined in section 1001A(b)(3)(B) of
 7 this Act) of the covered farmer or rancher.

8 “(2) REENROLLMENT.—The Secretary shall
 9 provide a covered farmer or rancher with the option
 10 to reenroll any applicable partial field conservation
 11 practice that—

12 “(A) is eligible for enrollment under the
 13 continuous signup requirement of section
 14 1231(h)(4)(B); and

15 “(B) is part of an approved conservation
 16 plan.”.

17 **Subtitle C—Wetlands Reserve**
 18 **Program**

19 **SEC. 2201. ESTABLISHMENT AND PURPOSE OF WETLANDS**
 20 **RESERVE PROGRAM.**

21 Subsection (a) of section 1237 of the Food Security
 22 Act of 1985 (16 U.S.C. 3837) is amended to read as fol-
 23 lows:

24 “(a) ESTABLISHMENT AND PURPOSES.—

1 “(1) ESTABLISHMENT.—The Secretary shall es-
2 tablish a wetlands reserve program to assist owners
3 of eligible lands in restoring and protecting wet-
4 lands.

5 “(2) PURPOSES.—The purposes of the wetlands
6 reserve program are to restore, protect, or enhance
7 wetlands on private or tribal lands that are eligible
8 under subsections (c) and (d).”.

9 **SEC. 2202. MAXIMUM ENROLLMENT AND ENROLLMENT**
10 **METHODS.**

11 Section 1237(b) of the Food Security Act of 1985
12 (16 U.S.C. 3837(b)) is amended—

13 (1) by striking paragraph (1) and inserting the
14 following new paragraph:

15 “(1) MAXIMUM ENROLLMENT.—The total num-
16 ber of acres enrolled in the wetlands reserve pro-
17 gram shall not exceed 3,041,200 acres.”;

18 (2) in paragraph (2), by striking “The Sec-
19 retary” and inserting “Subject to paragraph (3), the
20 Secretary”; and

21 (3) by adding at the end the following new
22 paragraph:

23 “(3) ACREAGE OWNED BY INDIAN TRIBES.—In
24 the case of acreage owned by an Indian tribe, the

1 Secretary shall enroll acreage into the wetlands re-
2 serve program through the use of—

3 “(A) a 30-year contract (the value of
4 which shall be equivalent to the value of a 30-
5 year easement);

6 “(B) restoration cost-share agreements; or

7 “(C) any combination of the options de-
8 scribed in subparagraphs (A) and (B).”.

9 **SEC. 2203. DURATION OF WETLANDS RESERVE PROGRAM**

10 **AND LANDS ELIGIBLE FOR ENROLLMENT.**

11 (a) IN GENERAL.—Section 1237(c) of the Food Secu-
12 rity Act of 1985 (16 U.S.C. 3837(c)) is amended—

13 (1) in the matter preceding paragraph (1)—

14 (A) by striking “2007 calendar” and in-
15 sserting “2012 fiscal”; and

16 (B) by inserting “private or tribal” before
17 “land” the second place it appears;

18 (2) by striking paragraph (2) and inserting the
19 following new paragraph:

20 “(2) such land is—

21 “(A) farmed wetland or converted wetland,
22 together with the adjacent land that is function-
23 ally dependent on the wetlands, except that con-
24 verted wetland with respect to which the con-
25 version was not commenced prior to December

1 23, 1985, shall not be eligible to be enrolled in
2 the program under this section; or

3 “(B) cropland or grassland that was used
4 for agricultural production prior to flooding
5 from the natural overflow of a closed basin lake
6 or pothole, as determined by the Secretary, to-
7 gether (where practicable) with the adjacent
8 land that is functionally dependent on the crop-
9 land or grassland; and”.

10 (b) CHANGE OF OWNERSHIP.—Section 1237E(a) of
11 the Food Security Act of 1985 (16 U.S.C. 3837e(a)) is
12 amended by striking “in the preceding 12 months” and
13 inserting “during the preceding 7-year period”.

14 (c) ANNUAL SURVEY AND REALLOCATION.—Section
15 1237F of the Food Security Act of 1985 (16 U.S.C.
16 3837f) is amended by adding at the end the following new
17 subsection:

18 “(c) PRAIRIE POTHOLE REGION SURVEY AND RE-
19 ALLOCATION.—

20 “(1) SURVEY.—The Secretary shall conduct a
21 survey during fiscal year 2008 and each subsequent
22 fiscal year for the purpose of determining interest
23 and allocations for the Prairie Pothole Region to en-
24 roll eligible land described in section 1237(c)(2)(B).

1 pensation for a conservation easement acquired
2 under this subchapter the lowest of—

3 “(A) the fair market value of the land, as
4 determined by the Secretary, using the Uniform
5 Standards of Professional Appraisal Practices
6 or an area-wide market analysis or survey;

7 “(B) the amount corresponding to a geo-
8 graphical cap, as determined by the Secretary
9 in regulations; or

10 “(C) the offer made by the landowner.

11 “(2) FORM OF PAYMENT.—Compensation for
12 an easement shall be provided by the Secretary in
13 the form of a cash payment, in an amount deter-
14 mined under paragraph (1) and specified in the
15 easement agreement.

16 “(3) PAYMENT SCHEDULE FOR EASEMENTS.—

17 “(A) EASEMENTS VALUED AT \$500,000 OR
18 LESS.—For easements valued at \$500,000 or
19 less, the Secretary may provide easement pay-
20 ments in not more than 30 annual payments.

21 “(B) EASEMENTS IN EXCESS OF
22 \$500,000.—For easements valued at more than
23 \$500,000, the Secretary may provide easement
24 payments in at least 5, but not more than 30
25 annual payments, except that, if the Secretary

1 determines it would further the purposes of the
2 program, the Secretary may make a lump sum
3 payment for such an easement.

4 “(4) RESTORATION AGREEMENT PAYMENT LIM-
5 ITATION.—Payments made to a person or legal enti-
6 ty, directly or indirectly, pursuant to a restoration
7 cost-share agreement under this subchapter may not
8 exceed, in the aggregate, \$50,000 per year.

9 “(5) ENROLLMENT PROCEDURE.—Lands may
10 be enrolled under this subchapter through the sub-
11 mission of bids under a procedure established by the
12 Secretary.”.

13 **SEC. 2206. WETLANDS RESERVE ENHANCEMENT PROGRAM**
14 **AND RESERVED RIGHTS PILOT PROGRAM.**

15 Section 1237A of the Food Security Act of 1985 (16
16 U.S.C. 3837a) is amended by adding at the end the fol-
17 lowing new subsection:

18 “(h) WETLANDS RESERVE ENHANCEMENT PRO-
19 GRAM.—

20 “(1) PROGRAM AUTHORIZED.—The Secretary
21 may enter into 1 or more agreements with a State
22 (including a political subdivision or agency of a
23 State), nongovernmental organization, or Indian
24 tribe to carry out a special wetlands reserve en-

1 hancement program that the Secretary determines
2 would advance the purposes of this subchapter.

3 “(2) RESERVED RIGHTS PILOT PROGRAM.—

4 “(A) RESERVATION OF GRAZING
5 RIGHTS.—As part of the wetlands reserve en-
6 hancement program, the Secretary shall carry
7 out a pilot program for land in which a land-
8 owner may reserve grazing rights in the war-
9 ranty easement deed restriction if the Secretary
10 determines that the reservation and use of the
11 grazing rights—

12 “(i) is compatible with the land sub-
13 ject to the easement;

14 “(ii) is consistent with the long-term
15 wetland protection and enhancement goals
16 for which the easement was established;
17 and

18 “(iii) complies with a conservation
19 plan.

20 “(B) DURATION.—The pilot program es-
21 tablished under this paragraph shall terminate
22 on September 30, 2012.”.

1 **SEC. 2207. DUTIES OF SECRETARY OF AGRICULTURE**
2 **UNDER WETLANDS RESERVE PROGRAM.**

3 Section 1237C of the Food Security Act of 1985 (16
4 U.S.C. 3837c) is amended—

5 (1) in subsection (a)(1), by inserting “including
6 necessary maintenance activities,” after “values,”;
7 and

8 (2) by striking subsection (c) and inserting the
9 following new subsection:

10 “(c) **RANKING OF OFFERS.**—

11 “(1) **CONSERVATION BENEFITS AND FUNDING**
12 **CONSIDERATIONS.**—When evaluating offers from
13 landowners, the Secretary may consider—

14 “(A) the conservation benefits of obtaining
15 an easement or other interest in the land;

16 “(B) the cost-effectiveness of each ease-
17 ment or other interest in eligible land, so as to
18 maximize the environmental benefits per dollar
19 expended; and

20 “(C) whether the landowner or another
21 person is offering to contribute financially to
22 the cost of the easement or other interest in the
23 land to leverage Federal funds.

24 “(2) **ADDITIONAL CONSIDERATIONS.**—In deter-
25 mining the acceptability of easement offers, the Sec-
26 retary may take into consideration—

1 “(A) the extent to which the purposes of
2 the easement program would be achieved on the
3 land;

4 “(B) the productivity of the land; and

5 “(C) the on-farm and off-farm environ-
6 mental threats if the land is used for the pro-
7 duction of agricultural commodities.”.

8 **SEC. 2208. PAYMENT LIMITATIONS UNDER WETLANDS RE-**
9 **SERVE CONTRACTS AND AGREEMENTS.**

10 Section 1237D(c)(1) of the Food Security Act of
11 1985 (16 U.S.C. 3837d(c)(1)) is amended—

12 (1) by striking “The total amount of easement
13 payments made to a person” and inserting “The
14 total amount of payments that a person or legal en-
15 tity may receive, directly or indirectly,”; and

16 (2) by inserting “or under 30-year contracts”
17 before the period at the end.

18 **SEC. 2209. REPEAL OF PAYMENT LIMITATIONS EXCEPTION**
19 **FOR STATE AGREEMENTS FOR WETLANDS**
20 **RESERVE ENHANCEMENT.**

21 Section 1237D(c) of the Food Security Act of 1985
22 (16 U.S.C. 3837d(c)) is amended by striking paragraph
23 (4).

1 **SEC. 2210. REPORT ON IMPLICATIONS OF LONG-TERM NA-**
2 **TURE OF CONSERVATION EASEMENTS.**

3 (a) REPORT REQUIRED.—Not later than January 1,
4 2010, the Secretary of Agriculture shall submit to the
5 Committee on Agriculture of the House of Representatives
6 and the Committee on Agriculture, Nutrition, and For-
7 estry of the Senate a report that evaluates the implications
8 of the long-term nature of conservation easements granted
9 under section 1237A of the Food Security Act of 1985
10 (16 U.S.C. 3837a) on resources of the Department of Ag-
11 riculture.

12 (b) INCLUSIONS.—The report required by subsection
13 (a) shall include the following:

14 (1) Data relating to the number and location of
15 conservation easements granted under that section
16 that the Secretary holds or has a significant role in
17 monitoring or managing.

18 (2) An assessment of the extent to which the
19 oversight of the conservation easement agreements
20 impacts the availability of resources, including tech-
21 nical assistance.

22 (3) An assessment of the uses and value of
23 agreements with partner organizations.

24 (4) Any other relevant information relating to
25 costs or other effects that would be helpful to the
26 Committees referred to in subsection (a).

1 **Subtitle D—Conservation**
2 **Stewardship Program**

3 **SEC. 2301. CONSERVATION STEWARDSHIP PROGRAM.**

4 (a) ESTABLISHMENT OF PROGRAM.—Chapter 2 of
5 subtitle D of title XII of the Food Security Act of 1985
6 is amended—

7 (1) by redesignating subchapters B (farmland
8 protection program) and C (grassland reserve pro-
9 gram) as subchapters C and D, respectively; and

10 (2) by inserting after subchapter A the fol-
11 lowing new subchapter:

12 **“Subchapter B—Conservation Stewardship**
13 **Program**

14 **“SEC. 1238D. DEFINITIONS.**

15 “In this subchapter:

16 “(1) CONSERVATION ACTIVITIES.—

17 “(A) IN GENERAL.—The term ‘conserva-
18 tion activities’ means conservation systems,
19 practices, or management measures that are de-
20 signed to address a resource concern.

21 “(B) INCLUSIONS.—The term ‘conserva-
22 tion activities’ includes—

23 “(i) structural measures, vegetative
24 measures, and land management measures,
25 including agriculture drainage manage-

1 ment systems, as determined by the Sec-
2 retary; and

3 “(ii) planning needed to address a re-
4 source concern.

5 “(2) CONSERVATION MEASUREMENT TOOLS.—

6 The term ‘conservation measurement tools’ means
7 procedures to estimate the level of environmental
8 benefit to be achieved by a producer in implementing
9 conservation activities, including indices or other
10 measures developed by the Secretary.

11 “(3) CONSERVATION STEWARDSHIP PLAN.—

12 The term ‘conservation stewardship plan’ means a
13 plan that—

14 “(A) identifies and inventories resource
15 concerns;

16 “(B) establishes benchmark data and con-
17 servation objectives;

18 “(C) describes conservation activities to be
19 implemented, managed, or improved; and

20 “(D) includes a schedule and evaluation
21 plan for the planning, installation, and manage-
22 ment of the new and existing conservation ac-
23 tivities.

24 “(4) PRIORITY RESOURCE CONCERN.—The
25 term ‘priority resource concern’ means a resource

1 concern that is identified at the State level, in con-
2 sultation with the State Technical Committee, as a
3 priority for a particular watershed or area of the
4 State.

5 “(5) PROGRAM.—The term ‘program’ means
6 the conservation stewardship program established by
7 this subchapter.

8 “(6) RESOURCE CONCERN.—The term ‘resource
9 concern’ means a specific natural resource impair-
10 ment or problem, as determined by the Secretary,
11 that—

12 “(A) represents a significant concern in a
13 State or region; and

14 “(B) is likely to be addressed successfully
15 through the implementation of conservation ac-
16 tivities by producers on land eligible for enroll-
17 ment in the program.

18 “(7) STEWARDSHIP THRESHOLD.—The term
19 ‘stewardship threshold’ means the level of natural
20 resource conservation and environmental manage-
21 ment required, as determined by the Secretary using
22 conservation measurement tools, to improve and con-
23 serve the quality and condition of a resource con-
24 cern.

1 **“SEC. 1238E. CONSERVATION STEWARDSHIP PROGRAM.**

2 “(a) ESTABLISHMENT AND PURPOSE.—During each
3 of fiscal years 2009 through 2012, the Secretary shall
4 carry out a conservation stewardship program to encour-
5 age producers to address resource concerns in a com-
6 prehensive manner—

7 “(1) by undertaking additional conservation ac-
8 tivities; and

9 “(2) by improving, maintaining and managing
10 existing conservation activities.

11 “(b) ELIGIBLE LAND.—

12 “(1) IN GENERAL.—Except as provided in sub-
13 section (c), the following land is eligible for enroll-
14 ment in the program:

15 “(A) Private agricultural land (including
16 cropland, grassland, prairie land, improved
17 pastureland, rangeland, and land used for agro-
18 forestry).

19 “(B) Agricultural land under the jurisdic-
20 tion of an Indian tribe.

21 “(C) Forested land that is an incidental
22 part of an agricultural operation.

23 “(D) Other private agricultural land (in-
24 cluding cropped woodland, marshes, and agri-
25 cultural land used for the production of live-
26 stock) on which resource concerns related to ag-

1 ricultural production could be addressed by en-
2 rolling the land in the program, as determined
3 by the Secretary.

4 “(2) SPECIAL RULE FOR NONINDUSTRIAL PRI-
5 VATE FOREST LAND.—Nonindustrial private forest
6 land is eligible for enrollment in the program, except
7 that not more than 10 percent of the annual acres
8 enrolled nationally in any fiscal year may be non-
9 industrial private forest land.

10 “(3) AGRICULTURAL OPERATION.—Eligible
11 land shall include all acres of an agricultural oper-
12 ation of a producer, whether or not contiguous, that
13 are under the effective control of the producer at the
14 time the producer enters into a stewardship con-
15 tract, and is operated by the producer with equip-
16 ment, labor, management, and production or cultiva-
17 tion practices that are substantially separate from
18 other agricultural operations, as determined by the
19 Secretary.

20 “(c) EXCLUSIONS.—

21 “(1) LAND ENROLLED IN OTHER CONSERVA-
22 TION PROGRAMS.—Subject to paragraph (2), the fol-
23 lowing land is not be eligible for enrollment in the
24 program:

1 “(A) Land enrolled in the conservation re-
2 serve program.

3 “(B) Land enrolled in the wetlands reserve
4 program.

5 “(C) Land enrolled in the grassland re-
6 serve program.

7 “(2) CONVERSION TO CROPLAND.—Land used
8 for crop production after the date of enactment of
9 the Food, Conservation, and Energy Act of 2008
10 that had not been planted, considered to be planted,
11 or devoted to crop production for at least 4 of the
12 6 years preceding that date shall not be the basis for
13 any payment under the program, unless the land
14 does not meet the requirement because—

15 “(A) the land had previously been enrolled
16 in the conservation reserve program;

17 “(B) the land has been maintained using
18 long-term crop rotation practices, as determined
19 by the Secretary; or

20 “(C) the land is incidental land needed for
21 efficient operation of the farm or ranch, as de-
22 termined by the Secretary.

23 **“SEC. 1238F. STEWARDSHIP CONTRACTS.**

24 “(a) SUBMISSION OF CONTRACT OFFERS.—To be eli-
25 gible to participate in the conservation stewardship pro-

1 gram, a producer shall submit to the Secretary for ap-
2 proval a contract offer that—

3 “(1) demonstrates to the satisfaction of the
4 Secretary that the producer, at the time of the con-
5 tract offer, is meeting the stewardship threshold for
6 at least one resource concern; and

7 “(2) would, at a minimum, meet or exceed the
8 stewardship threshold for at least 1 priority resource
9 concern by the end of the stewardship contract by—

10 “(A) installing and adopting additional
11 conservation activities; and

12 “(B) improving, maintaining, and man-
13 aging conservation activities in place at the op-
14 eration of the producer at the time the contract
15 offer is accepted by the Secretary.

16 “(b) EVALUATION OF CONTRACT OFFERS.—

17 “(1) RANKING OF APPLICATIONS.—In evalu-
18 ating contract offers made by producers to enter
19 into contracts under the program, the Secretary
20 shall rank applications based on—

21 “(A) the level of conservation treatment on
22 all applicable priority resource concerns at the
23 time of application, based to the maximum ex-
24 tent practicable on conservation measurement
25 tools;

1 “(B) the degree to which the proposed con-
2 servation treatment on applicable priority re-
3 source concerns effectively increases conserva-
4 tion performance, based to the maximum extent
5 possible on conservation measurement tools;

6 “(C) the number of applicable priority re-
7 source concerns proposed to be treated to meet
8 or exceed the stewardship threshold by the end
9 of the contract;

10 “(D) the extent to which other resource
11 concerns, in addition to priority resource con-
12 cerns, will be addressed to meet or exceed the
13 stewardship threshold by the end of the con-
14 tract period; and

15 “(E) the extent to which the actual and
16 anticipated environmental benefits from the
17 contract are provided at the least cost relative
18 to other similarly beneficial contract offers.

19 “(2) PROHIBITION.—The Secretary may not as-
20 sign a higher priority to any application because the
21 applicant is willing to accept a lower payment than
22 the applicant would otherwise be eligible to receive.

23 “(3) ADDITIONAL CRITERIA.—The Secretary
24 may develop and use such additional criteria for
25 evaluating applications to enroll in the program that

1 the Secretary determines are necessary to ensure
2 that national, State, and local conservation priorities
3 are effectively addressed.

4 “(c) ENTERING INTO CONTRACTS.—After a deter-
5 mination that a producer is eligible for the program under
6 subsection (a), and a determination that the contract offer
7 ranks sufficiently high under the evaluation criteria under
8 subsection (b), the Secretary shall enter into a conserva-
9 tion stewardship contract with the producer to enroll the
10 land to be covered by the contract.

11 “(d) CONTRACT PROVISIONS.—

12 “(1) TERM.—A conservation stewardship con-
13 tract shall be for a term of 5 years.

14 “(2) PROVISIONS.—The conservation steward-
15 ship contract of a producer shall—

16 “(A) state the amount of the payment the
17 Secretary agrees to make to the producer for
18 each year of the conservation stewardship con-
19 tract under section 1238G(e);

20 “(B) require the producer—

21 “(i) to implement during the term of
22 the conservation stewardship contract the
23 conservation stewardship plan approved by
24 the Secretary;

1 “(ii) to maintain, and make available
2 to the Secretary at such times as the Sec-
3 retary may request, appropriate records
4 showing the effective and timely implemen-
5 tation of the conservation stewardship con-
6 tract; and

7 “(iii) not to engage in any activity
8 during the term of the conservation stew-
9 ardship contract on the eligible land cov-
10 ered by the contract that would interfere
11 with the purposes of the conservation stew-
12 ardship contract;

13 “(C) permit all economic uses of the land
14 that—

15 “(i) maintain the agricultural nature
16 of the land; and

17 “(ii) are consistent with the conserva-
18 tion purposes of the conservation steward-
19 ship contract;

20 “(D) include a provision to ensure that a
21 producer shall not be considered in violation of
22 the contract for failure to comply with the con-
23 tract due to circumstances beyond the control
24 of the producer, including a disaster or related
25 condition, as determined by the Secretary; and

1 “(E) include such other provisions as the
2 Secretary determines necessary to ensure the
3 purposes of the program are achieved.

4 “(e) CONTRACT RENEWAL.—At the end of an initial
5 conservation stewardship contract of a producer, the Sec-
6 retary may allow the producer to renew the contract for
7 one additional five-year period if the producer—

8 “(1) demonstrates compliance with the terms of
9 the existing contract; and

10 “(2) agrees to adopt new conservation activities,
11 as determined by the Secretary.

12 “(f) MODIFICATION.—The Secretary may allow a
13 producer to modify a stewardship contract if the Secretary
14 determines that the modification is consistent with achiev-
15 ing the purposes of the program.

16 “(g) CONTRACT TERMINATION.—

17 “(1) VOLUNTARY TERMINATION.—A producer
18 may terminate a conservation stewardship contract
19 if the Secretary determines that termination would
20 not defeat the purposes of the program.

21 “(2) INVOLUNTARY TERMINATION.—The Sec-
22 retary may terminate a contract under this sub-
23 chapter if the Secretary determines that the pro-
24 ducer violated the contract.

1 “(3) REPAYMENT.—If a contract is terminated,
2 the Secretary may, consistent with the purposes of
3 the program—

4 “(A) allow the producer to retain payments
5 already received under the contract; or

6 “(B) require repayment, in whole or in
7 part, of payments already received and assess
8 liquidated damages.

9 “(4) CHANGE OF INTEREST IN LAND SUBJECT
10 TO A CONTRACT.—

11 “(A) IN GENERAL.—Except as provided in
12 paragraph (B), a change in the interest of a
13 producer in land covered by a contract under
14 this chapter shall result in the termination of
15 the contract with regard to that land.

16 “(B) TRANSFER OF DUTIES AND
17 RIGHTS.—Subparagraph (A) shall not apply
18 if—

19 “(i) within a reasonable period of time
20 (as determined by the Secretary) after the
21 date of the change in the interest in land
22 covered by a contract under the program,
23 the transferee of the land provides written
24 notice to the Secretary that all duties and
25 rights under the contract have been trans-

1 ferred to, and assumed by, the transferee;

2 and

3 “(ii) the transferee meets the eligi-

4 bility requirements of the program.

5 “(h) COORDINATION WITH ORGANIC CERTIFI-

6 CATION.—The Secretary shall establish a transparent

7 means by which producers may initiate organic certifi-

8 cation under the Organic Foods Production Act of 1990

9 (7 U.S.C. 6501 et. seq.) while participating in a contract

10 under this subchapter.

11 “(i) ON-FARM RESEARCH AND DEMONSTRATION OR

12 PILOT TESTING.—The Secretary may approve a contract

13 offer under this subchapter that includes—

14 “(1) on-farm conservation research and dem-

15 onstration activities; and

16 “(2) pilot testing of new technologies or innova-

17 tive conservation practices.

18 **“SEC. 1238G. DUTIES OF THE SECRETARY.**

19 “(a) IN GENERAL.—To achieve the conservation

20 goals of a contract under the conservation stewardship

21 program, the Secretary shall—

22 “(1) make the program available to eligible pro-

23 ducers on a continuous enrollment basis with 1 or

24 more ranking periods, one of which shall occur in

25 the first quarter of each fiscal year;

1 “(2) identify not less than 3 nor more than 5
2 priority resource concerns in a particular watershed
3 or other appropriate region or area within a State;
4 and

5 “(3) develop reliable conservation measurement
6 tools for purposes of carrying out the program.

7 “(b) ALLOCATION TO STATES.—The Secretary shall
8 allocate acres to States for enrollment, based—

9 “(1) primarily on each State’s proportion of eli-
10 gible acres under section 1238E(b)(1) to the total
11 number of eligible acres in all States; and

12 “(2) also on consideration of—

13 “(A) the extent and magnitude of the con-
14 servation needs associated with agricultural
15 production in each State;

16 “(B) the degree to which implementation
17 of the program in the State is, or will be, effec-
18 tive in helping producers address those needs;
19 and

20 “(C) other considerations to achieve equi-
21 table geographic distribution of funds, as deter-
22 mined by the Secretary.

23 “(c) SPECIALTY CROP AND ORGANIC PRODUCERS.—
24 The Secretary shall ensure that outreach and technical as-
25 sistance are available, and program specifications are ap-

1 appropriate to enable specialty crop and organic producers
2 to participate in the program.

3 “(d) ACREAGE ENROLLMENT LIMITATION.—During
4 the period beginning on October 1, 2008, and ending on
5 September 30, 2017, the Secretary shall, to the maximum
6 extent practicable—

7 “(1) enroll in the program an additional
8 12,769,000 acres for each fiscal year; and

9 “(2) manage the program to achieve a national
10 average rate of \$18 per acre, which shall include the
11 costs of all financial assistance, technical assistance,
12 and any other expenses associated with enrollment
13 or participation in the program.

14 “(e) CONSERVATION STEWARDSHIP PAYMENTS.—

15 “(1) AVAILABILITY OF PAYMENTS.—The Sec-
16 retary shall provide a payment under the program to
17 compensate the producer for—

18 “(A) installing and adopting additional
19 conservation activities; and

20 “(B) improving, maintaining, and man-
21 aging conservation activities in place at the op-
22 eration of the producer at the time the contract
23 offer is accepted by the Secretary.

24 “(2) PAYMENT AMOUNT.—The amount of the
25 conservation stewardship payment shall be deter-

1 mined by the Secretary and based, to the maximum
2 extent practicable, on the following factors:

3 “(A) Costs incurred by the producer asso-
4 ciated with planning, design, materials, installa-
5 tion, labor, management, maintenance, or train-
6 ing.

7 “(B) Income forgone by the producer.

8 “(C) Expected environmental benefits as
9 determined by conservation measurement tools.

10 “(3) EXCLUSIONS.—A payment to a producer
11 under this subsection shall not be provided for—

12 “(A) the design, construction, or mainte-
13 nance of animal waste storage or treatment fa-
14 cilities or associated waste transport or transfer
15 devices for animal feeding operations; or

16 “(B) conservation activities for which there
17 is no cost incurred or income forgone to the
18 producer.

19 “(4) TIMING OF PAYMENTS.—

20 “(A) IN GENERAL.—The Secretary shall
21 make payments as soon as practicable after Oc-
22 tober 1 of each fiscal year for activities carried
23 out in the previous fiscal year.

24 “(B) ADDITIONAL ACTIVITIES.—The Sec-
25 retary shall make payments to compensate pro-

1 ducers for installation of additional practices at
2 the time at which the practices are installed
3 and adopted.

4 “(f) SUPPLEMENTAL PAYMENTS FOR RESOURCE-
5 CONSERVING CROP ROTATIONS.—

6 “(1) AVAILABILITY OF PAYMENTS.—The Sec-
7 retary shall provide additional payments to pro-
8 ducers that, in participating in the program, agree
9 to adopt resource-conserving crop rotations to
10 achieve beneficial crop rotations as appropriate for
11 the land of the producers.

12 “(2) BENEFICIAL CROP ROTATIONS.—The Sec-
13 retary shall determine whether a resource-conserving
14 crop rotation is a beneficial crop rotation eligible for
15 additional payments under paragraph (1), based on
16 whether the resource-conserving crop rotation is de-
17 signed to provide natural resource conservation and
18 production benefits.

19 “(3) ELIGIBILITY.—To be eligible to receive a
20 payment described in paragraph (1), a producer
21 shall agree to adopt and maintain beneficial re-
22 source-conserving crop rotations for the term of the
23 contract.

1 “(4) RESOURCE-CONSERVING CROP ROTA-
2 TION.—In this subsection, the term ‘resource-con-
3 serving crop rotation’ means a crop rotation that—

4 “(A) includes at least 1 resource con-
5 serving crop (as defined by the Secretary);

6 “(B) reduces erosion;

7 “(C) improves soil fertility and tilth;

8 “(D) interrupts pest cycles; and

9 “(E) in applicable areas, reduces depletion
10 of soil moisture or otherwise reduces the need
11 for irrigation.

12 “(g) PAYMENT LIMITATIONS.—A person or legal en-
13 tity may not receive, directly or indirectly, payments under
14 this subchapter that, in the aggregate, exceed \$200,000
15 for all contracts entered into during any 5-year period,
16 excluding funding arrangements with federally recognized
17 Indian tribes or Alaska Native corporations, regardless of
18 the number of contracts entered into under the program
19 by the person or entity.

20 “(h) REGULATIONS.—The Secretary shall promul-
21 gate regulations that—

22 “(1) prescribe such other rules as the Secretary
23 determines to be necessary to ensure a fair and rea-
24 sonable application of the limitations established
25 under subsection (g); and

1 “(2) otherwise enable the Secretary to carry out
2 the program.

3 “(i) DATA.—The Secretary shall maintain detailed
4 and segmented data on contracts and payments under the
5 program to allow for quantification of the amount of pay-
6 ments made for—

7 “(1) the installation and adoption of additional
8 conservation activities and improvements to con-
9 servation activities in place on the operation of a
10 producer at the time the conservation stewardship
11 offer is accepted by the Secretary;

12 “(2) participation in research, demonstration,
13 and pilot projects; and

14 “(3) the development and periodic assessment
15 and evaluation of conservation plans developed under
16 this subchapter.”.

17 (b) TERMINATION OF CONSERVATION SECURITY
18 PROGRAM AUTHORITY; EFFECT ON EXISTING CON-
19 TRACTS.—Section 1238A of the Food Security Act of
20 1985 (16 U.S.C. 3838a) is amended by adding at the end
21 the following new subsection:

22 “(g) PROHIBITION ON CONSERVATION SECURITY
23 PROGRAM CONTRACTS; EFFECT ON EXISTING CON-
24 TRACTS.—

1 “(1) PROHIBITION.—A conservation security
2 contract may not be entered into or renewed under
3 this subchapter after September 30, 2008.

4 “(2) EXCEPTION.—This subchapter, and the
5 terms and conditions of the conservation security
6 program, shall continue to apply to—

7 “(A) conservation security contracts en-
8 tered into on or before September 30, 2008;
9 and

10 “(B) any conservation security contract en-
11 tered into after that date, but for which the ap-
12 plication for the contract was received during
13 the 2008 sign-up period.

14 “(3) EFFECT ON PAYMENTS.—The Secretary
15 shall make payments under this subchapter with re-
16 spect to conservation security contracts described in
17 paragraph (2) during the remaining term of the con-
18 tracts.

19 “(4) REGULATIONS.—A contract described in
20 paragraph (2) may not be administered under the
21 regulations issued to carry out the conservation
22 stewardship program.”.

23 (c) REFERENCE TO REDESIGNATED SUBCHAPTER.—
24 Section 1238A(b)(3)(C) of title XII of the Food Security

1 Act of 1985 (16 U.S.C. 3838a(b)(3)(C)) is amended by
2 striking “subchapter C” and inserting “subchapter D”.

3 **Subtitle E—Farmland Protection**
4 **and Grassland Reserve**

5 **SEC. 2401. FARMLAND PROTECTION PROGRAM.**

6 (a) DEFINITIONS.—Section 1238H of the Food Secu-
7 rity Act of 1985 (16 U.S.C. 3838h) is amended—

8 (1) by striking paragraph (1) and inserting the
9 following new paragraph:

10 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-
11 tity’ means—

12 “(A) any agency of any State or local gov-
13 ernment or an Indian tribe (including a farm-
14 land protection board or land resource council
15 established under State law); or

16 “(B) any organization that—

17 “(i) is organized for, and at all times
18 since the formation of the organization has
19 been operated principally for, 1 or more of
20 the conservation purposes specified in
21 clause (i), (ii), (iii), or (iv) of section
22 170(h)(4)(A) of the Internal Revenue Code
23 of 1986;

24 “(ii) is an organization described in
25 section 501(c)(3) of that Code that is ex-

1 empt from taxation under section 501(a)
2 of that Code; and

3 “*(iii)* is—

4 “*(I)* described in paragraph (1)
5 or (2) of section 509(a) of that Code;
6 or

7 “*(II)* described in section
8 509(a)(3), and is controlled by an or-
9 ganization described in section
10 509(a)(2), of that Code.”; and

11 (2) in paragraph (2)—

12 (A) in subparagraph (A)—

13 (i) by striking “that—” and inserting
14 “that is subject to a pending offer for pur-
15 chase from an eligible entity and—”; and

16 (ii) by striking clauses (i) and (ii) and
17 inserting the following new clauses:

18 “(i) has prime, unique, or other pro-
19 ductive soil;

20 “(ii) contains historical or archae-
21 ological resources; or

22 “(iii) the protection of which will fur-
23 ther a State or local policy consistent with
24 the purposes of the program.”; and

25 (B) in subparagraph (B)—

1 (i) in clause (iv), by striking “and” at
2 the end; and

3 (ii) by striking clause (v) and insert-
4 ing the following new clauses:

5 “(v) forest land that—

6 “(I) contributes to the economic
7 viability of an agricultural operation;
8 or

9 “(II) serves as a buffer to protect
10 an agricultural operation from devel-
11 opment; and

12 “(vi) land that is incidental to land
13 described in clauses (i) through (v), if such
14 land is necessary for the efficient adminis-
15 tration of a conservation easement, as de-
16 termined by the Secretary.”.

17 (b) FARMLAND PROTECTION.—Section 1238I of the
18 Food Security Act of 1985 (16 U.S.C. 3838i) is amended
19 to read as follows:

20 **“SEC. 1238I. FARMLAND PROTECTION PROGRAM.**

21 “(a) ESTABLISHMENT.—The Secretary shall estab-
22 lish and carry out a farmland protection program under
23 which the Secretary shall facilitate and provide funding
24 for the purchase of conservation easements or other inter-
25 ests in eligible land.

1 “(b) PURPOSE.—The purpose of the program is to
2 protect the agricultural use and related conservation val-
3 ues of eligible land by limiting nonagricultural uses of that
4 land.

5 “(c) COST-SHARE ASSISTANCE.—

6 “(1) PROVISION OF ASSISTANCE.—The Sec-
7 retary shall provide cost-share assistance to eligible
8 entities for purchasing a conservation easement or
9 other interest in eligible land.

10 “(2) FEDERAL SHARE.—The share of the cost
11 provided by the Secretary for purchasing a conserva-
12 tion easement or other interest in eligible land shall
13 not exceed 50 percent of the appraised fair market
14 value of the conservation easement or other interest
15 in eligible land.

16 “(3) NON-FEDERAL SHARE.—

17 “(A) SHARE PROVIDED BY ELIGIBLE ENTI-
18 TY.—The eligible entity shall provide a share of
19 the cost of purchasing a conservation easement
20 or other interest in eligible land in an amount
21 that is not less than 25 percent of the acquisi-
22 tion purchase price.

23 “(B) LANDOWNER CONTRIBUTION.—As
24 part of the non-Federal share of the cost of
25 purchasing a conservation easement or other in-

1 terest in eligible land, an eligible entity may in-
2 clude a charitable donation or qualified con-
3 servation contribution (as defined by section
4 170(h) of the Internal Revenue Code of 1986)
5 from the private landowner from which the con-
6 servation easement or other interest in land will
7 be purchased.

8 “(d) DETERMINATION OF FAIR MARKET VALUE.—
9 Effective on the date of enactment of the Food, Conserva-
10 tion, and Energy Act of 2008, the fair market value of
11 the conservation easement or other interest in eligible land
12 shall be determined on the basis of an appraisal using an
13 industry approved method, selected by the eligible entity
14 and approved by the Secretary.

15 “(e) BIDDING DOWN PROHIBITED.—If the Secretary
16 determines that 2 or more applications for cost-share as-
17 sistance are comparable in achieving the purpose of the
18 program, the Secretary shall not assign a higher priority
19 to any 1 of those applications solely on the basis of lesser
20 cost to the program.

21 “(f) CONDITION ON ASSISTANCE.—

22 “(1) CONSERVATION PLAN.—Any highly erod-
23 ible cropland for which a conservation easement or
24 other interest is purchased using cost-share assist-
25 ance provided under the program shall be subject to

1 a conservation plan that requires, at the option of
2 the Secretary, the conversion of the cropland to less
3 intensive uses.

4 “(2) CONTINGENT RIGHT OF ENFORCEMENT.—
5 The Secretary shall require the inclusion of a contin-
6 gent right of enforcement for the Secretary in the
7 terms of a conservation easement or other interest
8 in eligible land that is purchased using cost-share
9 assistance provided under the program.

10 “(g) AGREEMENTS WITH ELIGIBLE ENTITIES.—

11 “(1) IN GENERAL.—The Secretary shall enter
12 into agreements with eligible entities to stipulate the
13 terms and conditions under which the eligible entity
14 is permitted to use cost-share assistance provided
15 under subsection (c).

16 “(2) LENGTH OF AGREEMENTS.—An agreement
17 under this subsection shall be for a term that is—

18 “(A) in the case of an eligible entity cer-
19 tified under the process described in subsection
20 (h), a minimum of five years; and

21 “(B) for all other eligible entities, at least
22 three, but not more than five years.

23 “(3) SUBSTITUTION OF QUALIFIED
24 PROJECTS.—An agreement shall allow, upon mutual
25 agreement of the parties, substitution of qualified

1 projects that are identified at the time of the pro-
2 posed substitution.

3 “(4) MINIMUM REQUIREMENTS.—An eligible
4 entity shall be authorized to use its own terms and
5 conditions, as approved by the Secretary, for con-
6 servation easements and other purchases of interests
7 in land, so long as such terms and conditions—

8 “(A) are consistent with the purposes of
9 the program;

10 “(B) permit effective enforcement of the
11 conservation purposes of such easements or
12 other interests; and

13 “(C) include a limit on the impervious sur-
14 faces to be allowed that is consistent with the
15 agricultural activities to be conducted.

16 “(5) EFFECT OF VIOLATION.—If a violation oc-
17 curs of a term or condition of an agreement entered
18 into under this subsection—

19 “(A) the agreement shall remain in force;
20 and

21 “(B) the Secretary may require the eligible
22 entity to refund all or part of any payments re-
23 ceived by the entity under the program, with in-
24 terest on the payments as determined appro-
25 priate by the Secretary.

1 “(h) CERTIFICATION OF ELIGIBLE ENTITIES.—

2 “(1) CERTIFICATION PROCESS.—The Secretary
3 shall establish a process under which the Secretary
4 may—

5 “(A) directly certify eligible entities that
6 meet established criteria;

7 “(B) enter into long-term agreements with
8 certified entities, as authorized by subsection
9 (g)(2)(A); and

10 “(C) accept proposals for cost-share assist-
11 ance to certified entities for the purchase of
12 conservation easements or other interests in eli-
13 gible land throughout the duration of such
14 agreements.

15 “(2) CERTIFICATION CRITERIA.—In order to be
16 certified, an eligible entity shall demonstrate to the
17 Secretary that the entity will maintain, at a min-
18 imum, for the duration of the agreement—

19 “(A) a plan for administering easements
20 that is consistent with the purpose of this sub-
21 chapter;

22 “(B) the capacity and resources to monitor
23 and enforce conservation easements or other in-
24 terests in land; and

25 “(C) policies and procedures to ensure—

1 “(i) the long-term integrity of con-
2 servation easements or other interests in
3 eligible land;

4 “(ii) timely completion of acquisitions
5 of easements or other interests in eligible
6 land; and

7 “(iii) timely and complete evaluation
8 and reporting to the Secretary on the use
9 of funds provided by the Secretary under
10 the program.

11 “(3) REVIEW AND REVISION.—

12 “(A) REVIEW.—The Secretary shall con-
13 duct a review of eligible entities certified under
14 paragraph (1) every three years to ensure that
15 such entities are meeting the criteria estab-
16 lished under paragraph (2).

17 “(B) REVOCATION.—If the Secretary finds
18 that the certified entity no longer meets the cri-
19 teria established under paragraph (2), the Sec-
20 retary may—

21 “(i) allow the certified entity a speci-
22 fied period of time, at a minimum 180
23 days, in which to take such actions as may
24 be necessary to meet the criteria; and

1 “(ii) revoke the certification of the en-
2 tity, if after the specified period of time,
3 the certified entity does not meet the cri-
4 teria established in paragraph (2).”.

5 **SEC. 2402. FARM VIABILITY PROGRAM.**

6 Section 1238J(b) of the Food Security Act of 1985
7 (16 U.S.C. 3838j(b)) is amended by striking “2007” and
8 inserting “2012”.

9 **SEC. 2403. GRASSLAND RESERVE PROGRAM.**

10 Subchapter D of chapter 2 of subtitle D of title XII
11 of the Food Security Act of 1985 (16 U.S.C. 3838n et
12 seq.), as redesignated by section 2301(a)(1), is amended
13 to read as follows:

14 **“Subchapter D—Grassland Reserve Program**

15 **“SEC. 1238N. GRASSLAND RESERVE PROGRAM.**

16 “(a) ESTABLISHMENT AND PURPOSE.—The Sec-
17 retary shall establish a grassland reserve program (re-
18 ferred to in this subchapter as the ‘program’) for the pur-
19 pose of assisting owners and operators in protecting graz-
20 ing uses and related conservation values by restoring and
21 conserving eligible land through rental contracts, ease-
22 ments, and restoration agreements.

23 “(b) ENROLLMENT OF ACREAGE.—

24 “(1) ACREAGE ENROLLED.—The Secretary
25 shall enroll an additional 1,220,000 acres of eligible

1 land in the program during fiscal years 2009
2 through 2012.

3 “(2) METHODS OF ENROLLMENT.—The Sec-
4 retary shall enroll eligible land in the program
5 through the use of;

6 “(A) a 10-year, 15-year, or 20-year rental
7 contract;

8 “(B) a permanent easement; or

9 “(C) in a State that imposes a maximum
10 duration for easements, an easement for the
11 maximum duration allowed under the law of
12 that State.

13 “(3) LIMITATION.—Of the total amount of
14 funds expended under the program to acquire rental
15 contracts and easements described in paragraph (2),
16 the Secretary shall use, to the extent practicable—

17 “(A) 40 percent for rental contracts; and

18 “(B) 60 percent for easements.

19 “(4) ENROLLMENT OF CONSERVATION RE-
20 SERVE LAND.—

21 “(A) PRIORITY.—Upon expiration of a
22 contract under subchapter B of chapter 1 of
23 this subtitle, the Secretary shall give priority
24 for enrollment in the program to land pre-

1 viously enrolled in the conservation reserve pro-
2 gram if—

3 “(i) the land is eligible land, as de-
4 fined in subsection (c); and

5 “(ii) the Secretary determines that
6 the land is of high ecological value and
7 under significant threat of conversion to
8 uses other than grazing.

9 “(B) MAXIMUM ENROLLMENT.—The num-
10 ber of acres of land enrolled under the priority
11 described in subparagraph (A) in a calendar
12 year shall not exceed 10 percent of the total
13 number of acres enrolled in the program in that
14 calendar year.

15 “(c) ELIGIBLE LAND DEFINED.—For purposes of
16 the program, the term ‘eligible land’ means private or trib-
17 al land that—

18 “(1) is grassland, land that contains forbs, or
19 shrubland (including improved rangeland and
20 pastureland) for which grazing is the predominant
21 use;

22 “(2) is located in an area that has been histori-
23 cally dominated by grassland, forbs, or shrubland,
24 and the land—

1 “(A) could provide habitat for animal or
2 plant populations of significant ecological value
3 if the land—

4 “(i) is retained in its current use; or
5 “(ii) is restored to a natural condi-
6 tion;

7 “(B) contains historical or archaeological
8 resources; or

9 “(C) would address issues raised by State,
10 regional, and national conservation priorities; or

11 “(3) is incidental to land described in para-
12 graph (1) or (2), if the incidental land is determined
13 by the Secretary to be necessary for the efficient ad-
14 ministration of a rental contract or easement under
15 the program.

16 **“SEC. 12380. DUTIES OF OWNERS AND OPERATORS.**

17 “(a) RENTAL CONTRACTS.—To be eligible to enroll
18 eligible land in the program under a rental contract, the
19 owner or operator of the land shall agree—

20 “(1) to comply with the terms of the contract
21 and, when applicable, a restoration agreement;

22 “(2) to suspend any existing cropland base and
23 allotment history for the land under another pro-
24 gram administered by the Secretary; and

1 “(3) to implement a grazing management plan,
2 as approved by the Secretary, which may be modi-
3 fied upon mutual agreement of the parties.

4 “(b) EASEMENTS.—To be eligible to enroll eligible
5 land in the program through an easement, the owner of
6 the land shall agree—

7 “(1) to grant an easement to the Secretary or
8 to an eligible entity described in section 1238Q;

9 “(2) to create and record an appropriate deed
10 restriction in accordance with applicable State law to
11 reflect the easement;

12 “(3) to provide a written statement of consent
13 to the easement signed by persons holding a security
14 interest or any vested interest in the land;

15 “(4) to provide proof of unencumbered title to
16 the underlying fee interest in the land that is the
17 subject of the easement;

18 “(5) to comply with the terms of the easement
19 and, when applicable, a restoration agreement;

20 “(6) to implement a grazing management plan,
21 as approved by the Secretary, which may be modi-
22 fied upon mutual agreement of the parties; and

23 “(7) to eliminate any existing cropland base
24 and allotment history for the land under another
25 program administered by the Secretary.

1 “(c) RESTORATION AGREEMENTS.—

2 “(1) WHEN APPLICABLE.—To be eligible for
3 cost-share assistance to restore eligible land subject
4 to a rental contract or an easement under the pro-
5 gram, the owner or operator of the land shall agree
6 to comply with the terms of a restoration agreement.

7 “(2) TERMS AND CONDITIONS.—The Secretary
8 shall prescribe the terms and conditions of a restora-
9 tion agreement by which eligible land that is subject
10 to a rental contract or easement under the program
11 shall be restored.

12 “(3) DUTIES.—The restoration agreement shall
13 describe the respective duties of the owner or oper-
14 ator and the Secretary, including the Federal share
15 of restoration payments and technical assistance.

16 “(d) TERMS AND CONDITIONS APPLICABLE TO
17 RENTAL CONTRACTS AND EASEMENTS.—

18 “(1) PERMISSIBLE ACTIVITIES.—The terms and
19 conditions of a rental contract or easement under
20 the program shall permit—

21 “(A) common grazing practices, including
22 maintenance and necessary cultural practices,
23 on the land in a manner that is consistent with
24 maintaining the viability of grassland, forb, and
25 shrub species appropriate to that locality;

1 “(B) haying, mowing, or harvesting for
2 seed production, subject to appropriate restric-
3 tions during the nesting season for birds in the
4 local area that are in significant decline or are
5 conserved in accordance with Federal or State
6 law, as determined by the State Conserva-
7 tionist;

8 “(C) fire presuppression, rehabilitation,
9 and construction of fire breaks; and

10 “(D) grazing related activities, such as
11 fencing and livestock watering.

12 “(2) PROHIBITIONS.—The terms and conditions
13 of a rental contract or easement under the program
14 shall prohibit—

15 “(A) the production of crops (other than
16 hay), fruit trees, vineyards, or any other agri-
17 cultural commodity that is inconsistent with
18 maintaining grazing land; and

19 “(B) except as permitted under a restora-
20 tion plan, the conduct of any other activity that
21 would be inconsistent with maintaining grazing
22 land enrolled in the program.

23 “(3) ADDITIONAL TERMS AND CONDITIONS.—A
24 rental contract or easement under the program shall
25 include such additional provisions as the Secretary

1 determines are appropriate to carry out or facilitate
2 the purposes and administration of the program.

3 “(e) VIOLATIONS.—On a violation of the terms or
4 conditions of a rental contract, easement, or restoration
5 agreement entered into under this section—

6 “(1) the contract or easement shall remain in
7 force; and

8 “(2) the Secretary may require the owner or
9 operator to refund all or part of any payments re-
10 ceived under the program, with interest on the pay-
11 ments as determined appropriate by the Secretary.

12 **“SEC. 1238P. DUTIES OF SECRETARY.**

13 “(a) EVALUATION AND RANKING OF APPLICA-
14 TIONS.—

15 “(1) CRITERIA.—The Secretary shall establish
16 criteria to evaluate and rank applications for rental
17 contracts and easements under the program .

18 “(2) CONSIDERATIONS.—In establishing the cri-
19 teria, the Secretary shall emphasize support for—

20 “(A) grazing operations;

21 “(B) plant and animal biodiversity; and

22 “(C) grassland, land that contains forbs,
23 and shrubland under the greatest threat of con-
24 version to uses other than grazing.

25 “(b) PAYMENTS.—

1 “(1) IN GENERAL.—In return for the execution
2 of a rental contract or the granting of an easement
3 by an owner or operator under the program, the
4 Secretary shall—

5 “(A) make rental contract or easement
6 payments to the owner or operator in accord-
7 ance with paragraphs (2) and (3); and

8 “(B) make payments to the owner or oper-
9 ator under a restoration agreement for the Fed-
10 eral share of the cost of restoration in accord-
11 ance with paragraph (4).

12 “(2) RENTAL CONTRACT PAYMENTS.—

13 “(A) PERCENTAGE OF GRAZING VALUE OF
14 LAND.—In return for the execution of a rental
15 contract by an owner or operator under the pro-
16 gram, the Secretary shall make annual pay-
17 ments during the term of the contract in an
18 amount, subject to subparagraph (B), that is
19 not more than 75 percent of the grazing value
20 of the land covered by the contract.

21 “(B) PAYMENT LIMITATION.—Payments
22 made under 1 or more rental contracts to a per-
23 son or legal entity, directly or indirectly, may
24 not exceed, in the aggregate, \$50,000 per year.

25 “(3) EASEMENT PAYMENTS.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), in return for the granting of an
3 easement by an owner under the program, the
4 Secretary shall make easement payments in an
5 amount not to exceed the fair market value of
6 the land less the grazing value of the land en-
7 cumbered by the easement.

8 “(B) METHOD FOR DETERMINATION OF
9 COMPENSATION.—In making a determination
10 under subparagraph (A), the Secretary shall
11 pay as compensation for a easement acquired
12 under the program the lowest of—

13 “(i) the fair market value of the land
14 encumbered by the easement, as deter-
15 mined by the Secretary, using—

16 “(I) the Uniform Standards of
17 Professional Appraisal Practices; or

18 “(II) an area-wide market anal-
19 ysis or survey;

20 “(ii) the amount corresponding to a
21 geographical cap, as determined by the
22 Secretary in regulations; or

23 “(iii) the offer made by the land-
24 owner.

1 “(C) SCHEDULE.—Easement payments
2 may be provided in up to 10 annual payments
3 of equal or unequal amount, as agreed to by the
4 Secretary and the owner.

5 “(4) RESTORATION AGREEMENT PAYMENTS.—

6 “(A) FEDERAL SHARE OF RESTORA-
7 TION.—The Secretary shall make payments to
8 an owner or operator under a restoration agree-
9 ment of not more than 50 percent of the costs
10 of carrying out measures and practices nec-
11 essary to restore functions and values of that
12 land.

13 “(B) PAYMENT LIMITATION.—Payments
14 made under 1 or more restoration agreements
15 to a person or legal entity, directly or indirectly,
16 may not exceed, in the aggregate, \$50,000 per
17 year.

18 “(5) PAYMENTS TO OTHERS.—If an owner or
19 operator who is entitled to a payment under the pro-
20 gram dies, becomes incompetent, is otherwise unable
21 to receive the payment, or is succeeded by another
22 person who renders or completes the required per-
23 formance, the Secretary shall make the payment, in
24 accordance with regulations promulgated by the Sec-
25 retary and without regard to any other provision of

1 law, in such manner as the Secretary determines is
2 fair and reasonable in light of all the circumstances.

3 **“SEC. 1238Q. DELEGATION OF DUTY.**

4 “(a) **AUTHORITY TO DELEGATE.**—The Secretary
5 may delegate a duty under the program—

6 “(1) by transferring title of ownership to an
7 easement to an eligible entity to hold and enforce; or

8 “(2) by entering into a cooperative agreement
9 with an eligible entity for the eligible entity to own,
10 write, and enforce an easement.

11 “(b) **ELIGIBLE ENTITY DEFINED.**—In this section,
12 the term ‘eligible entity’ means—

13 “(1) an agency of State or local government or
14 an Indian tribe; or

15 “(2) an organization that—

16 “(A) is organized for, and at all times
17 since the formation of the organization has
18 been operated principally for, one or more of
19 the conservation purposes specified in clause (i),
20 (ii), (iii), or (iv) of section 170(h)(4)(A) of the
21 Internal Revenue Code of 1986;

22 “(B) is an organization described in sec-
23 tion 501(e)(3) of that Code that is exempt from
24 taxation under section 501(a) of that Code; and

25 “(C) is described in—

1 “(i) paragraph (1) or (2) of section
2 509(a) of that Code; or

3 “(ii) in section 509(a)(3) of that
4 Code, and is controlled by an organization
5 described in section 509(a)(2) of that
6 Code.

7 “(c) TRANSFER OF TITLE OF OWNERSHIP.—

8 “(1) TRANSFER.—The Secretary may transfer
9 title of ownership to an easement to an eligible enti-
10 ty to hold and enforce, in lieu of the Secretary, sub-
11 ject to the right of the Secretary to conduct periodic
12 inspections and enforce the easement, if—

13 “(A) the Secretary determines that the
14 transfer will promote protection of grassland,
15 land that contains forbs, or shrubland;

16 “(B) the owner authorizes the eligible enti-
17 ty to hold or enforce the easement; and

18 “(C) the eligible entity agrees to assume
19 the costs incurred in administering and enforce-
20 ing the easement, including the costs of restora-
21 tion or rehabilitation of the land as specified by
22 the owner and the eligible entity.

23 “(2) APPLICATION.—An eligible entity that
24 seeks to hold and enforce an easement shall apply to
25 the Secretary for approval.

1 “(3) APPROVAL BY SECRETARY.—The Sec-
2 retary may approve an application described in para-
3 graph (2) if the eligible entity—

4 “(A) has the relevant experience necessary,
5 as appropriate for the application, to administer
6 an easement on grassland, land that contains
7 forbs, or shrubland;

8 “(B) has a charter that describes a com-
9 mitment to conserving ranchland, agricultural
10 land, or grassland for grazing and conservation
11 purposes; and

12 “(C) has the resources necessary to effec-
13 tuate the purposes of the charter.

14 “(d) COOPERATIVE AGREEMENTS.—

15 “(1) AUTHORIZED; TERMS AND CONDITIONS.—
16 The Secretary shall establish the terms and condi-
17 tions of a cooperative agreement under which an eli-
18 gible entity shall use funds provided by the Sec-
19 retary to own, write, and enforce an easement, in
20 lieu of the Secretary.

21 “(2) MINIMUM REQUIREMENTS.—At a min-
22 imum, the cooperative agreement shall—

23 “(A) specify the qualification of the eligible
24 entity to carry out the entity’s responsibilities
25 under the program, including acquisition, moni-

1 toring, enforcement, and implementation of
2 management policies and procedures that en-
3 sure the long-term integrity of the easement
4 protections;

5 “(B) require the eligible entity to assume
6 the costs incurred in administering and enforc-
7 ing the easement, including the costs of restora-
8 tion or rehabilitation of the land as specified by
9 the owner and the eligible entity;

10 “(C) specify the right of the Secretary to
11 conduct periodic inspections to verify the eligi-
12 ble entity’s enforcement of the easement;

13 “(D) subject to subparagraph (E), identify
14 a specific project or a range of projects to be
15 funded under the agreement;

16 “(E) allow, upon mutual agreement of the
17 parties, substitution of qualified projects that
18 are identified at the time of substitution;

19 “(F) specify the manner in which the eligi-
20 ble entity will evaluate and report the use of
21 funds to the Secretary;

22 “(G) allow the eligible entity flexibility to
23 develop and use terms and conditions for ease-
24 ments, if the Secretary finds the terms and con-
25 ditions consistent with the purposes of the pro-

1 gram and adequate to enable effective enforce-
2 ment of the easements;

3 “(H) if applicable, allow an eligible entity
4 to include a charitable donation or qualified
5 conservation contribution (as defined by section
6 170(h) of the Internal Revenue Code of 1986)
7 from the landowner from which the easement
8 will be purchased as part of the entity’s share
9 of the cost to purchase an easement; and

10 “(I) provide for a schedule of payments to
11 an eligible entity, as agreed to by the Secretary
12 and the eligible entity.

13 “(3) COST SHARING.—

14 “(A) IN GENERAL.—As part of a coopera-
15 tive agreement with an eligible entity under this
16 subsection, the Secretary may provide a share
17 of the purchase price of an easement under the
18 program.

19 “(B) MINIMUM SHARE BY ELIGIBLE ENTI-
20 TY.—The eligible entity shall be required to
21 provide a share of the purchase price at least
22 equivalent to that provided by the Secretary.

23 “(C) PRIORITY.—The Secretary may ac-
24 cord a higher priority to proposals from eligible

1 entities that leverage a greater share of the
2 purchase price of the easement.

3 “(4) VIOLATION.—If an eligible entity violates
4 the terms or conditions of a cooperative agreement
5 entered into under this subsection—

6 “(A) the cooperative agreement shall re-
7 main in force; and

8 “(B) the Secretary may require the eligible
9 entity to refund all or part of any payments re-
10 ceived by the eligible entity under the program,
11 with interest on the payments as determined
12 appropriate by the Secretary.

13 “(e) PROTECTION OF FEDERAL INVESTMENT.—
14 When delegating a duty under this section, the Secretary
15 shall ensure that the terms of an easement include a con-
16 tingent right of enforcement for the Department.”.

17 **Subtitle F—Environmental Quality**
18 **Incentives Program**

19 **SEC. 2501. PURPOSES OF ENVIRONMENTAL QUALITY IN-**
20 **CENTIVES PROGRAM.**

21 (a) REVISED PURPOSES.—Section 1240 of the Food
22 Security Act of 1985 (16 U.S.C. 3839aa) is amended—

23 (1) in the matter preceding paragraph (1), by
24 inserting “, forest management,” after “agricultural
25 production”; and

1 (2) by striking paragraphs (3) and (4) and in-
2 serting the following new paragraphs:

3 “(3) providing flexible assistance to producers
4 to install and maintain conservation practices that
5 sustain food and fiber production while—

6 “(A) enhancing soil, water, and related
7 natural resources, including grazing land,
8 forestland, wetland, and wildlife; and

9 “(B) conserving energy;

10 “(4) assisting producers to make beneficial, cost
11 effective changes to production systems (including
12 conservation practices related to organic production),
13 grazing management, fuels management, forest
14 management, nutrient management associated with
15 livestock, pest or irrigation management, or other
16 practices on agricultural and forested land; and”.

17 (b) TECHNICAL CORRECTION.—The Food Security
18 Act of 1985 is amended by inserting immediately before
19 section 1240 (16 U.S.C. 3839aa) the following:

20 **“CHAPTER 4—ENVIRONMENTAL QUALITY**
21 **INCENTIVES PROGRAM”.**

22 **SEC. 2502. DEFINITIONS.**

23 Section 1240A of the Food Security Act of 1985 (16
24 U.S.C. 3839aa–1) is amended to read as follows:

1 **“SEC. 1240A. DEFINITIONS.**

2 “In this chapter:

3 “(1) ELIGIBLE LAND.—

4 “(A) IN GENERAL.—The term ‘eligible
5 land’ means land on which agricultural com-
6 modities, livestock, or forest-related products
7 are produced.

8 “(B) INCLUSIONS.—The term ‘eligible
9 land’ includes the following:

10 “(i) Cropland.

11 “(ii) Grassland.

12 “(iii) Rangeland.

13 “(iv) Pasture land.

14 “(v) Nonindustrial private forest land.

15 “(vi) Other agricultural land (includ-
16 ing cropped woodland, marshes, and agri-
17 cultural land used for the production of
18 livestock) on which resource concerns re-
19 lated to agricultural production could be
20 addressed through a contract under the
21 program, as determined by the Secretary.

22 “(2) NATIONAL ORGANIC PROGRAM.—The term
23 ‘national organic program’ means the national or-
24 ganic program established under the Organic Foods
25 Production Act of 1990 (7 U.S.C. 6501 et. seq.).

1 “(3) ORGANIC SYSTEM PLAN.—The term ‘or-
2 ganic system plan’ means an organic plan approved
3 under the national organic program.

4 “(4) PAYMENT.—The term ‘payment’ means fi-
5 nancial assistance provided to a producer for per-
6 forming practices under this chapter, including com-
7 pensation for—

8 “(A) incurred costs associated with plan-
9 ning, design, materials, equipment, installation,
10 labor, management, maintenance, or training;
11 and

12 “(B) income forgone by the producer.

13 “(5) PRACTICE.—The term ‘practice’ means 1
14 or more improvements and conservation activities
15 that are consistent with the purposes of the program
16 under this chapter, as determined by the Secretary,
17 including—

18 “(A) improvements to eligible land of the
19 producer, including—

20 “(i) structural practices;

21 “(ii) land management practices;

22 “(iii) vegetative practices;

23 “(iv) forest management; and

1 “(v) other practices that the Secretary
2 determines would further the purposes of
3 the program; and

4 “(B) conservation activities involving the
5 development of plans appropriate for the eligi-
6 ble land of the producer, including—

7 “(i) comprehensive nutrient manage-
8 ment planning; and

9 “(ii) other plans that the Secretary
10 determines would further the purposes of
11 the program under this chapter.

12 “(6) PROGRAM.—The term ‘program’ means
13 the environmental quality incentives program estab-
14 lished by this chapter.”.

15 **SEC. 2503. ESTABLISHMENT AND ADMINISTRATION OF EN-**
16 **VIRONMENTAL QUALITY INCENTIVES PRO-**
17 **GRAM.**

18 Section 1240B of the Food Security Act of 1985 (16
19 U.S.C. 3839aa–2) is amended to read as follows:

20 **“SEC. 1240B. ESTABLISHMENT AND ADMINISTRATION.**

21 “(a) ESTABLISHMENT.—During each of the 2002
22 through 2012 fiscal years, the Secretary shall provide pay-
23 ments to producers that enter into contracts with the Sec-
24 retary under the program.

25 “(b) PRACTICES AND TERM.—

1 “(1) PRACTICES.—A contract under the pro-
2 gram may apply to the performance of one or more
3 practices.

4 “(2) TERM.—A contract under the program
5 shall have a term that—

6 “(A) at a minimum, is equal to the period
7 beginning on the date on which the contract is
8 entered into and ending on the date that is one
9 year after the date on which all practices under
10 the contract have been implemented; but

11 “(B) not to exceed 10 years.

12 “(c) BIDDING DOWN.—If the Secretary determines
13 that the environmental values of two or more applications
14 for payments are comparable, the Secretary shall not as-
15 sign a higher priority to the application only because it
16 would present the least cost to the program.

17 “(d) PAYMENTS.—

18 “(1) AVAILABILITY OF PAYMENTS.—Payments
19 are provided to a producer to implement one or more
20 practices under the program.

21 “(2) LIMITATION ON PAYMENT AMOUNTS.—A
22 payment to a producer for performing a practice
23 may not exceed, as determined by the Secretary—

24 “(A) 75 percent of the costs associated
25 with planning, design, materials, equipment, in-

1 stallation, labor, management, maintenance, or
2 training;

3 “(B) 100 percent of income foregone by
4 the producer; or

5 “(C) in the case of a practice consisting of
6 elements covered under subparagraphs (A) and
7 (B)—

8 “(i) 75 percent of the costs incurred
9 for those elements covered under subpara-
10 graph (A); and

11 “(ii) 100 percent of income foregone
12 for those elements covered under subpara-
13 graph (B).

14 “(3) SPECIAL RULE INVOLVING PAYMENTS FOR
15 FOREGONE INCOME.—In determining the amount
16 and rate of payments under paragraph (2)(B), the
17 Secretary may accord great significance to a practice
18 that, as determined by the Secretary, promotes—

19 “(A) residue management;

20 “(B) nutrient management;

21 “(C) air quality management;

22 “(D) invasive species management;

23 “(E) pollinator habitat;

24 “(F) animal carcass management tech-
25 nology; or

1 “(G) pest management.

2 “(4) INCREASED PAYMENTS FOR CERTAIN PRO-
3 DUCERS.—

4 “(A) IN GENERAL.—Notwithstanding para-
5 graph (2), in the case of a producer that is a
6 limited resource, socially disadvantaged farmer
7 or rancher or a beginning farmer or rancher,
8 the Secretary shall increase the amount that
9 would otherwise be provided to a producer
10 under this subsection—

11 “(i) to not more than 90 percent of
12 the costs associated with planning, design,
13 materials, equipment, installation, labor,
14 management, maintenance, or training;
15 and

16 “(ii) to not less than 25 percent above
17 the otherwise applicable rate.

18 “(B) ADVANCE PAYMENTS.—Not more
19 than 30 percent of the amount determined
20 under subparagraph (A) may be provided in ad-
21 vance for the purpose of purchasing materials
22 or contracting.

23 “(5) FINANCIAL ASSISTANCE FROM OTHER
24 SOURCES.—Except as provided in paragraph (6),
25 any payments received by a producer from a State

1 or private organization or person for the implemen-
2 tation of one or more practices on eligible land of
3 the producer shall be in addition to the payments
4 provided to the producer under this subsection.

5 “(6) OTHER PAYMENTS.—A producer shall not
6 be eligible for payments for practices on eligible land
7 under the program if the producer receives payments
8 or other benefits for the same practice on the same
9 land under another program under this subtitle.

10 “(e) MODIFICATION OR TERMINATION OF CON-
11 TRACTS.—

12 “(1) VOLUNTARY MODIFICATION OR TERMI-
13 NATION.—The Secretary may modify or terminate a
14 contract entered into with a producer under the pro-
15 gram if—

16 “(A) the producer agrees to the modifica-
17 tion or termination; and

18 “(B) the Secretary determines that the
19 modification or termination is in the public in-
20 terest.

21 “(2) INVOLUNTARY TERMINATION.—The Sec-
22 retary may terminate a contract under the program
23 if the Secretary determines that the producer vio-
24 lated the contract.

1 “(f) ALLOCATION OF FUNDING.—For each of fiscal
2 years 2002 through 2012, 60 percent of the funds made
3 available for payments under the program shall be tar-
4 geted at practices relating to livestock production.

5 “(g) FUNDING FOR FEDERALLY RECOGNIZED NA-
6 TIVE AMERICAN INDIAN TRIBES AND ALASKA NATIVE
7 CORPORATIONS.—The Secretary may enter into alter-
8 native funding arrangements with federally recognized
9 Native American Indian Tribes and Alaska Native Cor-
10 porations (including their affiliated membership organiza-
11 tions) if the Secretary determines that the goals and objec-
12 tives of the program will be met by such arrangements,
13 and that statutory limitations regarding contracts with in-
14 dividual producers will not be exceeded by any Tribal or
15 Native Corporation member.

16 “(h) WATER CONSERVATION OR IRRIGATION EFFI-
17 CIENCY PRACTICE.—

18 “(1) AVAILABILITY OF PAYMENTS.—The Sec-
19 retary may provide payments under this subsection
20 to a producer for a water conservation or irrigation
21 practice.

22 “(2) PRIORITY.—In providing payments to a
23 producer for a water conservation or irrigation prac-
24 tice, the Secretary shall give priority to applications
25 in which—

1 “(A) consistent with the law of the State
2 in which the eligible land of the producer is lo-
3 cated, there is a reduction in water use in the
4 operation of the producer; or

5 “(B) the producer agrees not to use any
6 associated water savings to bring new land,
7 other than incidental land needed for efficient
8 operations, under irrigated production, unless
9 the producer is participating in a watershed-
10 wide project that will effectively conserve water,
11 as determined by the Secretary.

12 “(i) PAYMENTS FOR CONSERVATION PRACTICES RE-
13 LATED TO ORGANIC PRODUCTION.—

14 “(1) PAYMENTS AUTHORIZED.—The Secretary
15 shall provide payments under this subsection for
16 conservation practices, on some or all of the oper-
17 ations of a producer, related—

18 “(A) to organic production; and

19 “(B) to the transition to organic produc-
20 tion.

21 “(2) ELIGIBILITY REQUIREMENTS.—As a condi-
22 tion for receiving payments under this subsection, a
23 producer shall agree—

24 “(A) to develop and carry out an organic
25 system plan; or

1 “(B) to develop and implement conserva-
2 tion practices for certified organic production
3 that are consistent with an organic system plan
4 and the purposes of this chapter.

5 “(3) PAYMENT LIMITATIONS.—Payments under
6 this subsection to a person or legal entity, directly
7 or indirectly, may not exceed, in the aggregate,
8 \$20,000 per year or \$80,000 during any 6-year pe-
9 riod. In applying these limitations, the Secretary
10 shall not take into account payments received for
11 technical assistance.

12 “(4) EXCLUSION OF CERTAIN ORGANIC CER-
13 TIFICATION COSTS.—Payments may not be made
14 under this subsection to cover the costs associated
15 with organic certification that are eligible for cost-
16 share payments under section 10606 of the Farm
17 Security and Rural Investment Act of 2002 (7
18 U.S.C. 6523).

19 “(5) TERMINATION OF CONTRACTS.—The Sec-
20 retary may cancel or otherwise nullify a contract to
21 provide payments under this subsection if the Sec-
22 retary determines that the producer—

23 “(A) is not pursuing organic certification;
24 or

1 “(B) is not in compliance with the Organic
2 Foods Production Act of 1990 (7 U.S.C. 6501
3 et seq).”.

4 **SEC. 2504. EVALUATION OF APPLICATIONS.**

5 Section 1240C of the Food Security Act of 1985 (16
6 U.S.C. 3839aa-3) is amended to read as follows:

7 **“SEC. 1240C. EVALUATION OF APPLICATIONS.**

8 “(a) **EVALUATION CRITERIA.**—The Secretary shall
9 develop criteria for evaluating applications that will ensure
10 that national, State, and local conservation priorities are
11 effectively addressed.

12 “(b) **PRIORITIZATION OF APPLICATIONS.**—In evalu-
13 ating applications under this chapter, the Secretary shall
14 prioritize applications—

15 “(1) based on their overall level of cost-effec-
16 tiveness to ensure that the conservation practices
17 and approaches proposed are the most efficient
18 means of achieving the anticipated environmental
19 benefits of the project;

20 “(2) based on how effectively and comprehen-
21 sively the project addresses the designated resource
22 concern or resource concerns;

23 “(3) that best fulfill the purpose of the environ-
24 mental quality incentives program specified in sec-
25 tion 1240(1); and

1 “(4) that improve conservation practices or sys-
2 tems in place on the operation at the time the con-
3 tract offer is accepted or that will complete a con-
4 servation system.

5 “(c) GROUPING OF APPLICATIONS.—To the greatest
6 extent practicable, the Secretary shall group applications
7 of similar crop or livestock operations for evaluation pur-
8 poses or otherwise evaluate applications relative to other
9 applications for similar farming operations.”.

10 **SEC. 2505. DUTIES OF PRODUCERS UNDER ENVIRON-**
11 **MENTAL QUALITY INCENTIVES PROGRAM.**

12 Section 1240D of the Food Security Act of 1985 (16
13 U.S.C. 3839aa-4) is amended—

14 (1) in the matter preceding paragraph (1), by
15 striking “technical assistance, cost-share payments,
16 or incentive”;

17 (2) in paragraph (2), by striking “farm or
18 ranch” and inserting “farm, ranch, or forest land”;
19 and

20 (3) in paragraph (4), by striking “cost-share
21 payments and incentive”.

1 **SEC. 2506. ENVIRONMENTAL QUALITY INCENTIVES PRO-**
2 **GRAM PLAN.**

3 (a) PLAN OF OPERATIONS.—Section 1240E(a) of the
4 Food Security Act of 1985 (16 U.S.C. 3839aa–5(a)) is
5 amended—

6 (1) in the subsection heading, by striking “IN
7 GENERAL” and inserting “PLAN OF OPERATIONS”;

8 (2) in matter preceding paragraph (1), by strik-
9 ing “cost-share payments or incentive”;

10 (3) in paragraph (2), by striking “and” after
11 the semicolon at the end;

12 (4) in paragraph (3), by striking the period at
13 the end and inserting “; and”; and

14 (5) by adding at the end the following new
15 paragraph:

16 “(4) in the case of forest land, is consistent
17 with the provisions of a forest management plan
18 that is approved by the Secretary, which may in-
19 clude—

20 “(A) a forest stewardship plan described in
21 section 5 of the Cooperative Forestry Assist-
22 ance Act of 1978 (16 U.S.C. 2103a);

23 “(B) another practice plan approved by the
24 State forester; or

25 “(C) another plan determined appropriate
26 by the Secretary.”.

1 (b) AVOIDANCE OF DUPLICATION.—Subsection (b) of
2 section 1240E of the Food Security Act of 1985 (16
3 U.S.C. 3839aa–5) is amended to read as follows:

4 “(b) AVOIDANCE OF DUPLICATION.—The Secretary
5 shall—

6 “(1) consider a plan developed in order to ac-
7 quire a permit under a water or air quality regu-
8 latory program as the equivalent of a plan of oper-
9 ations under subsection (a), if the plan contains ele-
10 ments equivalent to those elements required by a
11 plan of operations; and

12 “(2) to the maximum extent practicable, elimi-
13 nate duplication of planning activities under the pro-
14 gram under this chapter and comparable conserva-
15 tion programs.”.

16 **SEC. 2507. DUTIES OF THE SECRETARY.**

17 Section 1240F(1) of the Food Security Act of 1985
18 (16 U.S.C. 3839aa–6(1)) is amended by striking “cost-
19 share payments or incentive”.

20 **SEC. 2508. LIMITATION ON ENVIRONMENTAL QUALITY IN-**
21 **CENTIVES PROGRAM PAYMENTS.**

22 Section 1240G of the Food Security Act of 1985 (16
23 U.S.C. 3839aa–7) is amended—

1 (1) by striking “An individual or entity” and
2 inserting “(a) **LIMITATION.**—Subject to subsection
3 (b), a person or legal entity”;

4 (2) by striking “\$450,000” and inserting
5 “\$300,000”;

6 (3) by striking “the individual” both places it
7 appears and inserting “the person”; and

8 (4) by adding at the end the following new sub-
9 section:

10 “(b) **WAIVER AUTHORITY.**—In the case of contracts
11 under this chapter for projects of special environmental
12 significance (including projects involving methane digest-
13 ers), as determined by the Secretary, the Secretary may—

14 “(1) waive the limitation otherwise applicable
15 under subsection (a); and

16 “(2) raise the limitation to not more than
17 \$450,000 during any six-year period.”.

18 **SEC. 2509. CONSERVATION INNOVATION GRANTS AND PAY-**
19 **MENTS.**

20 Section 1240H of the Food Security Act of 1985 (16
21 U.S.C. 3839aa–8) is amended to read as follows:

22 **“SEC. 1240H. CONSERVATION INNOVATION GRANTS AND**
23 **PAYMENTS.**

24 “(a) **COMPETITIVE GRANTS FOR INNOVATIVE CON-**
25 **SERVATION APPROACHES.**—

1 “(1) GRANTS.—Out of the funds made available
2 to carry out this chapter, the Secretary may pay the
3 cost of competitive grants that are intended to stim-
4 ulate innovative approaches to leveraging the Fed-
5 eral investment in environmental enhancement and
6 protection, in conjunction with agricultural produc-
7 tion or forest resource management, through the
8 program.

9 “(2) USE.—The Secretary may provide grants
10 under this subsection to governmental and non-gov-
11 ernmental organizations and persons, on a competi-
12 tive basis, to carry out projects that—

13 “(A) involve producers who are eligible for
14 payments or technical assistance under the pro-
15 gram;

16 “(B) leverage Federal funds made avail-
17 able to carry out the program under this chap-
18 ter with matching funds provided by State and
19 local governments and private organizations to
20 promote environmental enhancement and pro-
21 tection in conjunction with agricultural produc-
22 tion;

23 “(C) ensure efficient and effective transfer
24 of innovative technologies and approaches dem-
25 onstrated through projects that receive funding

1 under this section, such as market systems for
2 pollution reduction and practices for the storage
3 of carbon in soil; and

4 “(D) provide environmental and resource
5 conservation benefits through increased partici-
6 pation by producers of specialty crops.

7 “(b) AIR QUALITY CONCERNS FROM AGRICULTURAL
8 OPERATIONS.—

9 “(1) IMPLEMENTATION ASSISTANCE.—The Sec-
10 retary shall provide payments under this subsection
11 to producers to implement practices to address air
12 quality concerns from agricultural operations and to
13 meet Federal, State, and local regulatory require-
14 ments. The funds shall be made available on the
15 basis of air quality concerns in a State and shall be
16 used to provide payments to producers that are cost
17 effective and reflect innovative technologies.

18 “(2) FUNDING.—Of the funds made available
19 to carry out this chapter, the Secretary shall carry
20 out this subsection using \$37,500,000 for each of
21 fiscal years 2009 through 2012.”.

22 **SEC. 2510. AGRICULTURAL WATER ENHANCEMENT PRO-**
23 **GRAM.**

24 Section 1240I of the Food Security Act of 1985 (16
25 U.S.C. 3839aa–9) is amended to read as follows:

1 **“SEC. 1240I. AGRICULTURAL WATER ENHANCEMENT PRO-**
2 **GRAM.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) AGRICULTURAL WATER ENHANCEMENT
5 ACTIVITY.—The term ‘agricultural water enhance-
6 ment activity’ includes the following activities car-
7 ried out with respect to agricultural land:

8 “(A) Water quality or water conservation
9 plan development, including resource condition
10 assessment and modeling.

11 “(B) Water conservation restoration or en-
12 hancement projects, including conversion to the
13 production of less water-intensive agricultural
14 commodities or dryland farming.

15 “(C) Water quality or quantity restoration
16 or enhancement projects.

17 “(D) Irrigation system improvement and
18 irrigation efficiency enhancement.

19 “(E) Activities designed to mitigate the ef-
20 fects of drought.

21 “(F) Related activities that the Secretary
22 determines will help achieve water quality or
23 water conservation benefits on agricultural
24 land.

25 “(2) PARTNER.—The term ‘partner’ means an
26 entity that enters into a partnership agreement with

1 the Secretary to carry out agricultural water en-
2 hancement activities on a regional basis, including—

3 “(A) an agricultural or silvicultural pro-
4 ducer association or other group of such pro-
5 ducers;

6 “(B) a State or unit of local government;
7 or

8 “(C) a federally recognized Indian tribe.

9 “(3) PARTNERSHIP AGREEMENT.—The term
10 ‘partnership agreement’ means an agreement be-
11 tween the Secretary and a partner.

12 “(4) PROGRAM.—The term ‘program’ means
13 the agricultural water enhancement program estab-
14 lished under subsection (b).

15 “(b) ESTABLISHMENT OF PROGRAM.—Beginning in
16 fiscal year 2009, the Secretary shall carry out, in accord-
17 ance with this section and using such procedures as the
18 Secretary determines to be appropriate, an agricultural
19 water enhancement program as part of the environmental
20 quality incentives program to promote ground and surface
21 water conservation and improve water quality on agricul-
22 tural lands—

23 “(1) by entering into contracts with, and mak-
24 ing payments to, producers to carry out agricultural
25 water enhancement activities; or

1 “(2) by entering into partnership agreements
2 with partners, in accordance with subsection (c), on
3 a regional level to benefit working agricultural land.

4 “(c) PARTNERSHIP AGREEMENTS.—

5 “(1) AGREEMENTS AUTHORIZED.—The Sec-
6 retary may enter into partnership agreements to
7 meet the objectives of the program described in sub-
8 section (b).

9 “(2) APPLICATIONS.—An application to the
10 Secretary to enter into a partnership agreement
11 under paragraph (1) shall include the following:

12 “(A) A description of the geographical area
13 to be covered by the partnership agreement.

14 “(B) A description of the agricultural
15 water quality or water conservation issues to be
16 addressed by the partnership agreement.

17 “(C) A description of the agricultural
18 water enhancement objectives to be achieved
19 through the partnership.

20 “(D) A description of the partners collabo-
21 rating to achieve the project objectives and the
22 roles, responsibilities, and capabilities of each
23 partner.

1 “(E) A description of the program re-
2 sources, including payments the Secretary is re-
3 quested to make.

4 “(F) Such other such elements as the Sec-
5 retary considers necessary to adequately evalu-
6 ate and competitively select applications for
7 partnership agreements.

8 “(3) DUTIES OF PARTNERS.—A partner under
9 a partnership agreement shall—

10 “(A) identify producers participating in the
11 project and act on their behalf in applying for
12 the program;

13 “(B) leverage funds provided by the Sec-
14 retary with additional funds to help achieve
15 project objectives;

16 “(C) conduct monitoring and evaluation of
17 project effects; and

18 “(D) at the conclusion of the project, re-
19 port to the Secretary on project results.

20 “(d) AGRICULTURAL WATER ENHANCEMENT ACTIVI-
21 TIES BY PRODUCERS.—The Secretary shall select agricul-
22 tural water enhancement activities proposed by producers
23 according to applicable requirements under the environ-
24 mental quality incentives program.

1 “(e) AGRICULTURAL WATER ENHANCEMENT ACTIVI-
2 TIES BY PARTNERS.—

3 “(1) COMPETITIVE PROCESS.—The Secretary
4 shall conduct a competitive process to select part-
5 ners. In carrying out the process, the Secretary shall
6 make public the criteria used in evaluating applica-
7 tions.

8 “(2) AUTHORITY TO GIVE PRIORITY TO CER-
9 TAIN PROPOSALS.—The Secretary may give a higher
10 priority to proposals from partners that—

11 “(A) include high percentages of agricul-
12 tural land and producers in a region or other
13 appropriate area;

14 “(B) result in high levels of applied agri-
15 cultural water quality and water conservation
16 activities;

17 “(C) significantly enhance agricultural ac-
18 tivity;

19 “(D) allow for monitoring and evaluation;
20 and

21 “(E) assist producers in meeting a regu-
22 latory requirement that reduces the economic
23 scope of the producer’s operation.

24 “(3) PRIORITY TO PROPOSALS FROM STATES
25 WITH WATER QUANTITY CONCERNS.—The Secretary

1 shall give a higher priority to proposals from part-
2 ners that—

3 “(A) include the conversion of agricultural
4 land from irrigated farming to dryland farming;

5 “(B) leverage Federal funds provided
6 under the program with funds provided by part-
7 ners; and

8 “(C) assist producers in States with water
9 quantity concerns, as determined by the Sec-
10 retary.

11 “(4) ADMINISTRATION.—In carrying out this
12 subsection, the Secretary shall—

13 “(A) accept qualified applications—

14 “(i) directly from partners applying
15 on behalf of producers; or

16 “(ii) from producers applying through
17 a partner as part of a regional agricultural
18 water enhancement project; and

19 “(B) ensure that resources made available
20 for regional agricultural water enhancement ac-
21 tivities are delivered in accordance with applica-
22 ble program rules.

23 “(f) AREAS EXPERIENCING EXCEPTIONAL
24 DROUGHT.—Notwithstanding the purposes described in
25 section 1240, the Secretary shall consider as an eligible

1 agricultural water enhancement activity the use of a water
2 impoundment to capture surface water runoff on agricul-
3 tural land if the agricultural water enhancement activity—

4 “(1) is located in an area that is experiencing
5 or has experienced exceptional drought conditions
6 during the previous two calendar years; and

7 “(2) will capture surface water runoff through
8 the construction, improvement, or maintenance of ir-
9 rigation ponds or small, on-farm reservoirs.

10 “(g) WAIVER AUTHORITY.—To assist in the imple-
11 mentation of agricultural water enhancement activities
12 under the program, the Secretary shall waive the applica-
13 bility of the limitation in section 1001D(b)(2)(B) of this
14 Act for participating producers if the Secretary determines
15 that the waiver is necessary to fulfill the objectives of the
16 program.

17 “(h) PAYMENTS UNDER PROGRAM.—

18 “(1) IN GENERAL.—The Secretary shall provide
19 appropriate payments to producers participating in
20 agricultural water enhancement activities in an
21 amount determined by the secretary to be necessary
22 to achieve the purposes of the program described in
23 subsection (b).

24 “(2) PAYMENTS TO PRODUCERS IN STATES
25 WITH WATER QUANTITY CONCERNS.—The Secretary

1 shall provide payments for a period of five years to
2 producers participating in agricultural water en-
3 hancement activities under proposals described in
4 subsection (e)(3) in an amount sufficient to encour-
5 age producers to convert from irrigated farming to
6 dryland farming.

7 “(i) CONSISTENCY WITH STATE LAW.—Any agricul-
8 tural water enhancement activity conducted under the pro-
9 gram shall be conducted in a manner consistent with State
10 water law.

11 “(j) FUNDING.—

12 “(1) AVAILABILITY OF FUNDS.—In addition to
13 funds made available to carry out this chapter under
14 section 1241(a), the Secretary shall carry out the
15 program using, of the funds of the Commodity Cred-
16 it Corporation—

17 “(A) \$73,000,000 for each of fiscal years
18 2009 and 2010;

19 “(B) \$74,000,000 for fiscal year 2011; and

20 “(C) \$60,000,000 for fiscal year 2012 and
21 each fiscal year thereafter.

22 “(2) LIMITATION ON ADMINISTRATIVE EX-
23 PENSES.—None of the funds made available for re-
24 gional agricultural water conservation activities

1 under the program may be used to pay for the ad-
2 ministrative expenses of partners.”.

3 **Subtitle G—Other Conservation**
4 **Programs of the Food Security**
5 **Act of 1985**

6 **SEC. 2601. CONSERVATION OF PRIVATE GRAZING LAND.**

7 Section 1240M(e) of the Food Security Act of 1985
8 (16 U.S.C. 3839bb(e)) is amended by striking “2007” and
9 inserting “2012”.

10 **SEC. 2602. WILDLIFE HABITAT INCENTIVE PROGRAM.**

11 (a) **ELIGIBILITY.**—Section 1240N of the Food Secu-
12 rity Act of 1985 (16 U.S.C. 3839bb–1) is amended—

13 (1) in subsection (a), by inserting before the pe-
14 riod at the end the following: “for the development
15 of wildlife habitat on private agricultural land, non-
16 industrial private forest land, and tribal lands”.

17 (2) in subsection (b)(1), by striking “land-
18 owners” and inserting “owners of lands referred to
19 in subsection (a)”.

20 (b) **INCLUSION OF PIVOT CORNERS AND IRREGULAR**
21 **AREAS.**—Section 1240N(b)(1)(E) of the Food Security
22 Act of 1985 (16 U.S.C. 3839bb–1(b)(1)(E)) is amended
23 by inserting before the period at the end the following:
24 “, including habitat developed on pivot corners and irreg-
25 ular areas”.

1 (c) COST SHARE FOR LONG-TERM AGREEMENTS.—
2 Section 1240N(b)(2)(B) of the Food Security Act of 1985
3 (16 U.S.C. 3839bb–1(b)(2)(B)) is amended by striking
4 “15 percent” and inserting “25 percent”.

5 (d) PRIORITY FOR CERTAIN CONSERVATION INITIA-
6 TIVES; PAYMENT LIMITATION.—Section 1240N of the
7 Food Security Act of 1985 (16 U.S.C. 3839bb–1) is
8 amended by adding at the end the following new sub-
9 sections:

10 “(d) PRIORITY FOR CERTAIN CONSERVATION INITIA-
11 TIVES.—In carrying out this section, the Secretary may
12 give priority to projects that would address issues raised
13 by State, regional, and national conservation initiatives.

14 “(e) PAYMENT LIMITATION.—Payments made to a
15 person or legal entity, directly or indirectly, under the pro-
16 gram may not exceed, in the aggregate, \$50,000 per
17 year.”.

18 **SEC. 2603. GRASSROOTS SOURCE WATER PROTECTION**
19 **PROGRAM.**

20 Section 1240O(b) of the Food Security Act of 1985
21 (16 U.S.C. 3839bb–2(b)) is amended by striking
22 “\$5,000,000 for each of fiscal years 2002 through 2007”
23 and inserting “\$20,000,000 for each of fiscal years 2008
24 through 2012”.

1 **SEC. 2604. GREAT LAKES BASIN PROGRAM FOR SOIL ERO-**
2 **SION AND SEDIMENT CONTROL.**

3 Section 1240P of the Food Security Act of 1985 (16
4 U.S.C. 3839bb–3) is amended to read as follows:

5 **“SEC. 1240P. GREAT LAKES BASIN PROGRAM FOR SOIL ERO-**
6 **SION AND SEDIMENT CONTROL.**

7 “(a) PROGRAM AUTHORIZED.—The Secretary may
8 carry out the Great Lakes basin program for soil erosion
9 and sediment control (referred to in this section as the
10 ‘program’), including providing assistance to implement
11 the recommendations of the Great Lakes Regional Col-
12 laboration Strategy to Restore and Protect the Great
13 Lakes.

14 “(b) CONSULTATION AND COOPERATION.—The Sec-
15 retary shall carry out the program in consultation with
16 the Great Lakes Commission created by Article IV of the
17 Great Lakes Basin Compact (82 Stat. 415) and in co-
18 operation with the Administrator of the Environmental
19 Protection Agency and the Secretary of the Army.

20 “(c) ASSISTANCE.—In carrying out the program, the
21 Secretary may—

22 “(1) provide project demonstration grants, pro-
23 vide technical assistance, and carry out information
24 and educational programs to improve water quality
25 in the Great Lakes basin by reducing soil erosion
26 and improving sediment control; and

1 “(2) establish a priority for projects and activi-
2 ties that—

3 “(A) directly reduce soil erosion or improve
4 sediment control;

5 “(B) reduce soil loss in degraded rural wa-
6 tersheds; or

7 “(C) improve water quality for downstream
8 watersheds.

9 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
10 is authorized to be appropriated to the Secretary to carry
11 out the program \$5,000,000 for each of fiscal years 2008
12 through 2012.”.

13 **SEC. 2605. CHESAPEAKE BAY WATERSHED PROGRAM.**

14 Chapter 5 of subtitle D of title XII of the Food Secu-
15 rity Act of 1985 is amended by inserting after section
16 1240P (16 U.S.C. 3839bb–3) the following new section:

17 **“SEC. 1240Q. CHESAPEAKE BAY WATERSHED.**

18 “(a) CHESAPEAKE BAY WATERSHED DEFINED.—In
19 this section, the term ‘Chesapeake Bay watershed’ means
20 all tributaries, backwaters, and side channels, including
21 their watersheds, draining into the Chesapeake Bay.

22 “(b) ESTABLISHMENT AND PURPOSE.—The Sec-
23 retary shall assist producers in implementing conservation
24 activities on agricultural lands in the Chesapeake Bay wa-
25 tershed for the purposes of—

1 “(1) improving water quality and quantity in
2 the Chesapeake Bay watershed; and

3 “(2) restoring, enhancing, and preserving soil,
4 air, and related resources in the Chesapeake Bay
5 watershed.

6 “(c) CONSERVATION ACTIVITIES.—The Secretary
7 shall deliver the funds made available to carry out this
8 section through applicable programs under this subtitle to
9 assist producers in enhancing land and water resources—

10 “(1) by controlling erosion and reducing sedi-
11 ment and nutrient levels in ground and surface
12 water; and

13 “(2) by planning, designing, implementing, and
14 evaluating habitat conservation, restoration, and en-
15 hancement measures where there is significant eco-
16 logical value if the lands are—

17 “(A) retained in their current use; or

18 “(B) restored to their natural condition.

19 “(d) AGREEMENTS.—

20 “(1) IN GENERAL.—The Secretary shall—

21 “(A) enter into agreements with producers
22 to carry out the purposes of this section; and

23 “(B) use the funds made available to carry
24 out this section to cover the costs of the pro-
25 gram involved with each agreement.

1 “(2) SPECIAL CONSIDERATIONS.—In entering
2 into agreements under this subsection, the Secretary
3 shall give special consideration to, and begin evalu-
4 ating, applications with producers in the following
5 river basins:

6 “(A) The Susquehanna River.

7 “(B) The Shenandoah River.

8 “(C) The Potomac River (including North
9 and South Potomac).

10 “(D) The Patuxent River.

11 “(e) DUTIES OF THE SECRETARY.—In carrying out
12 the purposes in this section, the Secretary shall—

13 “(1) where available, use existing plans, models,
14 and assessments to assist producers in implementing
15 conservation activities; and

16 “(2) proceed expeditiously with the implementa-
17 tion of any agreement with a producer that is con-
18 sistent with State strategies for the restoration of
19 the Chesapeake Bay watershed.

20 “(f) CONSULTATION.—The Secretary, in consultation
21 with appropriate Federal agencies, shall ensure conserva-
22 tion activities carried out under this section complement
23 Federal and State programs, including programs that ad-
24 dress water quality, in the Chesapeake Bay watershed.

1 “(g) SENSE OF CONGRESS REGARDING CHESAPEAKE
2 BAY EXECUTIVE COUNCIL.—It is the sense of Congress
3 that the Secretary should be a member of the Chesapeake
4 Bay Executive Council, and is authorized to do so under
5 section 1(3) of the Soil Conservation and Domestic Allot-
6 ment Act (16 U.S.C. 590a(3)).

7 “(h) FUNDING.—

8 “(1) AVAILABILITY.—Of the funds of the Com-
9 modity Credit Corporation, the Secretary shall use,
10 to the maximum extent practicable—

11 “(A) \$23,000,000 for fiscal year 2009;

12 “(B) \$43,000,000 for fiscal year 2010;

13 “(C) \$72,000,000 for fiscal year 2011; and

14 “(D) \$50,000,000 for fiscal year 2012.

15 “(2) DURATION OF AVAILABILITY.—Funds
16 made available under paragraph (1) shall remain
17 available until expended.”

18 **SEC. 2606. VOLUNTARY PUBLIC ACCESS AND HABITAT IN-**
19 **CENTIVE PROGRAM.**

20 Chapter 5 of subtitle D of title XII of the Food Secu-
21 rity Act of 1985 (16 U.S.C. 3839bb et seq.) is amended
22 by inserting after section 1240Q, as added by section
23 2605, the following new section:

1 **“SEC. 1240R. VOLUNTARY PUBLIC ACCESS AND HABITAT IN-**
2 **CENTIVE PROGRAM.**

3 “(a) ESTABLISHMENT.—The Secretary shall estab-
4 lish a voluntary public access program under which States
5 and tribal governments may apply for grants to encourage
6 owners and operators of privately-held farm, ranch, and
7 forest land to voluntarily make that land available for ac-
8 cess by the public for wildlife-dependent recreation, includ-
9 ing hunting or fishing under programs administered by
10 the States and tribal governments.

11 “(b) APPLICATIONS.—In submitting applications for
12 a grant under the program, a State or tribal government
13 shall describe—

14 “(1) the benefits that the State or tribal gov-
15 ernment intends to achieve by encouraging public ac-
16 cess to private farm and ranch land for—

17 “(A) hunting and fishing; and

18 “(B) to the maximum extent practicable,
19 other recreational purposes; and

20 “(2) the methods that will be used to achieve
21 those benefits.

22 “(c) PRIORITY.—In approving applications and
23 awarding grants under the program, the Secretary shall
24 give priority to States and tribal governments that pro-
25 pose—

1 “(1) to maximize participation by offering a
2 program the terms of which are likely to meet with
3 widespread acceptance among landowners;

4 “(2) to ensure that land enrolled under the
5 State or tribal government program has appropriate
6 wildlife habitat;

7 “(3) to strengthen wildlife habitat improvement
8 efforts on land enrolled in a special conservation re-
9 serve enhancement program described in section
10 1234(f)(4) by providing incentives to increase public
11 hunting and other recreational access on that land;

12 “(4) to use additional Federal, State, tribal
13 government, or private resources in carrying out the
14 program; and

15 “(5) to make available to the public the location
16 of land enrolled.

17 “(d) RELATIONSHIP TO OTHER LAWS.—

18 “(1) NO PREEMPTION.—Nothing in this section
19 preempts a State or tribal government law, including
20 any State or tribal government liability law.

21 “(2) EFFECT OF INCONSISTENT OPENING
22 DATES FOR MIGRATORY BIRD HUNTING.—The Sec-
23 retary shall reduce by 25 percent the amount of a
24 grant otherwise determined for a State under the
25 program if the opening dates for migratory bird

1 hunting in the State are not consistent for residents
2 and non-residents.

3 “(e) REGULATIONS.—The Secretary shall promulgate
4 such regulations as are necessary to carry out this section.

5 “(f) FUNDING.—Of the funds of the Commodity
6 Credit Corporation, the Secretary shall use, to the max-
7 imum extent practicable, \$50,000,000 for the period of fis-
8 cal years 2009 through 2012.”.

9 **Subtitle H—Funding and Adminis-**
10 **tration of Conservation Pro-**
11 **grams**

12 **SEC. 2701. FUNDING OF CONSERVATION PROGRAMS UNDER**
13 **FOOD SECURITY ACT OF 1985.**

14 (a) IN GENERAL.—Section 1241(a) of the Food Se-
15 curity Act of 1985 (16 U.S.C. 3841(a)) is amended in the
16 matter preceding paragraph (1), by striking “2007” and
17 inserting “2012”.

18 (b) CONSERVATION RESERVE PROGRAM.—Paragraph
19 (1) of section 1241(a) of the Food Security Act of 1985
20 (16 U.S.C. 3841(a)) is amended by striking the period at
21 the end and inserting the following: “, including to the
22 maximum extent practicable—

23 “(A) \$100,000,000 for the period of fiscal
24 years 2009 through 2012 to provide cost share
25 payments under paragraph (3) of section

1 1234(b) in connection with thinning activities
2 conducted on land described in subparagraph
3 (A)(iii) of such paragraph; and

4 “(B) \$25,000,000 for the period of fiscal
5 years 2009 through 2012 to carry out section
6 1235(f) to facilitate the transfer of land subject
7 to contracts from retired or retiring owners and
8 operators to beginning farmers or ranchers and
9 socially disadvantaged farmers or ranchers.”.

10 (c) CONSERVATION SECURITY AND CONSERVATION
11 STEWARDSHIP PROGRAMS.—Paragraph (3) of section
12 1241(a) of the Food Security Act of 1985 (16 U.S.C.
13 3841(a)) is amended to read as follows:

14 “(3)(A) CONSERVATION SECURITY PROGRAM.—
15 The conservation security program under subchapter
16 A of chapter 2, using such sums as are necessary to
17 administer contracts entered into before September
18 30, 2008.

19 “(B) CONSERVATION STEWARDSHIP PRO-
20 GRAM.—The conservation stewardship program
21 under subchapter B of chapter 2.”.

22 (d) FARMLAND PROTECTION PROGRAM.—Paragraph
23 (4) of section 1241(a) of the Food Security Act of 1985
24 (16 U.S.C. 3841(a)) is amended to read as follows:

1 “(4) The farmland protection program under
2 subchapter C of chapter 2, using, to the maximum
3 extent practicable—

4 “(A) \$97,000,000 in fiscal year 2008;

5 “(B) \$121,000,000 in fiscal year 2009;

6 “(C) \$150,000,000 in fiscal year 2010;

7 “(D) \$175,000,000 in fiscal year 2011;

8 and

9 “(E) \$200,000,000 in fiscal year 2012.”.

10 (e) GRASSLAND RESERVE PROGRAM.—Paragraph (5)
11 of section 1241(a) of the Food Security Act of 1985 (16
12 U.S.C. 3841(a)) is amended to read as follows:

13 “(5) The grassland reserve program under sub-
14 chapter D of chapter 2.”.

15 (f) ENVIRONMENTAL QUALITY INCENTIVES PRO-
16 GRAM.—Paragraph (6) of section 1241(a) of the Food Se-
17 curity Act of 1985 (16 U.S.C. 3841(a)) is amended to
18 read as follows:

19 “(6) The environmental quality incentives pro-
20 gram under chapter 4, using, to the maximum ex-
21 tent practicable—

22 “(A) \$1,200,000,000 in fiscal year 2008;

23 “(B) \$1,337,000,000 in fiscal year 2009;

24 “(C) \$1,450,000,000 in fiscal year 2010;

1 “(D) \$1,588,000,000 in fiscal year 2011;

2 and

3 “(E) \$1,750,000,000 in fiscal year 2012.”.

4 (g) WILDLIFE HABITAT INCENTIVES PROGRAM.—

5 Paragraph (7)(D) of section 1241(a) of the Food Security

6 Act of 1985 (16 U.S.C. 3841(a)) is amended by striking

7 “2007” and inserting “2012”.

8 **SEC. 2702. AUTHORITY TO ACCEPT CONTRIBUTIONS TO**
9 **SUPPORT CONSERVATION PROGRAMS.**

10 Section 1241 of the Food Security Act of 1985 (16

11 U.S.C. 3841) is amended by adding at the end the fol-

12 lowing new subsection:

13 “(e) ACCEPTANCE AND USE OF CONTRIBUTIONS.—

14 “(1) AUTHORITY TO ESTABLISH CONTRIBUTION

15 ACCOUNTS.—Subject to paragraph (2), the Secretary

16 may establish a sub-account for each conservation

17 program administered by the Secretary under sub-

18 title D to accept contributions of non-Federal funds

19 to support the purposes of the program.

20 “(2) DEPOSIT AND USE OF CONTRIBUTIONS.—

21 Contributions of non-Federal funds received for a

22 conservation program administered by the Secretary

23 under subtitle D shall be deposited into the sub-ac-

24 count established under this subsection for the pro-

25 gram and shall be available to the Secretary, without

1 further appropriation and until expended, to carry
2 out the program.”.

3 **SEC. 2703. REGIONAL EQUITY AND FLEXIBILITY.**

4 (a) REGIONAL EQUITY AND FLEXIBILITY.—Section
5 1241(d) of the Food Security Act of 1985 (16 U.S.C.
6 3841(d)) is amended—

7 (1) by striking “Before April 1” and inserting
8 the following:

9 “(1) PRIORITY FUNDING TO PROMOTE EQ-
10 UITY.—Before April 1”;

11 (2) by striking “\$12,000,000” and inserting
12 “\$15,000,000”; and

13 (3) by adding at the end the following new
14 paragraph:

15 “(2) SPECIFIC FUNDING ALLOCATIONS.—In de-
16 termining the specific funding allocations for States
17 under paragraph (1), the Secretary shall consider
18 the respective demand in each State for each pro-
19 gram covered by such paragraph.”.

20 (b) ALLOCATIONS REVIEW AND UPDATE.—Section
21 1241 of the Food Security Act of 1985 (16 U.S.C. 3841)
22 is amended by inserting after subsection (e), as added by
23 section 2702, the following new subsection:

24 “(f) ALLOCATIONS REVIEW AND UPDATE.—

1 “(1) REVIEW.—Not later than January 1,
2 2012, the Secretary shall conduct a review of con-
3 servation programs and authorities under this title
4 that utilize allocation formulas to determine the suf-
5 ficiency of the formulas in accounting for State-level
6 economic factors, level of agricultural infrastructure,
7 or related factors that affect conservation program
8 costs.

9 “(2) UPDATE.—The Secretary shall improve
10 conservation program allocation formulas as nec-
11 essary to ensure that the formulas adequately reflect
12 the costs of carrying out the conservation pro-
13 grams.”.

14 **SEC. 2704. ASSISTANCE TO CERTAIN FARMERS AND RANCH-**
15 **ERS TO IMPROVE THEIR ACCESS TO CON-**
16 **SERVATION PROGRAMS.**

17 Section 1241 of the Food Security Act of 1985 (16
18 U.S.C. 3841) is amended by inserting after subsection (f),
19 as added by section 2703(b), the following new subsection:

20 “(g) ASSISTANCE TO CERTAIN FARMERS OR RANCH-
21 ERS FOR CONSERVATION ACCESS.—

22 “(1) ASSISTANCE.—Of the funds made avail-
23 able for each of fiscal years 2009 through 2012 to
24 carry out the environmental quality incentives pro-
25 gram and the acres made available for each of such

1 fiscal years to carry out the conservation steward-
2 ship program, the Secretary shall use, to the max-
3 imum extent practicable—

4 “(A) 5 percent to assist beginning farmers
5 or ranchers; and

6 “(B) 5 percent to assist socially disadvan-
7 taged farmers or ranchers.

8 “(2) REPOOLING OF FUNDS.—In any fiscal
9 year, amounts not obligated under paragraph (1) by
10 a date determined by the Secretary shall be available
11 for payments and technical assistance to all persons
12 eligible for payments or technical assistance in that
13 fiscal year under the environmental quality incen-
14 tives program.

15 “(3) REPOOLING OF ACRES.—In any fiscal
16 year, acres not obligated under paragraph (1) by a
17 date determined by the Secretary shall be available
18 for use in that fiscal year under the conservation
19 stewardship program.”.

20 **SEC. 2705. REPORT REGARDING ENROLLMENTS AND AS-**
21 **SISTANCE UNDER CONSERVATION PRO-**
22 **GRAMS.**

23 Section 1241 of the Food Security Act of 1985 (16
24 U.S.C. 3841) is amended by inserting after subsection (g),
25 as added by section 2704, the following new subsection:

1 “(h) REPORT ON PROGRAM ENROLLMENTS AND AS-
2 SISTANCE.—Beginning in calendar year 2009, and each
3 year thereafter, the Secretary shall submit to the Com-
4 mittee on Agriculture of the House of Representatives and
5 the Committee on Agriculture, Nutrition, and Forestry of
6 the Senate a semiannual report containing statistics by
7 State related to enrollments in conservation programs
8 under this subtitle, as follows:

9 “(1) Payments made under the wetlands re-
10 serve program for easements valued at \$250,000 or
11 greater.

12 “(2) Payments made under the farmland pro-
13 tection program for easements in which the Federal
14 share is \$250,000 or greater.

15 “(3) Payments made under the grassland re-
16 serve program valued at \$250,000 or greater.

17 “(4) Payments made under the environmental
18 quality incentives program for land determined to
19 have special environmental significance pursuant to
20 section 1240G(b).

21 “(5) Payments made under the agricultural
22 water enhancement program subject to the waiver of
23 adjusted gross income limitations pursuant to sec-
24 tion 1240I(g).

1 “(6) Waivers granted by the Secretary under
2 section 1001D(b)(2) of this Act in order to protect
3 environmentally sensitive land of special signifi-
4 cance.”.

5 **SEC. 2706. DELIVERY OF CONSERVATION TECHNICAL AS-**
6 **SISTANCE.**

7 Section 1242 of the Food Security Act of 1985 (16
8 U.S.C. 3842) is amended to read as follows:

9 **“SEC. 1242. DELIVERY OF TECHNICAL ASSISTANCE.**

10 “(a) DEFINITION OF ELIGIBLE PARTICIPANT.—In
11 this section, the term ‘eligible participant’ means a pro-
12 ducer, landowner, or entity that is participating in, or
13 seeking to participate in, programs for which the pro-
14 ducer, landowner, or entity is otherwise eligible to partici-
15 pate in under this title or the agricultural management
16 assistance program under section 524 of the Federal Crop
17 Insurance Act (7 U.S.C. 1524).

18 “(b) PURPOSE OF TECHNICAL ASSISTANCE.—The
19 purpose of technical assistance authorized by this section
20 is to provide eligible participants with consistent, science-
21 based, site-specific practices designed to achieve conserva-
22 tion objectives on land active in agricultural, forestry, or
23 related uses.

1 “(c) PROVISION OF TECHNICAL ASSISTANCE.—The
2 Secretary shall provide technical assistance under this title
3 to an eligible participant—

4 “(1) directly;

5 “(2) through an agreement with a third-party
6 provider; or

7 “(3) at the option of the eligible participant,
8 through a payment, as determined by the Secretary,
9 to the eligible participant for an approved third-
10 party provider, if available.

11 “(d) NON-FEDERAL ASSISTANCE.—The Secretary
12 may request the services of, and enter into cooperative
13 agreements or contracts with, other agencies within the
14 Department or non-Federal entities to assist the Secretary
15 in providing technical assistance necessary to assist in im-
16 plementing conservation programs under this title.

17 “(e) CERTIFICATION OF THIRD-PARTY PRO-
18 VIDERS.—

19 “(1) PURPOSE.—The purpose of the third-party
20 provider program is to increase the availability and
21 range of technical expertise available to eligible par-
22 ticipants to plan and implement conservation meas-
23 ures.

24 “(2) REGULATIONS.—Not later than 180 days
25 after the date of the enactment of the Food, Con-

1 servation, and Energy Act of 2008, the Secretary
2 shall promulgate such regulations as are necessary
3 to carry out this section.

4 “(3) EXPERTISE.—In promulgating such regu-
5 lations, the Secretary, to the maximum extent prac-
6 ticable, shall—

7 “(A) ensure that persons with expertise in
8 the technical aspects of conservation planning,
9 watershed planning, and environmental engi-
10 neering, including commercial entities, non-
11 profit entities, State or local governments or
12 agencies, and other Federal agencies, are eligi-
13 ble to become approved providers of the tech-
14 nical assistance;

15 “(B) provide national criteria for the cer-
16 tification of third party providers; and

17 “(C) approve any unique certification
18 standards established at the State level.

19 “(f) ADMINISTRATION.—

20 “(1) FUNDING.—Effective for fiscal year 2008
21 and each subsequent fiscal year, funds of the Com-
22 modity Credit Corporation made available to carry
23 out technical assistance for each of the programs
24 specified in section 1241 shall be available for the

1 provision of technical assistance from third-party
2 providers under this section.

3 “(2) TERM OF AGREEMENT.—An agreement
4 with a third-party provider under this section shall
5 have a term that—

6 “(A) at a minimum, is equal to the period
7 beginning on the date on which the agreement
8 is entered into and ending on the date that is
9 1 year after the date on which all activities per-
10 formed pursuant to the agreement have been
11 completed;

12 “(B) does not exceed 3 years; and

13 “(C) can be renewed, as determined by the
14 Secretary.

15 “(3) REVIEW OF CERTIFICATION REQUIRE-
16 MENTS.—Not later than 1 year after the date of en-
17 actment of the Food, Conservation, and Energy Act
18 of 2008, the Secretary shall—

19 “(A) review certification requirements for
20 third-party providers; and

21 “(B) make any adjustments considered
22 necessary by the Secretary to improve participa-
23 tion.

24 “(4) ELIGIBLE ACTIVITIES.—

1 “(A) INCLUSION OF ACTIVITIES.—The Sec-
2 retary may include as activities eligible for pay-
3 ments to a third party provider—

4 “(i) technical services provided di-
5 rectly to eligible participants, such as con-
6 servation planning, education and out-
7 reach, and assistance with design and im-
8 plementation of conservation practices; and

9 “(ii) related technical assistance serv-
10 ices that accelerate conservation program
11 delivery.

12 “(B) EXCLUSIONS.—The Secretary shall
13 not designate as an activity eligible for pay-
14 ments to a third party provider any service that
15 is provided by a business, or equivalent, in con-
16 nection with conducting business and that is
17 customarily provided at no cost.

18 “(5) PAYMENT AMOUNTS.—The Secretary shall
19 establish fair and reasonable amounts of payments
20 for technical services provided by third-party pro-
21 viders.

22 “(g) AVAILABILITY OF TECHNICAL SERVICES.—

23 “(1) IN GENERAL.—In carrying out the pro-
24 grams under this title and the agricultural manage-
25 ment assistance program under section 524 of the

1 Federal Crop Insurance Act (7 U.S.C. 1524), the
2 Secretary shall make technical services available to
3 all eligible participants who are installing an eligible
4 practice.

5 “(2) TECHNICAL SERVICE CONTRACTS.—In any
6 case in which financial assistance is not provided
7 under a program referred to in paragraph (1), the
8 Secretary may enter into a technical service contract
9 with the eligible participant for the purposes of as-
10 sisting in the planning, design, or installation of an
11 eligible practice.

12 “(h) REVIEW OF CONSERVATION PRACTICE STAND-
13 ARDS.—

14 “(1) REVIEW REQUIRED.—The Secretary
15 shall—

16 “(A) review conservation practice stand-
17 ards, including engineering design specifica-
18 tions, in effect on the date of the enactment of
19 the Food, Conservation, and Energy Act of
20 2008;

21 “(B) ensure, to the maximum extent prac-
22 ticable, the completeness and relevance of the
23 standards to local agricultural, forestry, and
24 natural resource needs, including specialty
25 crops, native and managed pollinators, bio-

1 energy crop production, forestry, and such
2 other needs as are determined by the Secretary;
3 and

4 “(C) ensure that the standards provide for
5 the optimal balance between meeting site-spe-
6 cific conservation needs and minimizing risks of
7 design failure and associated costs of construc-
8 tion and installation.

9 “(2) CONSULTATION.—In conducting the review
10 under paragraph (1), the Secretary shall consult
11 with eligible participants, crop consultants, coopera-
12 tive extension and land grant universities, non-
13 governmental organizations, and other qualified enti-
14 ties.

15 “(3) EXPEDITED REVISION OF STANDARDS.—If
16 the Secretary determines under paragraph (1) that
17 revisions to the conservation practice standards, in-
18 cluding engineering design specifications, are nec-
19 essary, the Secretary shall establish an administra-
20 tive process for expediting the revisions.

21 “(i) ADDRESSING CONCERNS OF SPECIALITY CROP,
22 ORGANIC, AND PRECISION AGRICULTURE PRODUCERS.—

23 “(1) IN GENERAL.—The Secretary shall—

24 “(A) to the maximum extent practicable,
25 fully incorporate specialty crop production, or-

1 organic crop production, and precision agriculture
2 into the conservation practice standards; and

3 “(B) provide for the appropriate range of
4 conservation practices and resource mitigation
5 measures available to producers involved with
6 organic or specialty crop production or precision
7 agriculture.

8 “(2) AVAILABILITY OF ADEQUATE TECHNICAL
9 ASSISTANCE.—

10 “(A) IN GENERAL.—The Secretary shall
11 ensure that adequate technical assistance is
12 available for the implementation of conservation
13 practices by producers involved with organic,
14 specialty crop production, or precision agri-
15 culture through Federal conservation programs.

16 “(B) REQUIREMENTS.—In carrying out
17 subparagraph (A), the Secretary shall develop—

18 “(i) programs that meet specific needs
19 of producers involved with organic, spe-
20 cialty crop production or precision agri-
21 culture through cooperative agreements
22 with other agencies and nongovernmental
23 organizations; and

24 “(ii) program specifications that allow
25 for innovative approaches to engage local

1 resources in providing technical assistance
2 for planning and implementation of con-
3 servation practices.”.

4 **SEC. 2707. COOPERATIVE CONSERVATION PARTNERSHIP**
5 **INITIATIVE.**

6 (a) TRANSFER OF EXISTING PROVISIONS.—Sub-
7 sections (a), (c), and (d) of section 1243 of the Food Secu-
8 rity Act of 1985 (16 U.S.C. 3843) are—

9 (1) redesignated as subsections (c), (d), and (e),
10 respectively; and

11 (2) transferred to appear at the end of section
12 1244 of such Act (16 U.S.C. 3844).

13 (b) ESTABLISHMENT OF PARTNERSHIP INITIA-
14 TIVE.—Section 1243 of the Food Security Act of 1985
15 (16 U.S.C. 3843), as amended by subsection (a), is
16 amended to read as follows:

17 **“SEC. 1243. COOPERATIVE CONSERVATION PARTNERSHIP**
18 **INITIATIVE.**

19 “(a) ESTABLISHMENT OF INITIATIVE.—The Sec-
20 retary shall establish a cooperative conservation partner-
21 ship initiative (in this section referred to as the ‘Initia-
22 tive’) to work with eligible partners to provide assistance
23 to producers enrolled in a program described in subsection
24 (c)(1) that will enhance conservation outcomes on agricul-
25 tural and nonindustrial private forest land.

1 “(b) PURPOSES.—The purposes of a partnership en-
2 tered into under the Initiative shall be—

3 “(1) to address conservation priorities involving
4 agriculture and nonindustrial private forest land on
5 a local, State, multi-State, or regional level;

6 “(2) to encourage producers to cooperate in
7 meeting applicable Federal, State, and local regu-
8 latory requirements related to production involving
9 agriculture and nonindustrial private forest land;

10 “(3) to encourage producers to cooperate in the
11 installation and maintenance of conservation prac-
12 tices that affect multiple agricultural or nonindus-
13 trial private forest operations; or

14 “(4) to promote the development and dem-
15 onstration of innovative conservation practices and
16 delivery methods, including those for specialty crop
17 and organic production and precision agriculture
18 producers.

19 “(c) INITIATIVE PROGRAMS.—

20 “(1) COVERED PROGRAMS.—Except as provided
21 in paragraph (2), the Initiative applies to all con-
22 servation programs under subtitle D.

23 “(2) EXCLUDED PROGRAMS.—The Initiative
24 shall not include the following programs:

25 “(A) Conservation reserve program.

1 “(B) Wetlands reserve program.

2 “(C) Farmland protection program

3 “(D) Grassland reserve program.

4 “(d) ELIGIBLE PARTNERS.—The Secretary may
5 enter into a partnership under the Initiative with one or
6 more of the following:

7 “(1) States and local governments.

8 “(2) Indian tribes.

9 “(3) Producer associations.

10 “(4) Farmer cooperatives.

11 “(5) Institutions of higher education.

12 “(6) Nongovernmental organizations with a his-
13 tory of working cooperatively with producers to ef-
14 fectively address conservation priorities related to
15 agricultural production and nonindustrial private
16 forest land.

17 “(e) IMPLEMENTATION AGREEMENTS.—The Sec-
18 retary shall carry out the Initiative—

19 “(1) by selecting, through a competitive proc-
20 ess, eligible partners from among applications sub-
21 mitted under subsection (f); and

22 “(2) by entering into multi-year agreements
23 with eligible partners so selected for a period not to
24 exceed 5 years.

25 “(f) APPLICATIONS.—

1 “(1) REQUIRED INFORMATION.—An application
2 to enter into a partnership agreement under the Ini-
3 tiative shall include the following:

4 “(A) A description of the area covered by
5 the agreement, conservation priorities in the
6 area, conservation objectives to be achieved, and
7 the expected level of participation by agricul-
8 tural producers and nonindustrial private forest
9 landowners.

10 “(B) A description of the partner, or part-
11 ners, collaborating to achieve the objectives of
12 the agreement, and the roles, responsibilities,
13 and capabilities of the partner.

14 “(C) A description of the resources that
15 are requested from the Secretary, and the non-
16 Federal resources that will be leveraged by the
17 Federal contribution.

18 “(D) A description of the plan for moni-
19 toring, evaluating, and reporting on progress
20 made towards achieving the objectives of the
21 agreement.

22 “(E) Such other information that may be
23 required by the Secretary.

24 “(2) PRIORITIES.—The Secretary shall give pri-
25 ority to applications for agreements that—

1 “(A) have a high percentage of producers
2 involved and working agricultural or nonindus-
3 trial private forest land included in the area
4 covered by the agreement;

5 “(B) significantly leverage non-Federal fi-
6 nancial and technical resources and coordinate
7 with other local, State, or Federal efforts;

8 “(C) deliver high percentages of applied
9 conservation to address water quality, water
10 conservation, or State, regional, or national
11 conservation initiatives;

12 “(D) provide innovation in conservation
13 methods and delivery, including outcome-based
14 performance measures and methods; or

15 “(E) meet other factors, as determined by
16 the Secretary.

17 “(g) RELATIONSHIP TO COVERED PROGRAMS.—

18 “(1) COMPLIANCE WITH PROGRAM RULES.—Ex-
19 cept as provided in paragraph (2), the Secretary
20 shall ensure that resources made available under the
21 Initiative are delivered in accordance with the appli-
22 cable rules of programs specified in subsection (c)(1)
23 through normal program mechanisms relating to
24 program functions, including rules governing ap-

1 peals, payment limitations, and conservation compli-
2 ance.

3 “(2) ADJUSTMENT.—The Secretary may adjust
4 the elements of any program specified in subsection
5 (c)(1)—

6 “(A) to better reflect unique local cir-
7 cumstances and purposes if the Secretary deter-
8 mines such adjustments are necessary to
9 achieve the purposes of the Initiative; and

10 “(B) to provide preferential enrollment to
11 producers who are eligible for the applicable
12 program and to participate in the Initiative.

13 “(h) TECHNICAL AND FINANCIAL ASSISTANCE.—The
14 Secretary shall provide appropriate technical and financial
15 assistance to producers participating in the Initiative in
16 an amount determined to be necessary to achieve the pur-
17 poses of the Initiative.

18 “(i) FUNDING.—

19 “(1) RESERVATION.—Of the funds and acres
20 made available for each of fiscal years 2009 through
21 2012 to implement the programs described in sub-
22 section (c)(1), the Secretary shall reserve 6 percent
23 of the funds and acres to ensure an adequate source
24 of funds and acres for the Initiative.

1 “(2) ALLOCATION REQUIREMENTS.—Of the
2 funds and acres reserved for the Initiative for a fis-
3 cal year, the Secretary shall allocate—

4 “(A) 90 percent of the funds and acres to
5 projects based on the direction of State con-
6 servationists, with the advice of State technical
7 committees; and

8 “(B) 10 percent of the funds and acres to
9 projects based on a national competitive process
10 established by the Secretary.

11 “(3) UNUSED FUNDING.—Any funds and acres
12 reserved for a fiscal year under paragraph (1) that
13 are not obligated by April 1 of that fiscal year may
14 be used to carry out other activities under the pro-
15 gram that is the source of the funds or acres during
16 the remainder of that fiscal year.

17 “(4) ADMINISTRATIVE COSTS OF PARTNERS.—
18 Overhead or administrative costs of partners may
19 not be covered by funds provided through the Initia-
20 tive.”.

21 **SEC. 2708. ADMINISTRATIVE REQUIREMENTS FOR CON-**
22 **SERVATION PROGRAMS.**

23 Section 1244 of the Food Security Act of 1985 (16
24 U.S.C. 3844), as amended by section 2707, is further
25 amended—

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

3 “(a) INCENTIVES FOR CERTAIN FARMERS AND
4 RANCHERS AND INDIAN TRIBES.—

5 “(1) INCENTIVES AUTHORIZED.—In carrying
6 out any conservation program administered by the
7 Secretary, the Secretary may provide to a person or
8 entity specified in paragraph (2) incentives to par-
9 ticipate in the conservation program—

10 “(A) to foster new farming and ranching
11 opportunities; and

12 “(B) to enhance long-term environmental
13 goals.

14 “(2) COVERED PERSONS.—Incentives author-
15 ized by paragraph (1) may be provided to the fol-
16 lowing:

17 “(A) Beginning farmers or ranchers.

18 “(B) Socially disadvantaged farmers or
19 ranchers.

20 “(C) Limited resource farmers or ranchers.

21 “(D) Indian tribes.”; and

22 (2) by adding at the end the following new sub-
23 sections:

24 “(f) ACREAGE LIMITATIONS.—

25 “(1) LIMITATIONS.—

1 “(A) ENROLLMENTS.—The Secretary shall
2 not enroll more than 25 percent of the cropland
3 in any county in the programs administered
4 under subchapters B and C of chapter 1 of sub-
5 title D.

6 “(B) EASEMENTS.—Not more than 10
7 percent of the cropland in a county may be
8 subject to an easement acquired under sub-
9 chapter C of chapter 1 of subtitle D.

10 “(2) EXCEPTIONS.—The Secretary may exceed
11 the limitation in paragraph (1)(A), if the Secretary
12 determines that—

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

15 “(B) operators in the county are having
16 difficulties complying with conservation plans
17 implemented under section 1212.

18 “(3) WAIVER TO EXCLUDE CERTAIN ACRE-
19 AGE.—The Secretary may grant a waiver to exclude
20 acreage enrolled under subsection (c)(2)(B) or (f)(4)
21 of section 1234 from the limitations in paragraph
22 (1)(A) with the concurrence of the county govern-
23 ment of the county involved.

24 “(4) SHELTERBELTS AND WINDBREAKS.—The
25 limitations established under paragraph (1) shall not

1 apply to cropland that is subject to an easement
2 under subchapter C of chapter 1 that is used for the
3 establishment of shelterbelts and windbreaks.

4 “(g) COMPLIANCE AND PERFORMANCE.—For each
5 conservation program under subtitle D, the Secretary shall
6 develop procedures—

7 “(1) to monitor compliance with program re-
8 quirements;

9 “(2) to measure program performance;

10 “(3) to demonstrate whether the long-term con-
11 servation benefits of the program are being achieved;

12 “(4) to track participation by crop and livestock
13 types; and

14 “(5) to coordinate activities described in this
15 subsection with the national conservation program
16 authorized under section 5 of the Soil and Water
17 Resources Conservation Act of 1977 (16 U.S.C.
18 2004).

19 “(h) ENCOURAGEMENT OF POLLINATOR HABITAT
20 DEVELOPMENT AND PROTECTION.—In carrying out any
21 conservation program administered by the Secretary, the
22 Secretary may, as appropriate, encourage—

23 “(1) the development of habitat for native and
24 managed pollinators; and

1 “(2) the use of conservation practices that ben-
2 efit native and managed pollinators.

3 “(i) STREAMLINED APPLICATION PROCESS.—

4 “(1) IN GENERAL.—In carrying out each con-
5 servation program under this title, the Secretary
6 shall ensure that the application process used by
7 producers and landowners is streamlined to mini-
8 mize complexity and eliminate redundancy.

9 “(2) REVIEW AND STREAMLINING.—

10 “(A) REVIEW.—The Secretary shall carry
11 out a review of the application forms and proc-
12 esses for each conservation program covered by
13 this subsection.

14 “(B) STREAMLINING.—On completion of
15 the review the Secretary shall revise application
16 forms and processes, as necessary, to ensure
17 that—

18 “(i) all required application informa-
19 tion is essential for the efficient, effective,
20 and accountable implementation of con-
21 servation programs;

22 “(ii) conservation program applicants
23 are not required to provide information
24 that is readily available to the Secretary

1 through existing information systems of
2 the Department of Agriculture;

3 “(iii) information provided by the ap-
4 plicant is managed and delivered efficiently
5 for use in all stages of the application
6 process, or for multiple applications; and

7 “(iv) information technology is used
8 effectively to minimize data and informa-
9 tion input requirements.

10 “(3) IMPLEMENTATION AND NOTIFICATION.—

11 Not later than 1 year after the date of enactment
12 of the Food, Conservation, and Energy Act of 2008,
13 the Secretary shall submit to Congress a written no-
14 tification of completion of the requirements of this
15 subsection.”.

16 **SEC. 2709. ENVIRONMENTAL SERVICES MARKETS.**

17 Subtitle E of title XII of the Food Security Act of
18 1985 is amended by inserting after section 1244 (16
19 U.S.C. 3844) the following new section:

20 **“SEC. 1245. ENVIRONMENTAL SERVICES MARKETS.**

21 “(a) TECHNICAL GUIDELINES REQUIRED.—The Sec-
22 retary shall establish technical guidelines that outline
23 science-based methods to measure the environmental serv-
24 ices benefits from conservation and land management ac-
25 tivities in order to facilitate the participation of farmers,

1 ranchers, and forest landowners in emerging environ-
2 mental services markets. The Secretary shall give priority
3 to the establishment of guidelines related to farmer,
4 rancher, and forest landowner participation in carbon
5 markets.

6 “(b) ESTABLISHMENT.—The Secretary shall estab-
7 lish guidelines under subsection (a) for use in developing
8 the following:

9 “(1) A procedure to measure environmental
10 services benefits.

11 “(2) A protocol to report environmental services
12 benefits.

13 “(3) A registry to collect, record and maintain
14 the benefits measured.

15 “(c) VERIFICATION REQUIREMENTS.—

16 “(1) VERIFICATION OF REPORTS.—The Sec-
17 retary shall establish guidelines for a process to
18 verify that a farmer, rancher, or forest landowner
19 who reports an environmental services benefit pursu-
20 ant to the protocol required by paragraph (2) of sub-
21 section (b) for inclusion in the registry required by
22 paragraph (3) of such subsection has implemented
23 the conservation or land management activity cov-
24 ered by the report.

1 “(2) ROLE OF THIRD PARTIES.—In establishing
2 the verification guidelines required by paragraph (1),
3 the Secretary shall consider the role of third-parties
4 in conducting independent verification of benefits
5 produced for environmental services markets and
6 other functions, as determined by the Secretary.

7 “(d) USE OF EXISTING INFORMATION.—In carrying
8 out subsection (b), the Secretary shall build on activities
9 or information in existence on the date of the enactment
10 of the Food, Conservation, and Energy Act of 2008 re-
11 garding environmental services markets.

12 “(e) CONSULTATION.—In carrying out this section,
13 the Secretary shall consult with the following:

14 “(1) Federal and State government agencies.

15 “(2) Nongovernmental interests including—

16 “(A) farm, ranch, and forestry producers;

17 “(B) financial institutions involved in envi-
18 ronmental services trading;

19 “(C) institutions of higher education with
20 relevant expertise or experience;

21 “(D) nongovernmental organizations with
22 relevant expertise or experience; and

23 “(E) private sector representatives with
24 relevant expertise or experience.

1 “(3) Other interested persons, as determined by
2 the Secretary.”.

3 **SEC. 2710. AGRICULTURE CONSERVATION EXPERIENCED**
4 **SERVICES PROGRAM.**

5 Subtitle F of title XII of the Food Security Act of
6 1985 is amended by inserting after section 1251 (16
7 U.S.C. 2005a) the following new section:

8 **“SEC. 1252. AGRICULTURE CONSERVATION EXPERIENCED**
9 **SERVICES PROGRAM.**

10 “(a) ESTABLISHMENT AND PURPOSE.—The Sec-
11 retary shall establish a conservation experienced services
12 program (in this section referred to as the ‘ACES Pro-
13 gram’) for the purpose of utilizing the talents of individ-
14 uals who are age 55 or older, but who are not employees
15 of the Department of Agriculture or a State agriculture
16 department, to provide technical services in support of the
17 conservation-related programs and authorities carried out
18 by the Secretary. Such technical services may include con-
19 servation planning assistance, technical consultation, and
20 assistance with design and implementation of conservation
21 practices.

22 “(b) PROGRAM AGREEMENTS.—

23 “(1) RELATION TO OLDER AMERICAN COMMU-
24 NITY SERVICE EMPLOYMENT PROGRAM.—Notwith-
25 standing any other provision of law relating to Fed-

1 eral grants, cooperative agreements, or contracts, to
2 carry out the ACES program during a fiscal year,
3 the Secretary may enter into agreements with non-
4 profit private agencies and organizations eligible to
5 receive grants for that fiscal year under the Commu-
6 nity Service Senior Opportunities Act (42 U.S.C.
7 3056 et seq.) to secure participants for the ACES
8 program who will provide technical services under
9 the ACES program.

10 “(2) REQUIRED DETERMINATION.—Before en-
11 tering into an agreement under paragraph (1), the
12 Secretary shall ensure that the agreement would
13 not—

14 “(A) result in the displacement of individ-
15 uals employed by the Department, including
16 partial displacement through reduction of non-
17 overtime hours, wages, or employment benefits;

18 “(B) result in the use of an individual
19 under the ACES program for a job or function
20 in a case in which a Federal employee is in a
21 layoff status from the same or a substantially-
22 equivalent job or function with the Department;
23 or

24 “(C) affect existing contracts for services.

25 “(c) FUNDING SOURCE.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), the Secretary may carry out the ACES
3 program using funds made available to carry out
4 each program under this title.

5 “(2) EXCLUSIONS.—Funds made available to
6 carry out the following programs may not be used
7 to carry out the ACES program:

8 “(A) The conservation reserve program.

9 “(B) The wetlands reserve program.

10 “(C) The grassland reserve program.

11 “(D) The conservation stewardship pro-
12 gram.

13 “(d) LIABILITY.—An individual providing technical
14 services under the ACES program is deemed to be an em-
15 ployee of the United States Government for purposes of
16 chapter 171 of title 28, United States Code, if the indi-
17 vidual—

18 “(1) is providing technical services pursuant to
19 an agreement entered into under subsection (b); and

20 “(2) is acting within the scope of the agree-
21 ment.”.

1 **SEC. 2711. ESTABLISHMENT OF STATE TECHNICAL COM-**
2 **MITTEES AND THEIR RESPONSIBILITIES.**

3 Subtitle G of title XII of the Farm Security Act of
4 1985 (16 U.S.C. 3861, 3862) is amended to read as fol-
5 lows:

6 **“Subtitle G—State Technical**
7 **Committees**

8 **“SEC. 1261. ESTABLISHMENT OF STATE TECHNICAL COM-**
9 **MITTEES.**

10 “(a) ESTABLISHMENT.—The Secretary shall estab-
11 lish a technical committee in each State to assist the Sec-
12 retary in the considerations relating to implementation
13 and technical aspects of the conservation programs under
14 this title.

15 “(b) STANDARDS.—Not later than 180 days after the
16 date of enactment of the Food, Conservation, and Energy
17 Act of 2008, the Secretary shall develop—

18 “(1) standard operating procedures to stand-
19 ardize the operations of State technical committees;
20 and

21 “(2) standards to be used by State technical
22 committees in the development of technical guide-
23 lines under section 1262(b) for the implementation
24 of the conservation provisions of this title.

25 “(c) COMPOSITION.—Each State technical committee
26 shall be composed of agricultural producers and other pro-

1 fessionals that represent a variety of disciplines in the soil,
2 water, wetland, and wildlife sciences. The technical com-
3 mittee for a State shall include representatives from
4 among the following:

5 “(1) The Natural Resources Conservation Serv-
6 ice.

7 “(2) The Farm Service Agency.

8 “(3) The Forest Service.

9 “(4) The National Institute of Food and Agri-
10 culture.

11 “(5) The State fish and wildlife agency.

12 “(6) The State forester or equivalent State offi-
13 cial.

14 “(7) The State water resources agency.

15 “(8) The State department of agriculture.

16 “(9) The State association of soil and water
17 conservation districts.

18 “(10) Agricultural producers representing the
19 variety of crops and livestock or poultry raised with-
20 in the State.

21 “(11) Owners of nonindustrial private forest
22 land.

23 “(12) Nonprofit organizations within the mean-
24 ing of section 501(c)(3) of the Internal Revenue
25 Code of 1986 with demonstrable conservation exper-

1 tise and experience working with agriculture pro-
2 ducers in the State.

3 “(13) Agribusiness.

4 **“SEC. 1262. RESPONSIBILITIES.**

5 “(a) IN GENERAL.—Each State technical committee
6 established under section 1261 shall meet regularly to pro-
7 vide information, analysis, and recommendations to appro-
8 priate officials of the Department of Agriculture who are
9 charged with implementing the conservation provisions of
10 this title.

11 “(b) PUBLIC NOTICE AND ATTENDANCE.—Each
12 State technical committee shall provide public notice of,
13 and permit public attendance at, meetings considering
14 issues of concern related to carrying out this title.

15 “(c) ROLE.—

16 “(1) IN GENERAL.—The role of State technical
17 committees is advisory in nature, and such commit-
18 tees shall have no implementation or enforcement
19 authority. However, the Secretary shall give strong
20 consideration to the recommendations of such com-
21 mittees in administering the programs under this
22 title.

23 “(2) ADVISORY ROLE IN ESTABLISHING PRO-
24 GRAM PRIORITIES AND CRITERIA.—Each State tech-
25 nical committee shall advise the Secretary in estab-

1 lishing priorities and criteria for the programs in
2 this title, including the review of whether local work-
3 ing groups are addressing those priorities.

4 “(d) FACA REQUIREMENTS.—

5 “(1) EXEMPTION.—Each State technical com-
6 mittee shall be exempt from the Federal Advisory
7 Committee Act (5 U.S.C. App.).

8 “(2) LOCAL WORKING GROUPS.—For purposes
9 of the Federal Advisory Committee Act (5 U.S.C.
10 App.), any local working group established under
11 this subtitle shall be considered to be a sub-
12 committee of the applicable State technical com-
13 mittee.”.

14 **Subtitle I—Conservation Programs** 15 **Under Other Laws**

16 **SEC. 2801. AGRICULTURAL MANAGEMENT ASSISTANCE** 17 **PROGRAM.**

18 (a) ELIGIBLE STATES.—Section 524(b)(1) of the
19 Federal Crop Insurance Act (7 U.S.C. 1524(b)(1)) is
20 amended by inserting “Hawaii,” after “Delaware,”.

21 (b) FUNDING.—Section 524(b)(4)(B) of the Federal
22 Crop Insurance Act (7 U.S.C. 1524(b)(4)(B)) is amend-
23 ed—

1 (1) in clause (i), by striking “Except as pro-
2 vided in clauses (ii) and (iii)” and inserting “Except
3 as provided in clause (ii)”;

4 (2) by striking clauses (ii) and (iii) and insert-
5 ing the following new clause:

6 “(ii) EXCEPTION FOR FISCAL YEARS
7 2008 THROUGH 2012.—For each of fiscal
8 years 2008 through 2012, the Commodity
9 Credit Corporation shall make available to
10 carry out this subsection \$15,000,000.”.

11 (c) CERTAIN USES.—Section 524(b)(4) of the Fed-
12 eral Crop Insurance Act (7 U.S.C. 1524(b)(4)) is amended
13 by adding at the end the following new subparagraph:

14 “(C) CERTAIN USES.—Of the amounts
15 made available to carry out this subsection for
16 a fiscal year, the Commodity Credit Corpora-
17 tion shall use not less than—

18 “(i) 50 percent to carry out subpara-
19 graphs (A), (B), and (C) of paragraph (2)
20 through the Natural Resources Conserva-
21 tion Service;

22 “(ii) 10 percent to provide organic
23 certification cost share assistance through
24 the Agricultural Marketing Service; and

1 “(iii) 40 percent to conduct activities
2 to carry out subparagraph (F) of para-
3 graph (2) through the Risk Management
4 Agency.”.

5 **SEC. 2802. TECHNICAL ASSISTANCE UNDER SOIL CON-**
6 **SERVATION AND DOMESTIC ALLOTMENT ACT.**

7 (a) PREVENTION OF SOIL EROSION.—

8 (1) IN GENERAL.—The first section of the Soil
9 Conservation and Domestic Allotment Act (16
10 U.S.C. 590a) is amended—

11 (A) by striking “That it” and inserting the
12 following:

13 **“SECTION 1. PURPOSE.**

14 “It”; and

15 (B) in the matter preceding paragraph (1),
16 by striking “and thereby to preserve natural re-
17 sources,” and inserting “to preserve soil, water,
18 and related resources, promote soil and water
19 quality,”.

20 (2) POLICIES AND PURPOSES.—Section 7(a)(1)
21 of the Soil Conservation and Domestic Allotment
22 Act (16 U.S.C. 590g(a)(1)) is amended by striking
23 “fertility” and inserting “and water quality and re-
24 lated resources”.

1 (b) DEFINITIONS.—Section 10 of the Soil Conserva-
2 tion and Domestic Allotment Act (16 U.S.C. 590j) is
3 amended to read as follows:

4 **“SEC. 10. DEFINITIONS.**

5 “In this Act:

6 “(1) AGRICULTURAL COMMODITY.—The term
7 ‘agricultural commodity’ means—

8 “(A) an agricultural commodity; and

9 “(B) any regional or market classification,
10 type, or grade of an agricultural commodity.

11 “(2) TECHNICAL ASSISTANCE.—

12 “(A) IN GENERAL.—The term ‘technical
13 assistance’ means technical expertise, informa-
14 tion, and tools necessary for the conservation of
15 natural resources on land active in agricultural,
16 forestry, or related uses.

17 “(B) INCLUSIONS.—The term ‘technical
18 assistance’ includes—

19 “(i) technical services provided di-
20 rectly to farmers, ranchers, and other eligi-
21 ble entities, such as conservation planning,
22 technical consultation, and assistance with
23 design and implementation of conservation
24 practices; and

1 “(ii) technical infrastructure, includ-
2 ing activities, processes, tools, and agency
3 functions needed to support delivery of
4 technical services, such as technical stand-
5 ards, resource inventories, training, data,
6 technology, monitoring, and effects anal-
7 yses.”.

8 **SEC. 2803. SMALL WATERSHED REHABILITATION PRO-**
9 **GRAM.**

10 (a) AVAILABILITY OF FUNDS.—Section 14(h)(1) of
11 the Watershed Protection and Flood Prevention Act (16
12 U.S.C. 1012(h)(1)) is amended by adding at the end the
13 following new subparagraph:

14 “(G) \$100,000,000 for fiscal year 2009, to
15 be available until expended.”.

16 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
17 14(h)(2)(E) of the Watershed Protection and Flood Pre-
18 vention Act (16 U.S.C. 1012(h)(2)(E)) is amended by
19 striking “fiscal year 2007” and inserting “each of fiscal
20 years 2008 through 2012”.

21 **SEC. 2804. AMENDMENTS TO SOIL AND WATER RESOURCES**
22 **CONSERVATION ACT OF 1977.**

23 (a) CONGRESSIONAL FINDINGS.—Section 2 of the
24 Soil and Water Resources Conservation Act of 1977 (16
25 U.S.C. 2001) is amended—

1 (1) in paragraph (2), by striking “base, of the”
2 and inserting “base of the”; and

3 (2) in paragraph (3), by striking “(3)” and all
4 that follows through “Since individual” and insert-
5 ing the following:

6 “(3) Appraisal and inventory of resources, as-
7 sessment and inventory of conservation needs, eval-
8 uation of the effects of conservation practices, and
9 analyses of alternative approaches to existing con-
10 servation programs are basic to effective soil, water,
11 and related natural resource conservation.

12 “(4) Since individual”.

13 (b) CONTINUING APPRAISAL OF SOIL, WATER, AND
14 RELATED RESOURCES.—Section 5 of the Soil and Water
15 Resources Conservation Act of 1977 (16 U.S.C. 2004) is
16 amended—

17 (1) in subsection (a)—

18 (A) in paragraph (5), by striking “and” at
19 the end;

20 (B) in paragraph (6), by striking the pe-
21 riod at the end and inserting “; and”; and

22 (C) by adding at the end the following new
23 paragraph:

24 “(7) data on conservation plans, conservation
25 practices planned or implemented, environmental

1 outcomes, economic costs, and related matters under
2 conservation programs administered by the Sec-
3 retary.”;

4 (2) by redesignating subsection (d) as sub-
5 section (e);

6 (3) by inserting after subsection (c) the fol-
7 lowing new subsection:

8 “(d) EVALUATION OF APPRAISAL.—In conducting
9 the appraisal described in subsection (a), the Secretary
10 shall concurrently solicit and evaluate recommendations
11 for improving the appraisal, including the content, scope,
12 process, participation in, and other elements of the ap-
13 praisal, as determined by the Secretary.”; and

14 (4) in subsection (e), as redesignated by para-
15 graph (2), by striking the first sentence and insert-
16 ing the following: “The Secretary shall conduct com-
17 prehensive appraisals under this section, to be com-
18 pleted by December 31, 2010, and December 31,
19 2015.”.

20 (c) SOIL AND WATER CONSERVATION PROGRAM.—
21 Section 6 of the Soil and Water Resources Conservation
22 Act of 1977 (16 U.S.C. 2005) is amended—

23 (1) by redesignating subsection (b) as sub-
24 section (d);

1 (2) by inserting after subsection (a) the fol-
2 lowing new subsections:

3 “(b) EVALUATION OF EXISTING CONSERVATION
4 PROGRAMS.—In evaluating existing conservation pro-
5 grams, the Secretary shall emphasize demonstration, inno-
6 vation, and monitoring of specific program components in
7 order to encourage further development and adoption of
8 practices and performance-based standards.

9 “(c) IMPROVEMENT TO PROGRAM.—In developing a
10 national soil and water conservation program under sub-
11 section (a), the Secretary shall solicit and evaluate rec-
12 ommendations for improving the program, including the
13 content, scope, process, participation in, and other ele-
14 ments of the program, as determined by the Secretary.”;
15 and

16 (3) in subsection (d), as redesignated by para-
17 graph (1), by striking “December 31, 1979” and all
18 that follows through “December 31, 2007” and in-
19 sserting “December 31, 2011, and December 31,
20 2016”.

21 (d) REPORTS TO CONGRESS.—Section 7 of the Soil
22 and Water Resources Conservation Act of 1977 (16
23 U.S.C. 2006) is amended to read as follows:

1 **“SEC. 7. REPORTS TO CONGRESS.**

2 “(a) APPRAISAL.—Not later than the date on which
3 Congress convenes in 2011 and 2016, the President shall
4 transmit to the Committee on Agriculture of the House
5 of Representatives and the Committee on Agriculture, Nu-
6 trition, and Forestry of the Senate the appraisal developed
7 under section 5 and completed before the end of the pre-
8 vious year.

9 “(b) PROGRAM AND STATEMENT OF POLICY.—Not
10 later than the date on which Congress convenes in 2012
11 and 2017, the President shall transmit to the Committee
12 on Agriculture of the House of Representatives and the
13 Committee on Agriculture, Nutrition, and Forestry of the
14 Senate—

15 “(1) the initial program or updated program
16 developed under section 6 and completed before the
17 end of the previous year;

18 “(2) a detailed statement of policy regarding
19 soil and water conservation activities of the Depart-
20 ment of Agriculture; and

21 “(3) a special evaluation of the status, condi-
22 tions, and trends of soil quality on cropland in the
23 United States that addresses the challenges and op-
24 portunities for reducing soil erosion to tolerance lev-
25 els.

1 “(c) IMPROVEMENTS TO APPRAISAL AND PRO-
2 GRAM.—Not later than the date on which Congress con-
3 venes in 2012, the Secretary shall submit to the Com-
4 mittee on Agriculture of the House of Representatives and
5 the Committee on Agriculture, Nutrition, and Forestry of
6 the Senate a report describing the plans of the Depart-
7 ment of Agriculture for improving the resource appraisal
8 and national conservation program required under this
9 Act, based on the recommendations received under sec-
10 tions 5(d) and 6(c).”.

11 (e) TERMINATION OF PROGRAM.—Section 10 of the
12 Soil and Water Resources Conservation Act of 1977 (16
13 U.S.C. 2009) is amended by striking “2008” and insert-
14 ing “2018”.

15 **SEC. 2805. RESOURCE CONSERVATION AND DEVELOPMENT**
16 **PROGRAM.**

17 (a) LOCALLY LED PLANNING PROCESS.—Section
18 1528 of the Agriculture and Food Act of 1981 (16 U.S.C.
19 3451) is amended—

20 (1) in paragraph (1), in the matter preceding
21 subparagraph (A), by striking “planning process”
22 and inserting “locally led planning process”;

23 (2) by redesignating paragraphs (8) and (9) as
24 paragraphs (9) and (8), respectively, and moving
25 those paragraphs so as to appear in numerical order;

1 (3) in paragraph (8) (as so redesignated)—

2 (A) by striking “**PLANNING PROCESS**”
3 and inserting “**LOCALLY LED PLANNING PROC-**
4 **ESS**”; and

5 (B) by striking “council” and inserting
6 “locally led council”.

7 (b) **AUTHORIZED TECHNICAL ASSISTANCE**.—Section
8 1528(13) of the Agriculture and Food Act of 1981 (16
9 U.S.C. 3451(13)) is amended by striking subparagraphs
10 (C) and (D) and inserting the following new subpara-
11 graphs:

12 “(C) providing assistance for the imple-
13 mentation of area plans and projects; and

14 “(D) providing services that involve the re-
15 sources of Department of Agriculture programs
16 in a local community, as defined in the locally
17 led planning process.”.

18 (c) **IMPROVED PROVISION OF TECHNICAL ASSIST-**
19 **ANCE**.—Section 1531 of the Agriculture and Food Act of
20 1981 (16 U.S.C. 3454) is amended—

21 (1) by inserting “(a) **IN GENERAL**.—” before
22 “In carrying”; and

23 (2) by adding at the end the following new sub-
24 section:

25 “(b) **COORDINATOR**.—

1 “(1) IN GENERAL.—To improve the provision of
2 technical assistance to councils under this subtitle,
3 the Secretary shall designate for each council an in-
4 dividual to be the coordinator for the council.

5 “(2) RESPONSIBILITY.—A coordinator for a
6 council shall be directly responsible for the provision
7 of technical assistance to the council.”.

8 (d) PROGRAM EVALUATION.—Section 1534 of the
9 Agriculture and Food Act of 1981 (16 U.S.C. 3457) is
10 repealed.

11 **SEC. 2806. USE OF FUNDS IN BASIN FUNDS FOR SALINITY**
12 **CONTROL ACTIVITIES UPSTREAM OF IMPE-**
13 **RIAL DAM.**

14 (a) IN GENERAL.—Section 202(a) of the Colorado
15 River Basin Salinity Control Act (43 U.S.C. 1592(a)) is
16 amended by adding at the end the following new para-
17 graph:

18 “(7) BASIN STATES PROGRAM.—

19 “(A) IN GENERAL.—A Basin States Pro-
20 gram that the Secretary, acting through the
21 Bureau of Reclamation, shall implement to
22 carry out salinity control activities in the Colo-
23 rado River Basin using funds made available
24 under section 205(f).

1 “(B) ASSISTANCE.—The Secretary, in con-
2 sultation with the Colorado River Basin Salinity
3 Control Advisory Council, shall carry out this
4 paragraph using funds described in subpara-
5 graph (A) directly or by providing grants, grant
6 commitments, or advance funds to Federal or
7 non-Federal entities under such terms and con-
8 ditions as the Secretary may require.

9 “(C) ACTIVITIES.—Funds described in
10 subparagraph (A) shall be used to carry out, as
11 determined by the Secretary—

12 “(i) cost-effective measures and asso-
13 ciated works to reduce salinity from saline
14 springs, leaking wells, irrigation sources,
15 industrial sources, erosion of public and
16 private land, or other sources;

17 “(ii) operation and maintenance of sa-
18 linity control features constructed under
19 the Colorado River Basin salinity control
20 program; and

21 “(iii) studies, planning, and adminis-
22 tration of salinity control activities.

23 “(D) REPORT.—

24 “(i) IN GENERAL.—Not later than 30
25 days before implementing the program es-

1 established under this paragraph, the Sec-
2 retary shall submit to the appropriate com-
3 mittees of Congress a planning report that
4 describes the proposed implementation of
5 the program.

6 “(ii) IMPLEMENTATION.—The Sec-
7 retary may not expend funds to implement
8 the program established under this para-
9 graph before the expiration of the 30-day
10 period beginning on the date on which the
11 Secretary submits the report, or any revi-
12 sion to the report, under clause (i).”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) Section 202 of the Colorado River Basin
15 Salinity Control Act (43 U.S.C. 1592) is amended—

16 (A) in subsection (a), in the matter pre-
17 ceding paragraph (1), by striking “program”
18 and inserting “programs”; and

19 (B) in subsection (b)(4)—

20 (i) by striking “program” and insert-
21 ing “programs”; and

22 (ii) by striking “and (6)” and insert-
23 ing “(6), and (7)”.

24 (2) Section 205 of the Colorado River Basin
25 Salinity Control Act (43 U.S.C. 1595) is amended

1 by striking subsection (f) and inserting the following
2 new subsection:

3 “(f) UP-FRONT COST SHARE.—

4 “(1) IN GENERAL.—Effective beginning on the
5 date of enactment of this paragraph, subject to
6 paragraph (3), the cost share obligations required by
7 this section shall be met through an up-front cost
8 share from the Basin Funds, in the same propor-
9 tions as the cost allocations required under sub-
10 section (a), as provided in paragraph (2).

11 “(2) BASIN STATES PROGRAM.—The Secretary
12 shall expend the required cost share funds described
13 in paragraph (1) through the Basin States Program
14 for salinity control activities established under sec-
15 tion 202(a)(7).

16 “(3) EXISTING SALINITY CONTROL ACTIVI-
17 TIES.—The cost share contribution required by this
18 section shall continue to be met through repayment
19 in a manner consistent with this section for all salin-
20 ity control activities for which repayment was com-
21 menced prior to the date of enactment of this para-
22 graph.”.

1 **SEC. 2807. DESERT TERMINAL LAKES.**

2 Section 2507 of the Farm Security and Rural Invest-
3 ment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-
4 171) is amended—

5 (1) in subsection (a)—

6 (A) by striking “(a)” and all that follows
7 through “\$200,000,000” and inserting “(a)
8 TRANSFER.—Subject to subsection (b) and
9 paragraph (1) of section 207(a) of Public Law
10 108–7 (117 Stat. 146), notwithstanding para-
11 graph (3) of that section, on the date of enact-
12 ment of the Food, Conservation, and Energy
13 Act of 2008, the Secretary of Agriculture shall
14 transfer \$175,000,000”; and

15 (B) by striking the quotation marks at the
16 beginning of paragraphs (1) and (2); and

17 (2) by striking subsection (b) and inserting the
18 following new subsection:

19 “(b) PERMITTED USES.—In any case in which there
20 are willing sellers, the funds described in subsection (a)
21 may be used—

22 “(1) to lease water; or

23 “(2) to purchase land, water appurtenant to the
24 land, and related interests in the Walker River
25 Basin in accordance with section 208(a)(1)(A) of the

1 Energy and Water Development Appropriations Act,
2 2006 (Public Law 109–103; 119 Stat. 2268).”.

3 **Subtitle J—Miscellaneous**
4 **Conservation Provisions**

5 **SEC. 2901. HIGH PLAINS WATER STUDY.**

6 Notwithstanding any other provision of this Act, no
7 person shall become ineligible for any program benefits
8 under this Act or an amendment made by this Act solely
9 as a result of participating in a 1-time study of recharge
10 potential for the Ogallala Aquifer in the High Plains of
11 the State of Texas.

12 **SEC. 2902. NAMING OF NATIONAL PLANT MATERIALS CEN-**
13 **TER AT BELTSVILLE, MARYLAND, IN HONOR**
14 **OF NORMAN A. BERG.**

15 The National Plant Materials Center at Beltsville,
16 Maryland, referenced in section 613.5(a) of title 7, Code
17 of Federal Regulations, shall be known and designated as
18 the “Norman A. Berg National Plant Materials Center”.
19 Any reference in a law, map, regulation, document, paper,
20 or other record of the United States to such National
21 Plant Materials Center shall be deemed to be a reference
22 to the Norman A. Berg National Plant Materials Center.

23 **SEC. 2903. TRANSITION.**

24 (a) CONTINUATION OF PROGRAMS IN FISCAL YEAR
25 2008.—Except as otherwise provided by an amendment

1 made by this title, the Secretary of Agriculture shall con-
2 tinue to carry out any program or activity covered by title
3 XII of the Food Security Act (16 U.S.C. 3801 et seq.)
4 until September 30, 2008, using the provisions of law ap-
5 plicable to the program or activity as they existed on the
6 day before the date of the enactment of this Act and using
7 funds made available under such title for fiscal year 2008
8 for the program or activity.

9 (b) GROUND AND SURFACE WATER CONSERVATION
10 PROGRAM.—During the period beginning on the date of
11 the enactment of this Act and ending on September 30,
12 2008, the Secretary of Agriculture shall continue to carry
13 out the ground and surface water conservation program
14 under section 1240I of the Food Security Act of 1985 (16
15 U.S.C. 3839aa–9), as in effect before the amendment
16 made by section 2510, using the terms, conditions, and
17 funds available to the Secretary to carry out such program
18 on the day before the date of the enactment of this Act.

19 **SEC. 2904. REGULATIONS.**

20 (a) ISSUANCE.—Except as otherwise provided in this
21 title or an amendment made by this title, not later than
22 90 days after the date of enactment of this Act, the Sec-
23 retary of Agriculture, in consultation with the Commodity
24 Credit Corporation, shall promulgate such regulations as
25 are necessary to implement this title.

1 (b) APPLICABLE AUTHORITY.—The promulgation of
2 regulations under subsection (a) and administration of
3 this title—

4 (1) shall be carried out without regard to—

5 (A) chapter 35 of title 44, United States
6 Code (commonly known as the Paperwork Re-
7 duction Act); and

8 (B) the Statement of Policy of the Sec-
9 retary of Agriculture effective July 24, 1971
10 (36 Fed. Reg. 13804) relating to notices of pro-
11 posed rulemaking and public participation in
12 rulemaking; and

13 (2) may—

14 (A) be promulgated with an opportunity
15 for notice and comment; or

16 (B) if determined to be appropriate by the
17 Secretary of Agriculture or the Commodity
18 Credit Corporation, as an interim rule effective
19 on publication with an opportunity for notice
20 and comment.

21 (c) CONGRESSIONAL REVIEW OF AGENCY RULE-
22 MAKING.—In carrying out this section, the Secretary shall
23 use the authority provided under section 808(2) of title
24 5, United States Code.

1 **TITLE III—TRADE**
2 **Subtitle A—Food for Peace Act**

3 **SEC. 3001. SHORT TITLE.**

4 (a) **IN GENERAL.**—Section 1 of the Agricultural
5 Trade Development and Assistance Act of 1954 (7 U.S.C.
6 1691 note; 104 Stat. 3633) is amended by striking “Agri-
7 cultural Trade Development and Assistance Act of 1954”
8 and inserting “Food for Peace Act”.

9 (b) **CONFORMING AMENDMENTS.**—

10 (1) **IN GENERAL.**—Each provision of law de-
11 scribed in paragraph (2) is amended—

12 (A) by striking “Agricultural Trade Devel-
13 opment and Assistance Act of 1954” each place
14 it appears and inserting “Food for Peace Act”;
15 and

16 (B) in each section heading, by striking
17 “**AGRICULTURAL TRADE DEVELOPMENT**
18 **AND ASSISTANCE ACT OF 1954**” each place it
19 appears and inserting “**FOOD FOR PEACE**
20 **ACT**”.

21 (2) **PROVISIONS OF LAW.**—The provisions of
22 law referred to in paragraph (1) are the following:

23 (A) The Agriculture and Food Act of 1981
24 (Public Law 97–98; 95 Stat. 1213).

1 (B) The Agricultural Act of 1949 (7
2 U.S.C. 1421 et seq.).

3 (C) Section 9(a) of the Military Construc-
4 tion Codification Act (7 U.S.C. 1704c).

5 (D) Section 201 of the Africa: Seeds of
6 Hope Act of 1998 (7 U.S.C. 1721 note; Public
7 Law 105–385).

8 (E) The Bill Emerson Humanitarian Trust
9 Act (7 U.S.C. 1736f–1 et seq.).

10 (F) The Food for Progress Act of 1985 (7
11 U.S.C. 1736o).

12 (G) Section 3107 of the Farm Security
13 and Rural Investment Act of 2002 (7 U.S.C.
14 1736o–1).

15 (H) Sections 605B and 606C of the Act of
16 August 28, 1954 (commonly known as the “Ag-
17 ricultural Act of 1954”) (7 U.S.C. 1765b,
18 1766b).

19 (I) Section 206 of the Agricultural Act of
20 1956 (7 U.S.C. 1856).

21 (J) The Agricultural Competitiveness and
22 Trade Act of 1988 (7 U.S.C. 5201 et seq.).

23 (K) The Agricultural Trade Act of 1978 (7
24 U.S.C. 5601 et seq.).

1 (L) The Export-Import Bank Act of 1945
2 (12 U.S.C. 635 et seq.).

3 (M) Section 301 of title 13, United States
4 Code.

5 (N) Section 8 of the Endangered Species
6 Act of 1973 (16 U.S.C. 1537).

7 (O) Section 604 of the Enterprise for the
8 Americas Act of 1992 (22 U.S.C. 2077).

9 (P) Section 5 of the International Health
10 Research Act of 1960 (22 U.S.C. 2103).

11 (Q) The Foreign Assistance Act of 1961
12 (22 U.S.C. 2151 et seq.).

13 (R) The Horn of Africa Recovery and
14 Food Security Act (22 U.S.C. 2151 note; Pub-
15 lic Law 102–274).

16 (S) Section 105 of the Mutual Educational
17 and Cultural Exchange Act of 1961 (22 U.S.C.
18 2455).

19 (T) Section 35 of the Foreign Military
20 Sales Act (22 U.S.C. 2775).

21 (U) The Support for East European De-
22 mocracy (SEED) Act of 1989 (22 U.S.C. 5401
23 et seq.).

24 (V) Section 1707 of the Cuban Democracy
25 Act of 1992 (22 U.S.C. 6006).

1 (W) The Cuban Liberty and Democratic
2 Solidarity (LIBERTAD) Act of 1996 (22
3 U.S.C. 6021 et seq.).

4 (X) Section 902 of the Trade Sanctions
5 Reform and Export Enhancement Act of 2000
6 (22 U.S.C. 7201).

7 (Y) Chapter 553 of title 46, United State
8 Code.

9 (Z) Section 4 of the Strategic and Critical
10 Materials Stock Piling Act (50 U.S.C. 98e).

11 (AA) The Food, Agriculture, Conservation,
12 and Trade Act of 1990 (Public Law 101–624;
13 104 Stat. 3359).

14 (BB) Section 738 of the Agriculture, Rural
15 Development, Food and Drug Administration,
16 and Related Agencies Appropriations Act, 2001
17 (Public Law 106–387; 114 Stat 1549A–34).

18 (c) REFERENCES.—Any reference in any Federal,
19 State, tribal, or local law (including regulations) to the
20 “Agricultural Trade Development and Assistance Act of
21 1954” shall be considered to be a reference to the “Food
22 for Peace Act”.

23 **SEC. 3002. UNITED STATES POLICY.**

24 Section 2 of the Food for Peace Act (7 U.S.C. 1691)
25 is amended—

1 (1) by striking paragraph (4); and

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

4 **SEC. 3003. FOOD AID TO DEVELOPING COUNTRIES.**

5 Section 3(b) of the Food for Peace Act (7 U.S.C.
6 1691a(b)) is amended by striking “(b)” and all that fol-
7 lows through paragraph (1) and inserting the following:

8 “(b) SENSE OF CONGRESS.—It is the sense of Con-
9 gress that—

10 “(1) in negotiations at the Food Aid Conven-
11 tion, the World Trade Organization, the United Na-
12 tions Food and Agriculture Organization, and other
13 appropriate venues, the President shall—

14 “(A) seek commitments of higher levels of
15 food aid by donors in order to meet the legiti-
16 mate needs of developing countries;

17 “(B) ensure, to the maximum extent prac-
18 ticable, that humanitarian nongovernmental or-
19 ganizations, recipient country governments,
20 charitable bodies, and international organiza-
21 tions shall continue—

22 “(i) to be eligible to receive resources
23 based on assessments of need conducted by
24 those organizations and entities; and

1 “(ii) to implement food aid programs
2 in agreements with donor countries; and

3 “(C) ensure, to the maximum extent prac-
4 ticable, that options for providing food aid for
5 emergency and nonemergency needs shall not
6 be subject to limitation, including in-kind com-
7 modities, provision of funds for agricultural
8 commodity procurement, and monetization of
9 commodities, on the condition that the provision
10 of those commodities or funds—

11 “(i) is based on assessments of need
12 and intended to benefit the food security
13 of, or otherwise assist, recipients, and

14 “(ii) is provided in a manner that
15 avoids disincentives to local agricultural
16 production and marketing and with mini-
17 mal potential for disruption of commercial
18 markets; and”.

19 **SEC. 3004. TRADE AND DEVELOPMENT ASSISTANCE.**

20 (a) Title I of the Food for Peace Act (7 U.S.C. 1701
21 et seq.) is amended in the title heading, by striking
22 **“TRADE AND DEVELOPMENT ASSISTANCE”**
23 and inserting **“ECONOMIC ASSISTANCE AND**
24 **FOOD SECURITY”**.

1 (b) Section 101 of the Food for Peace Act (7 U.S.C.
2 1701) is amended in the section heading, by striking
3 “**TRADE AND DEVELOPMENT ASSISTANCE**” and in-
4 serting “**ECONOMIC ASSISTANCE AND FOOD SECUR-**
5 **RITY**”.

6 **SEC. 3005. AGREEMENTS REGARDING ELIGIBLE COUN-**
7 **TRIES AND PRIVATE ENTITIES.**

8 Section 102 of the Food for Peace Act (7 U.S.C.
9 1702) is amended—

10 (1) in subsection (a)—

11 (A) by striking paragraph (1); and

12 (B) by redesignating paragraphs (2) and
13 (3) as paragraphs (1) and (2), respectively; and

14 (2) by striking subsection (c).

15 **SEC. 3006. USE OF LOCAL CURRENCY PAYMENTS.**

16 Section 104(c) of the Food for Peace Act (7 U.S.C.
17 1704(c)) is amended—

18 (1) in the matter preceding paragraph (1), by
19 inserting “, through agreements with recipient gov-
20 ernments, private voluntary organizations, and co-
21 operatives,” after “developing country”;

22 (2) by striking paragraph (1);

23 (3) in paragraph (2)—

24 (A) in subparagraph (C), by striking
25 “and” at the end;

1 (B) in subparagraph (D), by striking the
2 period at the end and inserting “; and”; and

3 (C) by adding at the end the following:

4 “(E) the improvement of the trade capac-
5 ity of the recipient country.”;

6 (4) in paragraph (3), by striking “agricultural
7 business development and agricultural trade expan-
8 sion” and inserting “development of agricultural
9 businesses and agricultural trade capacity”;

10 (5) in paragraph (4), by striking “, or other-
11 wise” and all that follows through “United States”;

12 (6) in paragraph (5), by inserting “to promote
13 agricultural products produced in appropriate devel-
14 oping countries” after “trade fairs”; and

15 (7) by redesignating paragraphs (2) through
16 (9) as paragraphs (1) through (8), respectively.

17 **SEC. 3007. GENERAL AUTHORITY.**

18 Section 201 of the Food for Peace Act (7 U.S.C.
19 1721) is amended—

20 (1) by striking paragraph (1) and inserting the
21 following:

22 “(1) address famine and food crises, and re-
23 spond to emergency food needs, arising from man-
24 made and natural disasters;”;

25 (2) in paragraph (5)—

1 (A) by inserting “food security and sup-
2 port” after “promote”; and

3 (B) by striking “; and” and inserting a
4 semicolon;

5 (3) in paragraph (6), by striking the period at
6 the end and inserting “; and”; and

7 (4) by adding at the end the following:

8 “(7) promote economic and nutritional security
9 by increasing educational, training, and other pro-
10 ductive activities.”.

11 **SEC. 3008. PROVISION OF AGRICULTURAL COMMODITIES.**

12 Section 202 of the Food for Peace Act (7 U.S.C.
13 1722) is amended—

14 (1) in subsection (b)(2), by striking “may not
15 deny a request for funds” and inserting “may not
16 use as a sole rationale for denying a request for
17 funds”;

18 (2) in subsection (e)(1)—

19 (A) in the matter preceding subparagraph
20 (A), by striking “not less than 5 percent nor
21 more than 10 percent” and inserting “not less
22 than 7.5 percent nor more than 13 percent”;

23 (B) in subparagraph (A), by striking “;
24 and” and inserting a semicolon;

1 (C) in subparagraph (B), by striking the
2 period at the end and inserting “; and”; and

3 (D) by adding at the end the following:

4 “(C) improving and implementing meth-
5 odologies for food aid programs, including needs
6 assessments (upon the request of the Adminis-
7 trator), monitoring, and evaluation.”; and

8 (3) by striking subsection (h) and inserting the
9 following:

10 “(h) FOOD AID QUALITY.—

11 “(1) IN GENERAL.—The Administrator shall
12 use funds made available for fiscal year 2009 and
13 subsequent fiscal years to carry out this title—

14 “(A) to assess the types and quality of ag-
15 ricultural commodities and products donated for
16 food aid;

17 “(B) to adjust products and formulations
18 (including the potential introduction of new
19 fortificants and products) as necessary to cost-
20 effectively meet nutrient needs of target popu-
21 lations; and

22 “(C) to test prototypes.

23 “(2) ADMINISTRATION.—The Administrator—

24 “(A) shall carry out this subsection in con-
25 sultation with and through independent entities

1 with proven expertise in food aid commodity
2 quality enhancements;

3 “(B) may enter into contracts to obtain
4 the services of such entities; and

5 “(C) shall consult with the Food Aid Con-
6 sultative Group on how to carry out this sub-
7 section.

8 “(3) FUNDING LIMITATION.—Of the funds
9 made available under section 207(f), for fiscal years
10 2009 through 2011, not more than \$4,500,000 may
11 be used to carry out this subsection.”.

12 **SEC. 3009. GENERATION AND USE OF CURRENCIES BY PRI-**
13 **VATE VOLUNTARY ORGANIZATIONS AND CO-**
14 **OPERATIVES.**

15 Section 203(b) of the Food for Peace Act (7 U.S.C.
16 1723(b)) is amended by striking “1 or more recipient
17 countries” and inserting “in 1 or more recipient coun-
18 tries”.

19 **SEC. 3010. LEVELS OF ASSISTANCE.**

20 Section 204(a) of the Food for Peace Act (7 U.S.C.
21 1724(a)) is amended—

22 (1) in paragraph (1), by striking “2002
23 through 2007” and inserting “2008 through 2012”;
24 and

1 (2) in paragraph (2), by striking “2002
2 through 2007” and inserting “2008 through 2012”.

3 **SEC. 3011. FOOD AID CONSULTATIVE GROUP.**

4 Section 205 of the Food for Peace Act (7 U.S.C.
5 1725) is amended—

6 (1) in subsection (b)—

7 (A) in paragraph (5), by striking “and” at
8 the end;

9 (B) in paragraph (6), by striking the pe-
10 riod and inserting “; and”; and

11 (C) by inserting at the end the following:

12 “(7) representatives from the maritime trans-
13 portation sector involved in transporting agricultural
14 commodities overseas for programs under this Act.”;
15 and

16 (2) in subsection (f), by striking “2007” and
17 inserting “2012”.

18 **SEC. 3012. ADMINISTRATION.**

19 Section 207 of the Food for Peace Act (7 U.S.C.
20 1726a) is amended—

21 (1) in subsection (a)(3), by striking “and the
22 conditions that must be met for the approval of such
23 proposal”;

24 (2) in subsection (c), by striking paragraph (3);

1 (3) by striking subsection (d) and inserting the
2 following:

3 “(d) **TIMELY PROVISION OF COMMODITIES.**—The
4 Administrator, in consultation with the Secretary, shall
5 develop procedures that ensure expedited processing of
6 commodity call forwards in order to provide commodities
7 overseas in a timely manner and to the extent feasible,
8 according to planned delivery schedules.”; and

9 (4) by adding at the end the following:

10 “(f) **PROGRAM OVERSIGHT, MONITORING, AND EVAL-**
11 **UATION.**—

12 “(1) **DUTIES OF ADMINISTRATOR.**—The Admin-
13 istrator, in consultation with the Secretary, shall es-
14 tablish systems and carry out activities—

15 “(A) to determine the need for assistance
16 provided under this title; and

17 “(B) to improve, monitor, and evaluate the
18 effectiveness and efficiency of the assistance
19 provided under this title to maximize the impact
20 of the assistance.

21 “(2) **REQUIREMENTS OF SYSTEMS AND ACTIVI-**
22 **TIES.**—The systems and activities described in para-
23 graph (1) shall include—

24 “(A) program monitors in countries that
25 receive assistance under this title;

1 “(B) country and regional food aid impact
2 evaluations;

3 “(C) the identification and implementation
4 of best practices for food aid programs;

5 “(D) the evaluation of monetization pro-
6 grams;

7 “(E) early warning assessments and sys-
8 tems to help prevent famines; and

9 “(F) upgraded information technology sys-
10 tems.

11 “(3) IMPLEMENTATION REPORT.—Not later
12 than 180 days after the date of enactment of the
13 Food, Conservation, and Energy Act of 2008, the
14 Administrator shall submit to the appropriate com-
15 mittees of Congress a report on efforts undertaken
16 by the Administrator to conduct oversight of non-
17 emergency programs under this title.

18 “(4) GOVERNMENT ACCOUNTABILITY OFFICE
19 REPORT.—Not later than 270 days after the date of
20 submission of the report under paragraph (3), the
21 Comptroller General of the United States shall sub-
22 mit to the appropriate committees of Congress a re-
23 port that contains—

24 “(A) a review of, and comments address-
25 ing, the report described in paragraph (3); and

1 “(B) recommendations relating to any ad-
2 ditional actions that the Comptroller General of
3 the United States determines to be necessary to
4 improve the monitoring and evaluation of as-
5 sistance provided under this title.

6 “(5) CONTRACT AUTHORITY.—

7 “(A) IN GENERAL.—Subject to subpara-
8 graphs (B) and (C), in carrying out administra-
9 tive and management activities relating to each
10 activity carried out by the Administrator under
11 paragraph (1), the Administrator may enter
12 into contracts with 1 or more individuals for
13 personal service to be performed in recipient
14 countries or neighboring countries.

15 “(B) PROHIBITION.—An individual who
16 enters into a contract with the Administrator
17 under subparagraph (A) shall not be considered
18 to be an employee of the Federal Government
19 for the purpose of any law (including regula-
20 tions) administered by the Office of Personnel
21 Management.

22 “(C) PERSONAL SERVICE.—Subparagraph
23 (A) does not limit the ability of the Adminis-
24 trator to enter into a contract with any indi-
25 vidual for personal service under section 202(a).

1 “(6) FUNDING.—

2 “(A) IN GENERAL.—Subject to section
3 202(h)(3), in addition to other funds made
4 available to the Administrator to carry out the
5 monitoring of emergency food assistance, the
6 Administrator may implement this subsection
7 using up to \$22,000,000 of the funds made
8 available under this title for each of fiscal years
9 2009 through 2012, except for paragraph
10 (2)(F), for which only \$2,500,000 shall be
11 made available during fiscal year 2009.

12 “(B) LIMITATIONS.—

13 “(i) IN GENERAL.—Subject to clause
14 (ii), of the funds made available under sub-
15 paragraph (A), for each of fiscal years
16 2009 through 2012, not more than
17 \$8,000,000 may be used by the Adminis-
18 trator to carry out paragraph (2)(E).

19 “(ii) CONDITION.—No funds shall be
20 made available under subparagraph (A), in
21 accordance with clause (i), unless not less
22 than \$8,000,000 is made available under
23 chapter 1 of part I of the Foreign Assist-
24 ance Act of 1961 (22 U.S.C. 2151 et seq.)
25 for such purposes for such fiscal year.

1 “(g) PROJECT REPORTING.—

2 “(1) IN GENERAL.—In submitting project re-
3 ports to the Administrator, a private voluntary orga-
4 nization or cooperative shall provide a copy of the
5 report in such form as is necessary for the report to
6 be displayed for public use on the website of the
7 United States Agency for International Develop-
8 ment.

9 “(2) CONFIDENTIAL INFORMATION.—An orga-
10 nization or cooperative described in paragraph (1)
11 may omit any confidential information from the copy
12 of the report submitted for public display under that
13 paragraph.”.

14 **SEC. 3013. ASSISTANCE FOR STOCKPILING AND RAPID**
15 **TRANSPORTATION, DELIVERY, AND DIS-**
16 **TRIBUTION OF SHELF-STABLE PRE-**
17 **PACKAGED FOODS.**

18 Section 208(f) of the Food for Peace Act (7 U.S.C.
19 1726b(f)) is amended—

20 (1) by striking “\$3,000,000” and inserting
21 “\$8,000,000”; and

22 (2) by striking “2007” and inserting “2012”.

23 **SEC. 3014. GENERAL AUTHORITIES AND REQUIREMENTS.**

24 (a) IN GENERAL.—Section 401 of the Food for Peace
25 Act (7 U.S.C. 1731) is amended—

1 (1) by striking subsection (a);

2 (2) by redesignating subsections (b) and (c) as
3 subsections (a) and (b), respectively; and

4 (3) in subsection (b) (as so redesignated), by
5 striking “(b)(1)” and inserting “(a)(1)”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Section 406(a) of the Food for Peace Act
8 (7 U.S.C. 1736(a)) is amended by striking “(that
9 have been determined to be available under section
10 401(a))”.

11 (2) Subsection (e)(1) of the Food for Progress
12 Act of 1985 (7 U.S.C. 1736o(e)(1)) is amended by
13 striking “determined to be available under section
14 401 of the Food for Peace Act”.

15 **SEC. 3015. DEFINITIONS.**

16 Section 402 of the Food for Peace Act (7 U.S.C.
17 1732) is amended—

18 (1) by redesignating paragraphs (3) through
19 (8) as paragraphs (4) through (9), respectively; and

20 (2) by inserting after paragraph (2) the fol-
21 lowing:

22 “(3) APPROPRIATE COMMITTEE OF CON-
23 GRESS.—The term ‘appropriate committee of Con-
24 gress’ means—

1 “(A) the Committee on Agriculture, Nutri-
2 tion, and Forestry of the Senate;

3 “(B) the Committee on Agriculture of the
4 House of Representatives; and

5 “(C) the Committee on Foreign Affairs of
6 the House of Representatives.”.

7 **SEC. 3016. USE OF COMMODITY CREDIT CORPORATION.**

8 Section 406(b)(2) of the Food for Peace Act (7
9 U.S.C. 1736(b)(2)) is amended by inserting “, including
10 the costs of carrying out section 415” before the semi-
11 colon.

12 **SEC. 3017. ADMINISTRATIVE PROVISIONS.**

13 Section 407(c) of the Food for Peace Act (7 U.S.C.
14 1736a(c)) is amended—

15 (1) in paragraph (4)—

16 (A) by striking “Funds made” and insert-
17 ing the following:

18 “(A) IN GENERAL.—Funds made”;

19 (B) in subparagraph (A) (as so des-
20 ignated)—

21 (i) by striking “2007” and inserting
22 “2012”; and

23 (ii) by striking “\$2,000,000” and in-
24 serting “\$10,000,000”; and

25 (C) by adding at the end the following:

1 “(B) ADDITIONAL PREPOSITIONING
2 SITES.—

3 “(i) FEASIBILITY ASSESSMENTS.—

4 The Administrator may carry out assess-
5 ments for the establishment of not less
6 than 2 sites to determine the feasibility of,
7 and costs associated with, using the sites
8 to store and handle agricultural commod-
9 ities for prepositioning in foreign countries.

10 “(ii) ESTABLISHMENT OF SITES.—

11 Based on the results of each assessment
12 carried out under clause (i), the Adminis-
13 trator may establish additional sites for
14 prepositioning in foreign countries.”; and

15 (2) by adding at the end the following:

16 “(5) NONEMERGENCY OR MULTIYEAR AGREE-
17 MENTS.—Annual resource requests for ongoing non-
18 emergency or ongoing multiyear agreements under
19 title II shall be finalized not later than October 1 of
20 the fiscal year in which the agricultural commodities
21 will be shipped under the agreement.”.

1 **SEC. 3018. CONSOLIDATION AND MODIFICATION OF AN-**
2 **NUAL REPORTS REGARDING AGRICULTURAL**
3 **TRADE ISSUES.**

4 (a) ANNUAL REPORTS.—Section 407 of the Food for
5 Peace Act (7 U.S.C. 1736a) is amended by striking sub-
6 section (f) and inserting the following:

7 “(f) ANNUAL REPORTS.—

8 “(1) ANNUAL REPORT REGARDING AGRICUL-
9 TURAL TRADE PROGRAMS AND ACTIVITIES.—

10 “(A) ANNUAL REPORT.—Not later than
11 April 1 of each fiscal year, the Administrator
12 and the Secretary shall jointly prepare and sub-
13 mit to the appropriate committees of Congress
14 a report regarding each program and activity
15 carried out under this Act during the prior fis-
16 cal year.

17 “(B) CONTENTS.—An annual report de-
18 scribed in subparagraph (A) shall include, with
19 respect to the prior fiscal year—

20 “(i) a list that contains a description
21 of each country and organization that re-
22 ceives food and other assistance under this
23 Act (including the quantity of food and as-
24 sistance provided to each country and or-
25 ganization);

1 “(ii) a general description of each
2 project and activity implemented under
3 this Act (including each activity funded
4 through the use of local currencies);

5 “(iii) a statement describing the quan-
6 tity of agricultural commodities made
7 available to each country pursuant to—

8 “(I) section 416(b) of the Agri-
9 cultural Act of 1949 (7 U.S.C.
10 1431(b)); and

11 “(II) the Food for Progress Act
12 of 1985 (7 U.S.C. 1736o);

13 “(iv) an assessment of the progress
14 made through programs under this Act to-
15 wards reducing food insecurity in the pop-
16 ulations receiving food assistance from the
17 United States;

18 “(v) a description of efforts under-
19 taken by the Food Aid Consultative Group
20 under section 205 to achieve an integrated
21 and effective food assistance program;

22 “(vi) an assessment of—

23 “(I) each program oversight,
24 monitoring, and evaluation system im-
25 plemented under section 207(f); and

1 “(II) the impact of each program
2 oversight, monitoring, and evaluation
3 system on the effectiveness and effi-
4 ciency of assistance provided under
5 this title; and

6 “(vii) an assessment of the progress
7 made by the Administrator in addressing
8 issues relating to quality with respect to
9 the provision of food assistance.

10 “(2) ANNUAL REPORT REGARDING THE PROVI-
11 SION OF AGRICULTURAL COMMODITIES TO FOREIGN
12 COUNTRIES.—

13 “(A) ANNUAL REPORT.—Not later than
14 February 1 of each fiscal year, the Adminis-
15 trator shall prepare and submit to the appro-
16 priate committees of Congress a report regard-
17 ing the administration of food assistance pro-
18 grams under title II to benefit foreign countries
19 during the prior fiscal year.

20 “(B) CONTENTS.—An annual report de-
21 scribed in subparagraph (A) shall include, with
22 respect to the prior fiscal year—

23 “(i) a list that contains a description
24 of each program, country, and commodity

1 approved for assistance under section 207;
2 and

3 “(ii) a statement that contains a de-
4 scription of the total amount of funds ap-
5 proved for transportation and administra-
6 tive costs under section 207.”.

7 (b) CONFORMING AMENDMENT.—Section 207(e) of
8 the Food for Peace Act (7 U.S.C. 1726a(e)) is amended—

9 (1) by striking “TIMELY APPROVAL.” and all
10 that follows through “The Administrator” and in-
11 sserting “TIMELY APPROVAL.—The Administrator”;
12 and

13 (2) by striking paragraph (2).

14 **SEC. 3019. EXPIRATION OF ASSISTANCE.**

15 Section 408 of the Food for Peace Act (7 U.S.C.
16 1736b) is amended by striking “2007” and inserting
17 “2012”.

18 **SEC. 3020. AUTHORIZATION OF APPROPRIATIONS.**

19 Section 412 of the Food for Peace Act (7 U.S.C.
20 1736f) is amended by striking subsection (a) and inserting
21 the following:

22 “(a) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated—

24 “(1) for fiscal year 2008 and each fiscal year
25 thereafter, \$2,500,000,000 to carry out the emer-

1 agency and nonemergency food assistance programs
2 under title II; and

3 “(2) such sums as are necessary—

4 “(A) to carry out the concessional credit
5 sales program established under title I;

6 “(B) to carry out the grant program estab-
7 lished under title III; and

8 “(C) to make payments to the Commodity
9 Credit Corporation to the extent the Commodity
10 Credit Corporation is not reimbursed under the
11 programs under this Act for the actual costs in-
12 curred or to be incurred by the Commodity
13 Credit Corporation in carrying out such pro-
14 grams.”.

15 **SEC. 3021. MINIMUM LEVEL OF NONEMERGENCY FOOD AS-**
16 **SISTANCE.**

17 Section 412 of the Food for Peace Act (7 U.S.C.
18 1736f) is amended by adding at the end the following:

19 “(e) MINIMUM LEVEL OF NONEMERGENCY FOOD AS-
20 SISTANCE.—

21 “(1) FUNDS AND COMMODITIES.—Of the
22 amounts made available to carry out emergency and
23 nonemergency food assistance programs under title
24 II, not less than \$375,000,000 for fiscal year 2009,
25 \$400,000,000 for fiscal year 2010, \$425,000,000 for

1 fiscal year 2011, and \$450,000,000 for fiscal year
2 2012 shall be expended for nonemergency food as-
3 sistance programs under title II.

4 “(2) EXCEPTION.—The President may use less
5 than the amount specified in paragraph (1) in a fis-
6 cal year for nonemergency food assistance programs
7 under title II only if—

8 “(A) the President has made a determina-
9 tion that there is an urgent need for additional
10 emergency food assistance;

11 “(B) the funds and commodities held in
12 the Bill Emerson Humanitarian Trust have
13 been exhausted; and

14 “(C) the President has submitted to Con-
15 gress a supplemental appropriations request for
16 a sum equal to the amount needed to reach the
17 required spending level for nonemergency food
18 assistance under paragraph (1) and the amount
19 exhausted under paragraph (2)(B).

20 “(3) NOTIFICATION TO CONGRESS.—If the
21 President makes the determination described in
22 paragraph (2)(A), the President shall submit to
23 Congress written notification that the determination
24 has been made.”.

1 **SEC. 3022. COORDINATION OF FOREIGN ASSISTANCE PRO-**
2 **GRAMS.**

3 Section 413 of the Food for Peace Act (7 U.S.C.
4 1736g) is amended—

5 (1) by striking “To the maximum” and insert-
6 ing the following:

7 “(a) IN GENERAL.—To the maximum”; and

8 (2) by adding at the end the following:

9 “(b) REPORT REGARDING EFFORTS TO IMPROVE
10 PROCUREMENT PLANNING.—

11 “(1) REPORT REQUIRED.—Not later than 90
12 days after the date of enactment of the Food, Con-
13 servation, and Energy Act of 2008, the Adminis-
14 trator and the Secretary shall submit to each appro-
15 priate committee of Congress a report that contains
16 a description of each effort taken by the Adminis-
17 trator and the Secretary to improve planning for
18 food and transportation procurement (including ef-
19 forts to eliminate bunching of food purchases).

20 “(2) CONTENTS.—A report required under
21 paragraph (1) should include a description of each
22 effort taken by the Administrator and the Sec-
23 retary—

24 “(A) to improve the coordination of food
25 purchases made by—

1 “(i) the United States Agency for
2 International Development; and

3 “(ii) the Department of Agriculture;

4 “(B) to increase flexibility with respect to
5 procurement schedules;

6 “(C) to increase the use of historical anal-
7 yses and forecasting; and

8 “(D) to improve and streamline legal
9 claims processes for resolving transportation
10 disputes.”.

11 **SEC. 3023. MICRONUTRIENT FORTIFICATION PROGRAMS.**

12 Section 415 of the Food for Peace Act (7 U.S.C.
13 1736g–2) is amended—

14 (1) in subsection (a)—

15 (A) in paragraph (1), by striking “Not
16 later than September 30, 2003, the Adminis-
17 trator, in consultation with the Secretary” and
18 inserting “Not later than September 30, 2008,
19 the Administrator, in consultation with the Sec-
20 retary”; and

21 (B) in paragraph (2)—

22 (i) in subparagraph (A), by adding
23 “and” after the semicolon at the end; and

24 (ii) by striking subparagraphs (B) and
25 (C) and inserting the following:

1 “(B) assess and apply technologies and
2 systems to improve and ensure the quality, shelf
3 life, bioavailability, and safety of fortified food
4 aid agricultural commodities, and products of
5 those agricultural commodities, using rec-
6 ommendations included in the report entitled
7 ‘Micronutrient Compliance Review of Fortified
8 Public Law 480 Commodities’, published in Oc-
9 tober 2001, with implementation by inde-
10 pendent entities with proven experience and ex-
11 pertise in food aid commodity quality enhance-
12 ments.”;

13 (2) by striking subsection (b) and redesignating
14 subsections (c) and (d) as subsections (b) and (c),
15 respectively; and

16 (3) in subsection (c) (as redesignated by para-
17 graph (2)), by striking “2007” and inserting
18 “2012”.

19 **SEC. 3024. JOHN OGWONSKI AND DOUG BEREUTER FARM-**
20 **ER-TO-FARMER PROGRAM.**

21 (a) **MINIMUM FUNDING.**—Section 501(d) of the Food
22 for Peace Act (7 U.S.C. 1737(d)) is amended in the mat-
23 ter preceding paragraph (1)—

24 (1) by striking “not less than” and inserting
25 “not less than the greater of \$10,000,000 or”; and

1 (2) by striking “2002 through 2007” and in-
2 serting “2008 through 2012”.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
4 501(e) of the Food for Peace Act (7 U.S.C. 1737(e)) is
5 amended by striking paragraph (1) and inserting the fol-
6 lowing:

7 “(1) IN GENERAL.—There are authorized to be
8 appropriated for each of fiscal years 2008 through
9 2012 to carry out the programs under this section—

10 “(A) \$10,000,000 for sub-Saharan African
11 and Caribbean Basin countries; and

12 “(B) \$5,000,000 for other developing or
13 middle-income countries or emerging markets
14 not described in subparagraph (A).”.

15 **Subtitle B—Agricultural Trade Act**
16 **of 1978 and Related Statutes**

17 **SEC. 3101. EXPORT CREDIT GUARANTEE PROGRAM.**

18 (a) REPEAL OF SUPPLIER CREDIT GUARANTEE PRO-
19 GRAM AND INTERMEDIATE EXPORT CREDIT GUARANTEE
20 PROGRAM.—Section 202 of the Agricultural Trade Act of
21 1978 (7 U.S.C. 5622) is amended—

22 (1) in subsection (a)—

23 (A) by striking “GUARANTEES.—” and all
24 that follows through “The Commodity” in para-

1 graph (1) and inserting “GUARANTEES.—The
2 Commodity”; and

3 (B) by striking paragraphs (2) and (3);
4 (2) by striking subsections (b) and (c);
5 (3) by redesignating subsections (d) through (l)
6 as subsections (b) through (j), respectively; and
7 (4) by adding at the end the following:

8 “(k) ADMINISTRATION.—

9 “(1) DEFINITION OF LONG TERM.—In this sub-
10 section, the term ‘long term’ means a period of 10
11 or more years.

12 “(2) GUARANTEES.—In administering the ex-
13 port credit guarantees authorized under this section,
14 the Secretary shall—

15 “(A) maximize the export sales of agricul-
16 tural commodities;

17 “(B) maximize the export credit guaran-
18 tees that are made available and used during
19 the course of a fiscal year;

20 “(C) develop an approach to risk evalua-
21 tion that facilitates accurate country risk des-
22 ignations and timely adjustments to the des-
23 ignations (on an ongoing basis) in response to
24 material changes in country risk conditions,

1 with ongoing opportunity for input and evalua-
2 tion from the private sector;

3 “(D) adjust risk-based guarantees as nec-
4 essary to ensure program effectiveness and
5 United States competitiveness; and

6 “(E) work with industry to ensure, to the
7 maximum extent practicable, that risk-based
8 fees associated with the guarantees cover, but
9 do not exceed, the operating costs and losses
10 over the long term.”.

11 (b) FUNDING LEVELS.—Section 211 of the Agricul-
12 tural Trade Act of 1978 (7 U.S.C. 5641) is amended by
13 striking subsection (b) and inserting the following:

14 “(b) EXPORT CREDIT GUARANTEE PROGRAMS.—The
15 Commodity Credit Corporation shall make available for
16 each of fiscal years 1996 through 2012 credit guarantees
17 under section 202(a) in an amount equal to but not more
18 than the lesser of—

19 “(1) \$5,500,000,000 in credit guarantees; or

20 “(2) the sum of—

21 “(A) the amount of credit guarantees that
22 the Commodity Credit Corporation can make
23 available using budget authority of \$40,000,000
24 for each fiscal year for the costs of the credit
25 guarantees; and

1 “(B) the amount of credit guarantees that
2 the Commodity Credit Corporation can make
3 available using unobligated budget authority for
4 prior fiscal years.”.

5 (c) CONFORMING AMENDMENTS.—Section 202 of the
6 Agricultural Trade Act of 1978 (7 U.S.C. 5622) is amend-
7 ed—

8 (1) in subsection (b)(4) (as redesignated by
9 subsection (a)(3)), by striking “, consistent with the
10 provisions of subsection (c)”;

11 (2) in subsection (d) (as redesignated by sub-
12 section (a)(3))—

13 (A) by striking “(1)” and all that follows
14 through “The Commodity” and inserting “The
15 Commodity”; and

16 (B) by striking paragraph (2); and

17 (3) in subsection (g)(2) (as redesignated by
18 subsection (a)(3)), by striking “subsections (a) and
19 (b)” and inserting “subsection (a)”.

20 **SEC. 3102. MARKET ACCESS PROGRAM.**

21 (a) ORGANIC COMMODITIES.—Section 203(a) of the
22 Agricultural Trade Act of 1978 (7 U.S.C. 5623(a)) is
23 amended by inserting after “agricultural commodities” the
24 following: “(including commodities that are organically

1 produced (as defined in section 2103 of the Organic Foods
2 Production Act of 1990 (7 U.S.C. 6502)))”.

3 (b) FUNDING.—Section 211(c)(1)(A) of the Agricul-
4 tural Trade Act of 1978 (7 U.S.C. 5641(e)(1)(A)) is
5 amended by striking “\$200,000,000 for each of fiscal
6 years 2006 and 2007” and inserting “\$200,000,000 for
7 each of fiscal years 2008 through 2012”.

8 **SEC. 3103. EXPORT ENHANCEMENT PROGRAM.**

9 (a) IN GENERAL.—Section 301 of the Agricultural
10 Trade Act of 1978 (7 U.S.C. 5651) is repealed.

11 (b) CONFORMING AMENDMENTS.—The Agricultural
12 Trade Act of 1978 is amended—

13 (1) in title III, by striking the title heading and
14 inserting the following:

15 **“TITLE III—BARRIERS TO**
16 **EXPORTS”;**

17 (2) by redesignating sections 302 and 303 (7
18 U.S.C. 5652 and 5653) as sections 301 and 302, re-
19 spectively;

20 (3) in section 302 (as redesignated by para-
21 graph (2)), by striking “, such as that established
22 under section 301,”;

23 (4) in section 401 (7 U.S.C. 5661)—

1 (A) in subsection (a), by striking “section
2 201, 202, or 301” and inserting “section 201
3 or 202”; and

4 (B) in subsection (b), by striking “sections
5 201, 202, and 301” and inserting “sections 201
6 and 202”; and

7 (5) in section 402(a)(1) (7 U.S.C. 5662(a)(1)),
8 by striking “sections 201, 202, 203, and 301” and
9 inserting “sections 201, 202, and 203”.

10 **SEC. 3104. FOREIGN MARKET DEVELOPMENT COOPERATOR**
11 **PROGRAM.**

12 (a) REPORT TO CONGRESS.—Section 702(c) of the
13 Agricultural Trade Act of 1978 (7 U.S.C. 5722(c)) is
14 amended by striking “Committee on International Rela-
15 tions” and inserting “Committee on Foreign Affairs”.

16 (b) FUNDING.—Section 703(a) of the Agricultural
17 Trade Act of 1978 (7 U.S.C. 5723(a)) is amended by
18 striking “2002 through 2007” and inserting “2008
19 through 2012”.

20 **SEC. 3105. FOOD FOR PROGRESS ACT OF 1985.**

21 (a) IN GENERAL.—The Food for Progress Act of
22 1985 (7 U.S.C. 1736o) is amended by striking “2007”
23 each place it appears and inserting “2012”.

24 (b) DESIGNATION OF PROJECT IN SUB-SAHARAN AF-
25 RICA.—The Food for Progress Act of 1985 (7 U.S.C.

1 1736o) is amended in subsection (f) by adding at the end
2 the following:

3 “(6) PROJECT IN MALAWI.—

4 “(A) IN GENERAL.—In carrying out this
5 section during fiscal year 2009, the President
6 shall approve not less than 1 multiyear project
7 for Malawi—

8 “(i) to promote sustainable agri-
9 culture; and

10 “(ii) to increase the number of women
11 in leadership positions.

12 “(B) USE OF ELIGIBLE COMMODITIES.—

13 Of the eligible commodities used to carry out
14 this section during the period in which the
15 project described in subparagraph (A) is carried
16 out, the President shall carry out the project
17 using eligible commodities with a total value of
18 not less than \$3,000,000 during the course of
19 the project.”.

20 **SEC. 3106. MCGOVERN-DOLE INTERNATIONAL FOOD FOR**
21 **EDUCATION AND CHILD NUTRITION PRO-**
22 **GRAM.**

23 Section 3107 of the Farm Security and Rural Invest-
24 ment Act of 2002 (7 U.S.C. 1736o–1) is amended—

1 (1) in subsections (b), (c)(2)(B), (f)(1), (h), (i),
2 and (l)(1), by striking “President” each place it ap-
3 pears and inserting “Secretary”;

4 (2) in subsection (d), by striking “The Presi-
5 dent shall designate 1 or more Federal agencies”
6 and inserting “The Secretary shall”;

7 (3) in paragraph (f)(2), by striking “imple-
8 menting agency” and inserting “Secretary”; and

9 (4) in subsection (l)—

10 (A) by striking paragraph (1) and insert-
11 ing the following:

12 “(1) USE OF COMMODITY CREDIT CORPORATION
13 FUNDS.—Of the funds of the Commodity Credit
14 Corporation, the Secretary shall use to carry out this
15 section \$84,000,000 for fiscal year 2009, to remain
16 available until expended.”;

17 (B) in paragraph (2), by striking “2004
18 through 2007” and inserting “2008 through
19 2012”; and

20 (C) in paragraph (3), by striking “any
21 Federal agency implementing or assisting” and
22 inserting “the Department of Agriculture or
23 any other Federal agency assisting”.

1 **Subtitle C—Miscellaneous**

2 **SEC. 3201. BILL EMERSON HUMANITARIAN TRUST.**

3 Section 302 of the Bill Emerson Humanitarian Trust
4 Act (7 U.S.C. 1736f–1) is amended—

5 (1) in subsection (a)—

6 (A) by striking “establish a trust stock”
7 and inserting “establish and maintain a trust”;
8 and

9 (B) by striking “or any combination of the
10 commodities, totaling not more than 4,000,000
11 metric tons” and inserting “any combination of
12 the commodities, or funds”;

13 (2) in subsection (b)—

14 (A) in paragraph (1), by striking subpara-
15 graph (D) and inserting the following:

16 “(D) funds made available—

17 “(i) under paragraph (2)(B);

18 “(ii) as a result of an exchange of any
19 commodity held in the trust for an equiva-
20 lent amount of funds from the market, if
21 the Secretary determines that such a sale
22 of the commodity on the market will not
23 unduly disrupt domestic markets; or

1 “(iii) to maximize the value of the
2 trust, in accordance with subsection
3 (d)(3).”; and
4 (B) in paragraph (2)(B)—
5 (i) in clause (i)—
6 (I) by striking “2007” each place
7 it appears and inserting “2012”;
8 (II) by striking “(c)(2)” and in-
9 serting “(c)(1)”; and
10 (III) by striking “and” at the
11 end;
12 (ii) in clause (ii), by striking the pe-
13 riod at the end and inserting “; or”; and
14 (iii) by adding at the end the fol-
15 lowing:
16 “(iii) from funds accrued through the
17 management of the trust under subsection
18 (d).”;
19 (3) in subsection (c)—
20 (A) by striking paragraphs (1) and (2) and
21 inserting the following:
22 “(1) RELEASES FOR EMERGENCY ASSIST-
23 ANCE.—
24 “(A) DEFINITION OF EMERGENCY.—

1 “(i) IN GENERAL.—In this paragraph,
2 the term ‘emergency’ means an urgent sit-
3 uation—

4 “(I) in which there is clear evi-
5 dence that an event or series of events
6 described in clause (ii) has occurred—

7 “(aa) that causes human
8 suffering; and

9 “(bb) for which a govern-
10 ment concerned has not chosen,
11 or has not the means, to remedy;
12 or

13 “(II) created by a demonstrably
14 abnormal event or series of events
15 that produces dislocation in the lives
16 of residents of a country or region of
17 a country on an exceptional scale.

18 “(ii) EVENT OR SERIES OF EVENTS.—
19 An event or series of events referred to in
20 clause (i) includes 1 or more of—

21 “(I) a sudden calamity, such as
22 an earthquake, flood, locust infesta-
23 tion, or similar unforeseen disaster;

24 “(II) a human-made emergency
25 resulting in—

1 “(aa) a significant influx of
2 refugees;

3 “(bb) the internal displace-
4 ment of populations; or

5 “(cc) the suffering of other-
6 wise affected populations;

7 “(III) food scarcity conditions
8 caused by slow-onset events, such as
9 drought, crop failure, pest infestation,
10 and disease, that result in an erosion
11 of the ability of communities and vul-
12 nerable populations to meet food
13 needs; and

14 “(IV) severe food access or avail-
15 ability conditions resulting from sud-
16 den economic shocks, market failure,
17 or economic collapse, that result in an
18 erosion of the ability of communities
19 and vulnerable populations to meet
20 food needs.

21 “(B) RELEASES.—

22 “(i) IN GENERAL.—Any funds or com-
23 modities held in the trust may be released
24 to provide food, and cover any associated

1 costs, under title II of the Food for Peace
2 Act (7 U.S.C. 1721 et seq.)—

3 “(I) to assist in averting an
4 emergency, including during the pe-
5 riod immediately preceding the emer-
6 gency;

7 “(II) to respond to an emer-
8 gency; or

9 “(III) for recovery and rehabilita-
10 tion after an emergency.

11 “(ii) PROCEDURE.—A release under
12 clause (i) shall be carried out in the same
13 manner, and pursuant to the same author-
14 ity as provided in title II of that Act.

15 “(C) INSUFFICIENCY OF OTHER FUNDS.—
16 The funds and commodities held in the trust
17 shall be made immediately available on a deter-
18 mination by the Administrator that funds avail-
19 able for emergency needs under title II of that
20 Act (7 U.S.C. 1721 et seq.) for a fiscal year are
21 insufficient to meet emergency needs during the
22 fiscal year.

23 “(D) WAIVER RELATING TO MINIMUM
24 TONNAGE REQUIREMENTS.—Nothing in this
25 paragraph requires a waiver by the Adminis-

1 trator of the Agency for International Develop-
2 ment under section 204(a)(3) of the Food for
3 Peace Act (7 U.S.C. 1724(a)(3)) as a condition
4 for a release of funds or commodities under
5 subparagraph (B).”; and

6 (B) by redesignating paragraphs (3)
7 through (5) as paragraphs (2) through (4), re-
8 spectively;

9 (4) in subsection (d)—

10 (A) by redesignating paragraphs (1)
11 through (3) as subparagraphs (A) through (C),
12 respectively, and indenting the subparagraphs
13 appropriately;

14 (B) by striking the subsection designation
15 and heading and all that follows through “pro-
16 vide—” and inserting the following:

17 “(d) MANAGEMENT OF TRUST.—

18 “(1) IN GENERAL.—The Secretary shall provide
19 for the management of eligible commodities and
20 funds held in the trust in a manner that is con-
21 sistent with maximizing the value of the trust, as de-
22 termined by the Secretary.

23 “(2) ELIGIBLE COMMODITIES.—The Secretary
24 shall provide—”;

1 (C) in paragraph (2) (as redesignated by
2 subparagraph (B))—

3 (i) in subparagraph (B) (as redesignated by subparagraph (A)), by striking
4 “and” at the end; and
5

6 (ii) in subparagraph (C) (as redesignated by subparagraph (A)), by striking
7 the period at the end and inserting “;
8 and”; and
9

10 (D) by adding at the end the following:

11 “(3) FUNDS.—

12 “(A) EXCHANGES.—If any commodity held
13 in the trust is exchanged for funds under sub-
14 section (b)(1)(D)(ii), the funds shall be held in
15 the trust until the date on which the funds are
16 released in the case of an emergency under sub-
17 section (c).

18 “(B) INVESTMENT.—The Secretary may
19 invest funds held in the trust in any short-term
20 obligation of the United States or any other
21 low-risk short-term instrument or security in-
22 sured by the Federal Government in which a
23 regulated insurance company may invest under
24 the laws of the District of Columbia.”; and

1 (5) in subsection (h), in each of paragraphs (1)
2 and (2), by striking “2007” each place it appears
3 and inserting “2012”.

4 **SEC. 3202. GLOBAL CROP DIVERSITY TRUST.**

5 (a) CONTRIBUTION.—The Administrator of the
6 United States Agency for International Development shall
7 contribute funds to endow the Global Crop Diversity Trust
8 (referred to in this section as the “Trust”) to assist in
9 the conservation of genetic diversity in food crops through
10 the collection and storage of the germplasm of food crops
11 in a manner that provides for—

12 (1) the maintenance and storage of seed collec-
13 tions;

14 (2) the documentation and cataloguing of the
15 genetics and characteristics of conserved seeds to en-
16 sure efficient reference for researchers, plant breed-
17 ers, and the public;

18 (3) building the capacity of seed collection in
19 developing countries;

20 (4) making information regarding crop genetic
21 data publicly available for researchers, plant breed-
22 ers, and the public (including through the provision
23 of an accessible Internet website);

24 (5) the operation and maintenance of a back-up
25 facility in which are stored duplicate samples of

1 seeds, in the case of natural or man-made disasters;
2 and

3 (6) oversight designed to ensure international
4 coordination of those actions and efficient, public ac-
5 cessibility to that diversity through a cost-effective
6 system.

7 (b) UNITED STATES CONTRIBUTION LIMIT.—The
8 aggregate contributions of funds of the Federal Govern-
9 ment provided to the Trust shall not exceed 25 percent
10 of the total amount of funds contributed to the Trust from
11 all sources.

12 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
13 authorized to be appropriated to carry out this section
14 \$60,000,000 for the period of fiscal years 2008 through
15 2012.

16 **SEC. 3203. TECHNICAL ASSISTANCE FOR SPECIALTY CROPS.**

17 Section 3205 of the Farm Security and Rural Invest-
18 ment Act of 2002 (7 U.S.C. 5680) is amended by striking
19 subsection (d) and inserting the following:

20 “(d) ANNUAL REPORT.—Not later than 180 days
21 after the date of enactment of the Food, Conservation, and
22 Energy Act of 2008 and annually thereafter, the Secretary
23 shall submit to the appropriate committees of Congress
24 a report that contains, for the period covered by the re-

1 port, a description of each factor that affects the export
2 of specialty crops, including each factor relating to any—

3 “(1) significant sanitary or phytosanitary issue;

4 or

5 “(2) trade barrier.

6 “(e) FUNDING.—

7 “(1) COMMODITY CREDIT CORPORATION.—The
8 Secretary shall use the funds, facilities, and authori-
9 ties of the Commodity Credit Corporation to carry
10 out this section.

11 “(2) FUNDING AMOUNTS.—Of the funds of the
12 Commodity Credit Corporation, the Secretary shall
13 use to carry out this section—

14 “(A) \$4,000,000 for fiscal year 2008;

15 “(B) \$7,000,000 for fiscal year 2009;

16 “(C) \$8,000,000 for fiscal year 2010;

17 “(D) \$9,000,000 for fiscal year 2011; and

18 “(E) \$9,000,000 for fiscal year 2012.”.

19 **SEC. 3204. EMERGING MARKETS AND FACILITY GUAR-**
20 **ANTEE LOAN PROGRAM.**

21 Section 1542 of the Food, Agriculture, Conservation,
22 and Trade Act of 1990 (7 U.S.C. 5622 note; Public Law
23 101–624) is amended—

24 (1) in subsection (a), by striking “2007” and
25 inserting “2012”;

1 (2) in subsection (b)—

2 (A) in the first sentence, by redesignating
3 paragraphs (1) and (2) as subparagraphs (A)
4 and (B), respectively, and indenting appro-
5 priately;

6 (B) by striking “A portion” and inserting
7 the following:

8 “(1) IN GENERAL.—A portion”;

9 (C) in the second sentence, by striking
10 “The Commodity Credit Corporation” and in-
11 sserting the following:

12 “(2) PRIORITY.—The Commodity Credit Cor-
13 poration”; and

14 (D) by adding at the end the following:

15 “(3) CONSTRUCTION WAIVER.—The Secretary
16 may waive any applicable requirements relating to
17 the use of United States goods in the construction
18 of a proposed facility, if the Secretary determines
19 that—

20 “(A) goods from the United States are not
21 available; or

22 “(B) the use of goods from the United
23 States is not practicable.

1 “(4) TERM OF GUARANTEE.—A facility pay-
2 ment guarantee under this subsection shall be for a
3 term that is not more than the lesser of—

4 “(A) the term of the depreciation schedule
5 of the facility assisted; or

6 “(B) 20 years.”; and

7 (3) in subsection (d)(1)(A)(i) by striking
8 “2007” and inserting “2012”.

9 **SEC. 3205. CONSULTATIVE GROUP TO ELIMINATE THE USE**
10 **OF CHILD LABOR AND FORCED LABOR IN IM-**
11 **PORTED AGRICULTURAL PRODUCTS.**

12 (a) DEFINITIONS.—In this section:

13 (1) CHILD LABOR.—The term “child labor”
14 means the worst forms of child labor as defined in
15 International Labor Convention 182, the Convention
16 Concerning the Prohibition and Immediate Action
17 for the Elimination of the Worst Forms of Child
18 Labor, done at Geneva on June 17, 1999.

19 (2) CONSULTATIVE GROUP.—The term “Con-
20 sultative Group” means the Consultative Group to
21 Eliminate the Use of Child Labor and Forced Labor
22 in Imported Agricultural Products established under
23 subsection (b).

24 (3) FORCED LABOR.—The term “forced labor”
25 means all work or service—

1 (A) that is exacted from any individual
2 under menace of any penalty for nonperform-
3 ance of the work or service, and for which—

4 (i) the work or service is not offered
5 voluntarily; or

6 (ii) the work or service is performed
7 as a result of coercion, debt bondage, or
8 involuntary servitude (as those terms are
9 defined in section 103 of the Trafficking
10 Victims Protection Act of 2000 (22 U.S.C.
11 7102)); and

12 (B) by 1 or more individuals who, at the
13 time of performing the work or service, were
14 being subjected to a severe form of trafficking
15 in persons (as that term is defined in that sec-
16 tion).

17 (b) ESTABLISHMENT.—There is established a group
18 to be known as the “Consultative Group to Eliminate the
19 Use of Child Labor and Forced Labor in Imported Agri-
20 cultural Products” to develop recommendations relating to
21 guidelines to reduce the likelihood that agricultural prod-
22 ucts or commodities imported into the United States are
23 produced with the use of forced labor and child labor.

24 (c) DUTIES.—

1 (1) IN GENERAL.—Not later than 2 years after
2 the date of enactment of this Act and in accordance
3 with section 105(d) of the Trafficking Victims Pro-
4 tection Act of 2000 (22 U.S.C. 7103(d)), as applica-
5 ble to the importation of agricultural products made
6 with the use of child labor or forced labor, the Con-
7 sultative Group shall develop, and submit to the Sec-
8 retary, recommendations relating to a standard set
9 of practices for independent, third-party monitoring
10 and verification for the production, processing, and
11 distribution of agricultural products or commodities
12 to reduce the likelihood that agricultural products or
13 commodities imported into the United States are
14 produced with the use of forced labor or child labor.

15 (2) GUIDELINES.—

16 (A) IN GENERAL.—Not later than 1 year
17 after the date on which the Secretary receives
18 recommendations under paragraph (1), the Sec-
19 retary shall release guidelines for a voluntary
20 initiative to enable entities to address issues
21 raised by the Trafficking Victims Protection
22 Act of 2000 (22 U.S.C. 7101 et seq.).

23 (B) REQUIREMENTS.—Guidelines released
24 under subparagraph (A) shall be published in

1 the Federal Register and made available for
2 public comment for a period of 90 days.

3 (d) MEMBERSHIP.—The Consultative Group shall be
4 composed of not more than 13 individuals, of whom—

5 (1) 2 members shall represent the Department
6 of Agriculture, as determined by the Secretary;

7 (2) 1 member shall be the Deputy Under Sec-
8 retary for International Affairs of the Department of
9 Labor;

10 (3) 1 member shall represent the Department
11 of State, as determined by the Secretary of State;

12 (4) 3 members shall represent private agri-
13 culture-related enterprises, which may include retail-
14 ers, food processors, importers, and producers, of
15 whom at least 1 member shall be an importer, food
16 processor, or retailer who utilizes independent, third-
17 party supply chain monitoring for forced labor or
18 child labor;

19 (5) 2 members shall represent institutions of
20 higher education and research institutions, as deter-
21 mined appropriate by the Bureau of International
22 Labor Affairs of the Department of Labor;

23 (6) 1 member shall represent an organization
24 that provides independent, third-party certification

1 services for labor standards for producers or import-
2 ers of agricultural commodities or products; and

3 (7) 3 members shall represent organizations de-
4 scribed in section 501(c)(3) of the Internal Revenue
5 Code of 1986 that have expertise on the issues of
6 international child labor and do not possess a con-
7 flict of interest associated with establishment of the
8 guidelines issued under subsection (c)(2), as deter-
9 mined by the Bureau of International Labor Affairs
10 of the Department of Labor, including representa-
11 tives from consumer organizations and trade unions,
12 if appropriate.

13 (e) CHAIRPERSON.—A representative of the Depart-
14 ment of Agriculture appointed under subsection (d)(1), as
15 determined by the Secretary, shall serve as the chair-
16 person of the Consultative Group.

17 (f) REQUIREMENTS.—Not less than 4 times per year,
18 the Consultative Group shall meet at the call of the Chair-
19 person, after reasonable notice to all members, to develop
20 recommendations described in subsection (c)(1).

21 (g) NONAPPLICABILITY OF FACA.—The Federal Ad-
22 visory Committee Act (5 U.S.C. App.) shall not apply to
23 the Consultative Group.

24 (h) ANNUAL REPORTS.—Not later than 1 year after
25 the date of enactment of this Act, and annually thereafter

1 through December 31, 2012, the Secretary shall submit
2 to the Committees on Agriculture and Foreign Affairs of
3 the House of Representatives and the Committee on Agri-
4 culture, Nutrition, and Forestry of the Senate a report
5 describing the activities and recommendations of the Con-
6 sultative Group.

7 (i) TERMINATION OF AUTHORITY.—The Consultative
8 Group shall terminate on December 31, 2012.

9 **SEC. 3206. LOCAL AND REGIONAL FOOD AID PROCURE-**
10 **MENT PROJECTS.**

11 (a) DEFINITIONS.—In this section:

12 (1) ADMINISTRATOR.—The term “Adminis-
13 trator” means the Administrator of the Agency for
14 International Development.

15 (2) APPROPRIATE COMMITTEE OF CONGRESS.—
16 The term “appropriate committee of Congress”
17 means—

18 (A) the Committee on Agriculture, Nutri-
19 tion, and Forestry of the Senate;

20 (B) the Committee on Agriculture of the
21 House of Representatives; and

22 (C) the Committee on Foreign Affairs of
23 the House of Representatives.

1 (3) ELIGIBLE COMMODITY.—The term “eligible
2 commodity” means an agricultural commodity (or
3 the product of an agricultural commodity) that—

4 (A) is produced in, and procured from, a
5 developing country; and

6 (B) at a minimum, meets each nutritional,
7 quality, and labeling standard of the country
8 that receives the agricultural commodity, as de-
9 termined by the Secretary.

10 (4) ELIGIBLE ORGANIZATION.—The term “eligi-
11 ble organization” means an organization that is—

12 (A) described in section 202(d) of the
13 Food for Peace Act (7 U.S.C. 1722(d)); and

14 (B) with respect to nongovernmental orga-
15 nizations, subject to regulations promulgated or
16 guidelines issued to carry out this section, in-
17 cluding United States audit requirements that
18 are applicable to nongovernmental organiza-
19 tions.

20 (b) STUDY; FIELD-BASED PROJECTS.—

21 (1) STUDY.—

22 (A) IN GENERAL.—Not later than 30 days
23 after the date of enactment of this Act, the Sec-
24 retary shall initiate a study of prior local and

1 regional procurements for food aid programs
2 conducted by—

3 (i) other donor countries;

4 (ii) private voluntary organizations;

5 and

6 (iii) the World Food Program of the
7 United Nations.

8 (B) REPORT.—Not later than 180 days
9 after the date of enactment of this Act, the Sec-
10 retary shall submit to the appropriate commit-
11 tees of Congress a report containing the results
12 of the study conducted under subparagraph
13 (A).

14 (2) FIELD-BASED PROJECTS.—

15 (A) IN GENERAL.—In accordance with
16 subparagraph (B), the Secretary shall provide
17 grants to, or enter into cooperative agreements
18 with, eligible organizations to carry out field-
19 based projects that consist of local or regional
20 procurements of eligible commodities to respond
21 to food crises and disasters in accordance with
22 this section.

23 (B) CONSULTATION WITH ADMINIS-
24 TRATOR.—In carrying out the development and
25 implementation of field-based projects under

1 subparagraph (A), the Secretary shall consult
2 with the Administrator.

3 (c) PROCUREMENT.—

4 (1) IN GENERAL.—Any eligible commodity that
5 is procured for a field-based project carried out
6 under subsection (b)(2) shall be procured through
7 any approach or methodology that the Secretary
8 considers to be an effective approach or methodology
9 to provide adequate information regarding the man-
10 ner by which to expedite, to the maximum extent
11 practicable, the provision of food aid to affected pop-
12 ulations without significantly increasing commodity
13 costs for low-income consumers who procure com-
14 modities sourced from the same markets at which
15 the eligible commodity is procured.

16 (2) REQUIREMENTS.—

17 (A) IMPACT ON LOCAL FARMERS AND
18 COUNTRIES.—The Secretary shall ensure that
19 the local or regional procurement of any eligible
20 commodity under this section will not have a
21 disruptive impact on farmers located in, or the
22 economy of—

23 (i) the recipient country of the eligible
24 commodity; or

1 (ii) any country in the region in which
2 the eligible commodity may be procured.

3 (B) TRANSSHIPMENT.—The Secretary
4 shall, in accordance with such terms and condi-
5 tions as the Secretary considers to be appro-
6 priate, require from each eligible organization
7 commitments designed to prevent or restrict—

8 (i) the resale or transshipment of any
9 eligible commodity procured under this sec-
10 tion to any country other than the recipi-
11 ent country; and

12 (ii) the use of the eligible commodity
13 for any purpose other than food aid.

14 (C) WORLD PRICES.—

15 (i) IN GENERAL.—In carrying out this
16 section, the Secretary shall take any pre-
17 caution that the Secretary considers to be
18 reasonable to ensure that the procurement
19 of eligible commodities will not unduly dis-
20 rupt—

21 (I) world prices for agricultural
22 commodities; or

23 (II) normal patterns of commer-
24 cial trade with foreign countries.

1 (ii) PROCUREMENT PRICE.—The pro-
2 curement of any eligible commodity shall
3 be made at a reasonable market price with
4 respect to the economy of the country in
5 which the eligible commodity is procured,
6 as determined by the Secretary.

7 (d) REGULATIONS; GUIDELINES.—

8 (1) IN GENERAL.—In accordance with para-
9 graph (2), not later than 180 days after the date of
10 completion of the study under subsection (b)(1), the
11 Secretary shall promulgate regulations or issue
12 guidelines to carry out field-based projects under
13 this section.

14 (2) REQUIREMENTS.—

15 (A) USE OF STUDY.—In promulgating reg-
16 ulations or issuing guidelines under paragraph
17 (1), the Secretary shall take into consideration
18 the results of the study described in subsection
19 (b)(1).

20 (B) PUBLIC REVIEW AND COMMENT.—In
21 promulgating regulations or issuing guidelines
22 under paragraph (1), the Secretary shall pro-
23 vide an opportunity for public review and com-
24 ment.

1 (3) AVAILABILITY.—The Secretary shall not ap-
2 prove the procurement of any eligible commodity
3 under this section until the date on which the Sec-
4 retary promulgates regulations or issues guidelines
5 under paragraph (1).

6 (e) FIELD-BASED PROJECT GRANTS OR COOPERA-
7 TIVE AGREEMENTS.—

8 (1) IN GENERAL.—The Secretary shall award
9 grants to, or enter into cooperative agreements with,
10 eligible organizations to carry out field-based
11 projects.

12 (2) REQUIREMENTS OF ELIGIBLE ORGANIZA-
13 TIONS.—

14 (A) APPLICATION.—

15 (i) IN GENERAL.—To be eligible to re-
16 ceive a grant from, or enter into a coopera-
17 tive agreement with, the Secretary under
18 this subsection, an eligible organization
19 shall submit to the Secretary an applica-
20 tion by such date, in such manner, and
21 containing such information as the Sec-
22 retary may require.

23 (ii) OTHER APPLICABLE REQUIRE-
24 MENTS.—Any other applicable requirement
25 relating to the submission of proposals for

1 consideration shall apply to the submission
2 of an application required under clause (i),
3 as determined by the Secretary.

4 (B) COMPLETION REQUIREMENT.—To be
5 eligible to receive a grant from, or enter into a
6 cooperative agreement with, the Secretary
7 under this subsection, an eligible organization
8 shall agree—

9 (i) to collect by September 30, 2011,
10 data containing the information required
11 under subsection (f)(1)(B) relating to the
12 field-based project funded through the
13 grant; and

14 (ii) to provide to the Secretary the
15 data collected under clause (i).

16 (3) REQUIREMENTS OF SECRETARY.—

17 (A) PROJECT DIVERSITY.—

18 (i) IN GENERAL.—Subject to clause
19 (ii) and subparagraph (B), in selecting
20 proposals for field-based projects to fund
21 under this section, the Secretary shall se-
22 lect a diversity of projects, including
23 projects located in—

24 (I) food surplus regions;

1 (II) food deficit regions (that are
2 carried out using regional procure-
3 ment methods); and

4 (III) multiple geographical re-
5 gions.

6 (ii) PRIORITY.—In selecting proposals
7 for field-based projects under clause (i),
8 the Secretary shall ensure that the major-
9 ity of selected proposals are for field-based
10 projects that—

11 (I) are located in Africa; and

12 (II) procure eligible commodities
13 that are produced in Africa.

14 (B) DEVELOPMENT ASSISTANCE.—A por-
15 tion of the funds provided under this subsection
16 shall be made available for field-based projects
17 that provide development assistance for a period
18 of not less than 1 year.

19 (4) AVAILABILITY.—The Secretary shall not
20 award a grant to any eligible organization under
21 paragraph (1) until the date on which the Secretary
22 promulgates regulations or issues guidelines under
23 subsection (d)(1).

24 (f) INDEPENDENT EVALUATIONS; REPORT.—

25 (1) INDEPENDENT EVALUATIONS.—

1 (A) IN GENERAL.—Not later than Novem-
2 ber 1, 2011, the Secretary shall ensure that an
3 independent third party conducts an inde-
4 pendent evaluation of all field-based projects
5 that—

6 (i) addresses each factor described in
7 subparagraph (B); and

8 (ii) is conducted in accordance with
9 this section.

10 (B) REQUIRED FACTORS.—The Secretary
11 shall require the independent third party to de-
12 velop—

13 (i) with respect to each relevant mar-
14 ket in which an eligible commodity was
15 procured under this section, a description
16 of—

17 (I) the prevailing and historic
18 supply, demand, and price movements
19 of the market (including the extent of
20 competition for procurement bids);

21 (II) the impact of the procure-
22 ment of the eligible commodity on
23 producer and consumer prices in the
24 market;

1 (III) each government market in-
2 terference or other activity of the
3 donor country that might have signifi-
4 cantly affected the supply or demand
5 of the eligible commodity in the area
6 at which the local or regional procure-
7 ment occurred;

8 (IV) the quantities and types of
9 eligible commodities procured in the
10 market;

11 (V) the time frame for procure-
12 ment of each eligible commodity; and

13 (VI) the total cost of the procure-
14 ment of each eligible commodity (in-
15 cluding storage, handling, transpor-
16 tation, and administrative costs);

17 (ii) an assessment regarding—

18 (I) whether the requirements of
19 this section have been met;

20 (II) the impact of different meth-
21 odologies and approaches on—

22 (aa) local and regional agri-
23 cultural producers (including
24 large and small agricultural pro-
25 ducers);

- 1 (bb) markets;
- 2 (cc) low-income consumers;
- 3 and
- 4 (dd) program recipients; and
- 5 (III) the length of the period be-
- 6 ginning on the date on which the Sec-
- 7 retary initiated the procurement proc-
- 8 ess and ending on the date of delivery
- 9 of eligible commodities;
- 10 (iii) a comparison of different meth-
- 11 odologies used to carry out this section,
- 12 with respect to—
- 13 (I) the benefits to local agri-
- 14 culture;
- 15 (II) the impact on markets and
- 16 consumers;
- 17 (III) the period of time required
- 18 for procurement and delivery;
- 19 (IV) quality and safety assur-
- 20 ances; and
- 21 (V) implementation costs; and
- 22 (iv) to the extent adequate informa-
- 23 tion is available (including the results of
- 24 the report required under subsection
- 25 (b)(1)(B)), a comparison of the different

1 methodologies used by other donor coun-
2 tries to make local and regional procure-
3 ments.

4 (C) INDEPENDENT THIRD PARTY ACCESS
5 TO RECORDS AND REPORTS.—The Secretary
6 shall provide to the independent third party ac-
7 cess to each record and report that the inde-
8 pendent third party determines to be necessary
9 to complete the independent evaluation.

10 (D) PUBLIC ACCESS TO RECORDS AND RE-
11 PORTS.—Not later than 180 days after the date
12 described in paragraph (2), the Secretary shall
13 provide public access to each record and report
14 described in subparagraph (C).

15 (2) REPORT.—Not later than 4 years after the
16 date of enactment of this Act, the Secretary shall
17 submit to the appropriate committees of Congress a
18 report that contains the analysis and findings of the
19 independent evaluation conducted under paragraph
20 (1)(A).

21 (g) FUNDING.—

22 (1) COMMODITY CREDIT CORPORATION.—The
23 Secretary shall use the funds, facilities, and authori-
24 ties of the Commodity Credit Corporation to carry
25 out this section.

1 (2) FUNDING AMOUNTS.—Of the funds of the
2 Commodity Credit Corporation, the Secretary shall
3 use to carry out this section—

4 (A) \$5,000,000 for fiscal year 2009;

5 (B) \$25,000,000 for fiscal year 2010;

6 (C) \$25,000,000 for fiscal year 2011; and

7 (D) \$5,000,000 for fiscal year 2012.

8 **Subtitle D—Softwood Lumber**

9 **SEC. 3301. SOFTWOOD LUMBER.**

10 (a) IN GENERAL.—The Tariff Act of 1930 (19
11 U.S.C. 1202 et seq.) is amended by adding at the end
12 the following new title:

13 **“TITLE VIII—SOFTWOOD** 14 **LUMBER**

15 **“SEC. 801. SHORT TITLE; TABLE OF CONTENTS.**

16 “(a) SHORT TITLE.—This title may be cited as the
17 ‘Softwood Lumber Act of 2008’.

18 “(b) TABLE OF CONTENTS.—The table of contents
19 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.

1 **“SEC. 802. DEFINITIONS.**

2 “In this title:

3 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
4 TEES.—The term ‘appropriate congressional com-
5 mittees’ means the Committee on Finance of the
6 Senate and the Committee on Ways and Means of
7 the House of Representatives.

8 “(2) COUNTRY OF EXPORT.—The term ‘country
9 of export’ means the country (including any political
10 subdivision of the country) from which softwood
11 lumber or a softwood lumber product is exported be-
12 fore entering the United States.

13 “(3) CUSTOMS LAWS OF THE UNITED
14 STATES.—The term ‘customs laws of the United
15 States’ means any law or regulation enforced or ad-
16 ministered by U.S. Customs and Border Protection.

17 “(4) EXPORT CHARGES.—The term ‘export
18 charges’ means any tax, charge, or other fee col-
19 lected by the country from which softwood lumber or
20 a softwood lumber product, described in section
21 804(a), is exported pursuant to an international
22 agreement entered into by that country and the
23 United States.

24 “(5) EXPORT PRICE.—

25 “(A) IN GENERAL.—The term ‘export
26 price’ means one of the following:

1 “(i) In the case of softwood lumber or
2 a softwood lumber product that has under-
3 gone only primary processing, the value
4 that would be determined F.O.B. at the fa-
5 cility where the product underwent the last
6 primary processing before export.

7 “(ii)(I) In the case of softwood lumber
8 or a softwood lumber product described in
9 subclause (II), the value that would be de-
10 termined F.O.B. at the facility where the
11 lumber or product underwent the last pri-
12 mary processing.

13 “(II) Softwood lumber or a softwood
14 lumber product described in this subclause
15 is lumber or a product that underwent the
16 last remanufacturing before export by a
17 manufacturer who—

18 “(aa) does not hold tenure rights
19 provided by the country of export;

20 “(bb) did not acquire standing
21 timber directly from the country of
22 export; and

23 “(cc) is not related to the person
24 who holds tenure rights or acquired

1 standing timber directly from the
2 country of export.

3 “(iii)(I) In the case of softwood lum-
4 ber or a softwood lumber product described
5 in subclause (II), the value that would be
6 determined F.O.B. at the facility where the
7 product underwent the last processing be-
8 fore export.

9 “(II) Softwood lumber or a softwood
10 lumber product described in this subclause
11 is lumber or a product that undergoes the
12 last remanufacturing before export by a
13 manufacturer who—

14 “(aa) holds tenure rights pro-
15 vided by the country of export;

16 “(bb) acquired standing timber
17 directly from the country of export; or

18 “(cc) is related to a person who
19 holds tenure rights or acquired stand-
20 ing timber directly from the country
21 of export.

22 “(B) RELATED PERSONS.—For purposes
23 of this paragraph, a person is related to an-
24 other person if—

1 “(i) the person bears a relationship to
2 such other person described in section
3 152(a) of the Internal Revenue Code of
4 1986;

5 “(ii) the person bears a relationship to
6 such other person described in section
7 267(b) of such Code, except that ‘5 per-
8 cent’ shall be substituted for ‘50 percent’
9 each place it appears;

10 “(iii) the person and such other per-
11 son are part of a controlled group of cor-
12 porations, as that term is defined in sec-
13 tion 1563(a) of such Code, except that ‘5
14 percent’ shall be substituted for ‘80 per-
15 cent’ each place it appears;

16 “(iv) the person is an officer or direc-
17 tor of such other person; or

18 “(v) the person is the employer of
19 such other person.

20 “(C) TENURE RIGHTS.—For purposes of
21 this paragraph, the term ‘tenure rights’ means
22 rights to harvest timber from public land grant-
23 ed by the country of export.

24 “(D) EXPORT PRICE WHERE F.O.B. VALUE
25 CANNOT BE DETERMINED.—

1 “(i) IN GENERAL.—In the case of
2 softwood lumber or a softwood lumber
3 product described in clause (i), (ii), or (iii)
4 of subparagraph (A) for which an F.O.B.
5 value cannot be determined, the export
6 price shall be the market price for the
7 identical lumber or product sold in an
8 arm’s-length transaction in the country of
9 export at approximately the same time as
10 the exported lumber or product. The mar-
11 ket price shall be determined in the fol-
12 lowing order of preference:

13 “(I) The market price for the
14 lumber or a product sold at substan-
15 tially the same level of trade as the
16 exported lumber or product but in dif-
17 ferent quantities.

18 “(II) The market price for the
19 lumber or a product sold at a dif-
20 ferent level of trade than the exported
21 lumber or product but in similar
22 quantities.

23 “(III) The market price for the
24 lumber or a product sold at a dif-
25 ferent level of trade than the exported

1 lumber or product and in different
2 quantities.

3 “(ii) LEVEL OF TRADE.—For pur-
4 poses of clause (i), ‘level of trade’ shall be
5 determined in the same manner as pro-
6 vided under section 351.412(c) of title 19,
7 Code of Federal Regulations (as in effect
8 on January 1, 2008).

9 “(6) F.O.B.—The term ‘F.O.B.’ means a value
10 consisting of all charges payable by a purchaser, in-
11 cluding those charges incurred in the placement of
12 merchandise on board of a conveyance for shipment,
13 but does not include the actual shipping charges or
14 any applicable export charges.

15 “(7) HTS.—The term ‘HTS’ means the Har-
16 monized Tariff Schedule of the United States (19
17 U.S.C. 1202) (as in effect on January 1, 2008).

18 “(8) PERSON.—The term ‘person’ includes any
19 individual, partnership, corporation, association, or-
20 ganization, business trust, government entity, or
21 other entity subject to the jurisdiction of the United
22 States.

23 “(9) UNITED STATES.—The term ‘United
24 States’ means the customs territory of the United
25 States, as defined in General Note 2 of the HTS.

1 **“SEC. 803. ESTABLISHMENT OF SOFTWOOD LUMBER IM-**
2 **PORTER DECLARATION PROGRAM.**

3 “(a) ESTABLISHMENT OF PROGRAM.—

4 “(1) IN GENERAL.—The President shall estab-
5 lish and maintain an importer declaration program
6 with respect to the importation of softwood lumber
7 and softwood lumber products described in section
8 804(a). The importer declaration program shall re-
9 quire importers of softwood lumber and softwood
10 lumber products described in section 804(a) to pro-
11 vide the information required under subsection (b)
12 and declare the information required by subsection
13 (c), and require that such information accompany
14 the entry summary documentation.

15 “(2) ELECTRONIC RECORD.—The President
16 shall establish an electronic record that includes the
17 importer information required under subsection (b)
18 and the declarations required under subsection (c).

19 “(b) REQUIRED INFORMATION.—The President shall
20 require the following information to be submitted by any
21 person seeking to import softwood lumber or softwood
22 lumber products described in section 804(a):

23 “(1) The export price for each shipment of
24 softwood lumber or softwood lumber products.

25 “(2) The estimated export charge, if any, appli-
26 cable to each shipment of softwood lumber or

1 softwood lumber products as calculated by applying
2 the percentage determined and published by the
3 Under Secretary for International Trade of the De-
4 partment of Commerce pursuant to section 805 to
5 the export price provided in subsection (b)(1).

6 “(c) IMPORTER DECLARATIONS.—Pursuant to proce-
7 dures prescribed by the President, any person seeking to
8 import softwood lumber or softwood lumber products de-
9 scribed in section 804(a) shall declare that—

10 “(1) the person has made appropriate inquiry,
11 including seeking appropriate documentation from
12 the exporter and consulting the determinations pub-
13 lished by the Under Secretary for International
14 Trade of the Department of Commerce pursuant to
15 section 805(b); and

16 “(2) to the best of the person’s knowledge and
17 belief—

18 “(A) the export price provided pursuant to
19 subsection (b)(1) is determined in accordance
20 with the definition provided in section 802(5);

21 “(B) the export price provided pursuant to
22 subsection (b)(1) is consistent with the export
23 price provided on the export permit, if any,
24 granted by the country of export; and

1 “(C) the exporter has paid, or committed
2 to pay, all export charges due—

3 “(i) in accordance with the volume,
4 export price, and export charge rate or
5 rates, if any, as calculated under an inter-
6 national agreement entered into by the
7 country of export and the United States;
8 and

9 “(ii) consistent with the export charge
10 determinations published by the Under
11 Secretary for International Trade pursuant
12 to section 805(b).

13 **“SEC. 804. SCOPE OF SOFTWOOD LUMBER IMPORTER DEC-**
14 **LARATION PROGRAM.**

15 “(a) PRODUCTS INCLUDED IN PROGRAM.—The fol-
16 lowing products shall be subject to the importer declara-
17 tion program established under section 803:

18 “(1) IN GENERAL.—All softwood lumber and
19 softwood lumber products classified under sub-
20 heading 4407.10.00, 4409.10.10, 4409.10.20, or
21 4409.10.90 of the HTS, including the following
22 softwood lumber, flooring, and siding:

23 “(A) Coniferous wood, sawn or chipped
24 lengthwise, sliced or peeled, whether or not

1 planed, sanded, or finger-jointed, of a thickness
2 exceeding 6 millimeters.

3 “(B) Coniferous wood siding (including
4 strips and friezes for parquet flooring, not as-
5 sembled) continuously shaped (tongued,
6 grooved, rabbeted, chamfered, v-jointed, beaded,
7 molded, rounded, or the like) along any of its
8 edges or faces, whether or not planed, sanded,
9 or finger-jointed.

10 “(C) Other coniferous wood (including
11 strips and friezes for parquet flooring, not as-
12 sembled) continuously shaped (tongued,
13 grooved, rabbeted, chamfered, v-jointed, beaded,
14 molded, rounded, or the like) along any of its
15 edges or faces (other than wood moldings and
16 wood dowel rods) whether or not planed, sand-
17 ed, or finger-jointed.

18 “(D) Coniferous wood flooring (including
19 strips and friezes for parquet flooring, not as-
20 sembled) continuously shaped (tongued,
21 grooved, rabbeted, chamfered, v-jointed, beaded,
22 molded, rounded, or the like) along any of its
23 edges or faces, whether or not planed, sanded,
24 or finger-jointed.

1 “(E) Coniferous drilled and notched lum-
2 ber and angle cut lumber.

3 “(2) PRODUCTS CONTINUALLY SHAPED.—Any
4 product classified under subheading 4409.10.05 of
5 the HTS that is continually shaped along its end or
6 side edges.

7 “(3) OTHER LUMBER PRODUCTS.—Except as
8 otherwise provided in subsection (b) or (c), softwood
9 lumber products that are stringers, radius-cut box-
10 spring frame components, fence pickets, truss com-
11 ponents, pallet components, and door and window
12 frame parts classified under subheading
13 4418.90.46.95, 4421.90.70.40, or 4421.90.97.40 of
14 the HTS.

15 “(b) PRODUCTS EXCLUDED FROM PROGRAM.—The
16 following products shall be excluded from the importer
17 declaration program established under section 803:

18 “(1) Trusses and truss kits, properly classified
19 under subheading 4418.90 of the HTS.

20 “(2) I-joint beams.

21 “(3) Assembled box-spring frames.

22 “(4) Pallets and pallet kits, properly classified
23 under subheading 4415.20 of HTS.

24 “(5) Garage doors.

1 “(6) Edge-glued wood, properly classified under
2 subheading 4421.90.97.40 of the HTS.

3 “(7) Complete door frames.

4 “(8) Complete window frames.

5 “(9) Furniture.

6 “(10) Articles brought into the United States
7 temporarily and for which an exemption from duty
8 is claimed under subchapter XIII of chapter 98 of
9 the HTS.

10 “(11) Household and personal effects.

11 “(c) EXCEPTIONS FOR CERTAIN PRODUCTS.—The
12 following softwood lumber products shall not be subject
13 to the importer declaration program established under sec-
14 tion 803:

15 “(1) STRINGERS.—Stringers (pallet components
16 used for runners), if the stringers—

17 “(A) have at least 2 notches on the side,
18 positioned at equal distance from the center, to
19 properly accommodate forklift blades; and

20 “(B) are properly classified under sub-
21 heading 4421.90.97.40 of the HTS.

22 “(2) BOX-SPRING FRAME KITS.—

23 “(A) IN GENERAL.—Box-spring frame kits,
24 if—

25 “(i) the kits contain—

- 1 “(I) 2 wooden side rails;
2 “(II) 2 wooden end (or top) rails;
3 and
4 “(III) varying numbers of wood-
5 en slats; and
6 “(ii) the side rails and the end rails
7 are radius-cut at both ends.

8 “(B) PACKAGING.—Any kit described in
9 subparagraph (A) shall be individually pack-
10 aged, and contain the exact number of wooden
11 components needed to make the box-spring
12 frame described on the entry documents, with
13 no further processing required. None of the
14 components contained in the package may ex-
15 ceed 1 inch in actual thickness or 83 inches in
16 length.

17 “(3) RADIUS-CUT BOX-SPRING FRAME COMPO-
18 NENTS.—Radius-cut box-spring frame components,
19 not exceeding 1 inch in actual thickness or 83 inches
20 in length, ready for assembly without further proc-
21 essing, if radius cuts are present on both ends of the
22 boards and are substantial cuts so as to completely
23 round 1 corner.

24 “(4) FENCE PICKETS.—Fence pickets requiring
25 no further processing and properly classified under

1 subheading 4421.90.70 of the HTS, 1 inch or less
2 in actual thickness, up to 8 inches wide, and 6 feet
3 or less in length, and having finials or decorative
4 cuttings that clearly identify them as fence pickets.
5 In the case of dog-eared fence pickets, the corners
6 of the boards shall be cut off so as to remove pieces
7 of wood in the shape of isosceles right angle tri-
8 angles with sides measuring $\frac{3}{4}$ of an inch or more.

9 “(5) UNITED STATES-ORIGIN LUMBER.—Lum-
10 ber originating in the United States that is exported
11 to another country for minor processing and im-
12 ported into the United States if—

13 “(A) the processing occurring in another
14 country is limited to kiln drying, planing to cre-
15 ate smooth-to-size board, and sanding; and

16 “(B) the importer establishes to the satis-
17 faction of U.S. Customs and Border Protection
18 upon entry that the lumber originated in the
19 United States.

20 “(6) SOFTWOOD LUMBER.—Any softwood lum-
21 ber or softwood lumber product that originated in
22 the United States, if the importer, exporter, foreign
23 processor, or original United States producer estab-
24 lishes to the satisfaction of U.S. Customs and Bor-
25 der Protection upon entry that the softwood lumber

1 entered and documented as originating in the United
2 States was first produced in the United States.

3 “(7) HOME PACKAGES OR KITS.—

4 “(A) IN GENERAL.—Softwood lumber or
5 softwood lumber products contained in a single
6 family home package or kit, regardless of the
7 classification under the HTS, if the importer
8 declares that the following requirements have
9 been met:

10 “(i) The package or kit constitutes a
11 full package of the number of wooden
12 pieces specified in the plan, design, or
13 blueprint necessary to produce a home of
14 at least 700 square feet produced to a
15 specified plan, design, or blueprint.

16 “(ii) The package or kit contains—

17 “(I) all necessary internal and
18 external doors and windows, nails,
19 screws, glue, subfloor, sheathing,
20 beams, posts, and connectors; and

21 “(II) if included in the purchase
22 contract, the decking, trim, drywall,
23 and roof shingles specified in the plan,
24 design, or blueprint.

1 “(iii) Prior to importation, the pack-
2 age or kit is sold to a United States re-
3 tailer that sells complete home packages or
4 kits pursuant to a valid purchase contract
5 referencing the particular home design,
6 plan, or blueprint, and the contract is
7 signed by a customer not affiliated with
8 the importer.

9 “(iv) Softwood lumber products en-
10 tered as part of the package or kit, wheth-
11 er in a single entry or multiple entries on
12 multiple days, are to be used solely for the
13 construction of the single family home
14 specified by the home design, plan, or blue-
15 print matching the U.S. Customs and Bor-
16 der Protection import entry.

17 “(B) ADDITIONAL DOCUMENTATION RE-
18 QUIRED FOR HOME PACKAGES AND KITS.—In
19 the case of each entry of products described in
20 clauses (i) through (iv) of subparagraph (A) the
21 following documentation shall be retained by
22 the importer and made available to U.S. Cus-
23 toms and Border Protection upon request:

1 “(i) A copy of the appropriate home
2 design, plan, or blueprint matching the
3 customs entry in the United States.

4 “(ii) A purchase contract from a re-
5 tailer of home kits or packages signed by
6 a customer not affiliated with the importer.

7 “(iii) A listing of all parts in the
8 package or kit being entered into the
9 United States that conforms to the home
10 design, plan, or blueprint for which such
11 parts are being imported.

12 “(iv) If a single contract involves mul-
13 tiple entries, an identification of all the
14 items required to be listed under clause
15 (iii) that are included in each individual
16 shipment.

17 “(d) PRODUCTS COVERED.—For purposes of deter-
18 mining if a product is covered by the importer declaration
19 program, the President shall be guided by the article de-
20 scriptions provided in this section.

21 **“SEC. 805. EXPORT CHARGE DETERMINATION AND PUBLI-
22 CATION.**

23 “(a) DETERMINATION.—The Under Secretary for
24 International Trade of the Department of Commerce shall
25 determine, on a monthly basis, any export charges (ex-

1 pressed as a percentage of export price) to be collected
2 by a country of export from exporters of softwood lumber
3 or softwood lumber products described in section 804(a)
4 in order to ensure compliance with any international
5 agreement entered into by that country and the United
6 States.

7 “(b) PUBLICATION.—The Under Secretary for Inter-
8 national Trade shall immediately publish any determina-
9 tion made under subsection (a) on the website of the Inter-
10 national Trade Administration of the Department of Com-
11 merce, and in any other manner the Under Secretary con-
12 siders appropriate.

13 **“SEC. 806. RECONCILIATION.**

14 “The Secretary of the Treasury shall conduct rec-
15 onciliations to ensure the proper implementation and oper-
16 ation of international agreements entered into between a
17 country of export of softwood lumber or softwood lumber
18 products described in section 804(a) and the United
19 States. The Secretary of Treasury shall reconcile the fol-
20 lowing:

21 “(1) The export price declared by a United
22 States importer pursuant to section 803(b)(1) with
23 the export price reported to the United States by the
24 country of export, if any.

1 “(2) The export price declared by a United
2 States importer pursuant to section 803(b)(1) with
3 the revised export price reported to the United
4 States by the country of export, if any.

5 **“SEC. 807. VERIFICATION.**

6 “(a) IN GENERAL.—The Secretary of Treasury shall
7 periodically verify the declarations made by a United
8 States importer pursuant to section 803(c), including by
9 determining whether—

10 “(1) the export price declared by a United
11 States importer pursuant to section 803(b)(1) is the
12 same as the export price provided on the export per-
13 mit, if any, issued by the country of export; and

14 “(2) the estimated export charge declared by a
15 United States importer pursuant to section
16 803(b)(2) is consistent with the determination pub-
17 lished by the Under Secretary for International
18 Trade pursuant to section 805(b).

19 “(b) EXAMINATION OF BOOKS AND RECORDS.—

20 “(1) IN GENERAL.—Any record relating to the
21 importer declaration program required under section
22 803 shall be treated as a record required to be main-
23 tained and produced under title V of this Act.

24 “(2) EXAMINATION OF RECORDS.—The Sec-
25 retary of the Treasury is authorized to take such ac-

1 tion, and examine such records, under section 509 of
2 this Act, as the Secretary determines necessary to
3 verify the declarations made pursuant to section
4 803(c) are true and accurate.

5 **“SEC. 808. PENALTIES.**

6 “(a) IN GENERAL.—It shall be unlawful for any per-
7 son to import into the United States softwood lumber or
8 softwood lumber products in knowing violation of this title.

9 “(b) CIVIL PENALTIES.—Any person who commits
10 an unlawful act as set forth in subsection (a) shall be lia-
11 ble for a civil penalty not to exceed \$10,000 for each
12 knowing violation.

13 “(c) OTHER PENALTIES.—In addition to the pen-
14 alties provided for in subsection (b), any violation of this
15 title that violates any other customs law of the United
16 States shall be subject to any applicable civil and criminal
17 penalty, including seizure and forfeiture, that may be im-
18 posed under such custom law or title 18, United States
19 Code, with respect to the importation of softwood lumber
20 and softwood lumber products described in section 804(a).

21 “(d) FACTORS TO CONSIDER IN ASSESSING PEN-
22 ALTIES.—In determining the amount of civil penalties to
23 be assessed under this section, consideration shall be given
24 to any history of prior violations of this title by the person,
25 the ability of the person to pay the penalty, the seriousness

1 of the violation, and such other matters as fairness may
2 require.

3 “(e) NOTICE.—No penalty may be assessed under
4 this section against a person for violating a provision of
5 this title unless the person is given notice and opportunity
6 to make statements, both oral and written, with respect
7 to such violation.

8 “(f) EXCEPTION.—Notwithstanding any other provi-
9 sion of this title, and without limitation, an importer shall
10 not be found to have violated subsection 803(c) if—

11 “(1) the importer made an appropriate inquiry
12 in accordance with section 803(c)(1) with respect to
13 the declaration;

14 “(2) the importer produces records maintained
15 pursuant to section 807(b) that substantiate the
16 declaration; and

17 “(3) there is not substantial evidence indicating
18 that the importer knew that the fact to which the
19 importer made the declaration was false.

20 **“SEC. 809. REPORTS.**

21 “(a) SEMIANNUAL REPORTS.—Not later than 180
22 days after the effective date of this title, and every 180
23 days thereafter, the President shall submit to the appro-
24 priate congressional committees a report—

1 “(1) describing the reconciliations conducted
2 under section 806, and the verifications conducted
3 under section 807;

4 “(2) identifying the manner in which the
5 United States importers subject to reconciliations
6 conducted under section 806 and verifications con-
7 ducted under section 807 were chosen;

8 “(3) identifying any penalties imposed under
9 section 808;

10 “(4) identifying any patterns of noncompliance
11 with this title; and

12 “(5) identifying any problems or obstacles en-
13 countered in the implementation and enforcement of
14 this title.

15 “(b) SUBSIDIES REPORTS.—Not later than 180 days
16 after the date of the enactment of this title, and every
17 180 days thereafter, the Secretary of Commerce shall pro-
18 vide to the appropriate congressional committees a report
19 on any subsidies on softwood lumber or softwood lumber
20 products, including stumpage subsidies, provided by coun-
21 tries of export.

22 “(c) GAO REPORTS.—The Comptroller General of
23 the United States shall submit the following reports to the
24 appropriate congressional committees:

1 “(1) Not later than 18 months after the date
2 of the enactment of this title, a report on the effec-
3 tiveness of the reconciliations conducted under sec-
4 tion 806, and verifications conducted under section
5 807.

6 “(2) Not later than 12 months after the date
7 of the enactment of this title, a report on whether
8 countries that export softwood lumber or softwood
9 lumber products to the United States are complying
10 with any international agreements entered into by
11 those countries and the United States.”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect on the date that is 60 days
14 after the date of the enactment of this Act.

15 **TITLE IV—NUTRITION**

16 **Subtitle A—Food Stamp Program**

17 **PART I—RENAMING OF FOOD STAMP ACT AND** 18 **PROGRAM**

19 **SEC. 4001. RENAMING OF FOOD STAMP ACT AND PROGRAM.**

20 (a) SHORT TITLE.—The first section of the Food
21 Stamp Act of 1977 (7 U.S.C. 2011 note; Public Law 88–
22 525) is amended by striking “Food Stamp Act of 1977”
23 and inserting “Food and Nutrition Act of 2008”.

24 (b) PROGRAM.—The Food and Nutrition Act of 2008
25 (7 U.S.C. 2011 et seq.) (as amended by subsection (a))

1 is amended by striking “food stamp program” each place
2 it appears and inserting “supplemental nutrition assist-
3 ance program”.

4 **SEC. 4002. CONFORMING AMENDMENTS.**

5 (a) IN GENERAL.—

6 (1) Section 4 of the Food and Nutrition Act of
7 2008 (7 U.S.C. 2013) is amended in the section
8 heading by striking “**FOOD STAMP PROGRAM**”
9 and inserting “**SUPPLEMENTAL NUTRITION AS-**
10 **SISTANCE PROGRAM**”.

11 (2) Section 5(h)(2)(A) of the Food and Nutri-
12 tion Act of 2008 (7 U.S.C. 2014(h)(2)(A)) is
13 amended by striking “Food Stamp Disaster Task
14 Force” and inserting “Disaster Task Force”.

15 (3) Section 6 of the Food and Nutrition Act of
16 2008 (7 U.S.C. 2015) is amended—

17 (A) in subsection (d)(3), by striking “for
18 food stamps”;

19 (B) in subsection (j), in the subsection
20 heading, by striking “FOOD STAMP”; and

21 (C) in subsection (o)—

22 (i) in paragraph (2), by striking “food
23 stamp benefits” and inserting “supple-
24 mental nutrition assistance program bene-
25 fits”; and

- 1 (ii) in paragraph (6)—
- 2 (I) in subparagraph (A)—
- 3 (aa) in clause (i), by striking
- 4 “food stamps” and inserting
- 5 “supplemental nutrition assist-
- 6 ance program benefits”; and
- 7 (bb) in clause (ii)—
- 8 (AA) in the matter pre-
- 9 ceding subclause (I), by
- 10 striking “a food stamp re-
- 11 cipient” and inserting “a
- 12 member of a household that
- 13 receives supplemental nutri-
- 14 tion assistance program ben-
- 15 efits”; and
- 16 (BB) by striking “food
- 17 stamp benefits” each place
- 18 it appears and inserting
- 19 “supplemental nutrition as-
- 20 sistance program benefits”;
- 21 and
- 22 (II) in subparagraphs (D) and
- 23 (E), by striking “food stamp recipi-
- 24 ents” each place it appears and in-
- 25 serting “members of households that

1 receive supplemental nutrition assist-
2 ance program benefits”.

3 (4) Section 7 of the Food and Nutrition Act of
4 2008 (7 U.S.C. 2016) is amended—

5 (A) in subsection (i)—

6 (i) in paragraph (3)(B)(ii), by striking
7 “food stamp households” and inserting
8 “households receiving supplemental nutri-
9 tion assistance program benefits”; and

10 (ii) in paragraph (7), by striking
11 “food stamp issuance” and inserting “sup-
12 plemental nutrition assistance issuance”;
13 and

14 (B) in subsection (k)—

15 (i) in paragraph (2), by striking “food
16 stamp benefits” and inserting “supple-
17 mental nutrition assistance program bene-
18 fits”; and

19 (ii) in paragraph (3), by striking
20 “food stamp retail” and inserting “retail”.

21 (5) Section 9(b)(1) of that Food and Nutrition
22 Act of 2008 (7 U.S.C. 2018(b)(1)) is amended by
23 striking “food stamp households” and inserting
24 “households that receive supplemental nutrition as-
25 sistance program benefits”.

1 (6) Section 11 of the Food and Nutrition Act
2 of 2008 (7 U.S.C. 2020) is amended—

3 (A) in subsection (e)—

4 (i) by striking “food stamps” each
5 place it appears and inserting “supple-
6 mental nutrition assistance program bene-
7 fits”;

8 (ii) by striking “food stamp offices”
9 each place it appears and inserting “sup-
10 plemental nutrition assistance program of-
11 fices”;

12 (iii) by striking “food stamp office”
13 each place it appears and inserting “sup-
14 plemental nutrition assistance program of-
15 fice”; and

16 (iv) in paragraph (25)—

17 (I) in the matter preceding sub-
18 paragraph (A), by striking “Simplified
19 Food Stamp Program” and inserting
20 “Simplified Supplemental Nutrition
21 Assistance Program”; and

22 (II) in subparagraph (A), by
23 striking “food stamp benefits” and in-
24 serting “supplemental nutrition assist-
25 ance program benefits”;

1 (B) in subsection (k), by striking “may
2 issue, upon request by the State agency, food
3 stamps” and inserting “may provide, on request
4 by the State agency, supplemental nutrition as-
5 sistance program benefits”;

6 (C) in subsection (l), by striking “food
7 stamp participation” and inserting “supple-
8 mental nutrition assistance program partici-
9 tion”;

10 (D) in subsections (q) and (r), in the sub-
11 section headings, by striking “FOOD STAMPS”
12 each place it appears and inserting “BENE-
13 FITS”;

14 (E) in subsection (s), by striking “food
15 stamp benefits” each place it appears and in-
16 sserting “supplemental nutrition assistance pro-
17 gram benefits”; and

18 (F) in subsection (t)(1)—

19 (i) in subparagraph (A), by striking
20 “food stamp application” and inserting
21 “supplemental nutrition assistance pro-
22 gram application”; and

23 (ii) in subparagraph (B), by striking
24 “food stamp benefits” and inserting “sup-

1 supplemental nutrition assistance program
2 benefits”.

3 (7) Section 14(b) of the Food and Nutrition
4 Act of 2008 (7 U.S.C. 2023(b)) is amended by strik-
5 ing “food stamp”.

6 (8) Section 16 of the Food and Nutrition Act
7 of 2008 (7 U.S.C. 2025) is amended—

8 (A) in subsection (a)(4), by striking “food
9 stamp informational activities” and inserting
10 “informational activities relating to the supple-
11 mental nutrition assistance program”;

12 (B) in subsection (c)(9)(C), by striking
13 “food stamp caseload” and inserting “the case-
14 load under the supplemental nutrition assist-
15 ance program”; and

16 (C) in subsection (h)(1)(E)(i), by striking
17 “food stamp recipients” and inserting “mem-
18 bers of households receiving supplemental nutri-
19 tion assistance program benefits”.

20 (9) Section 17 of the Food and Nutrition Act
21 of 2008 (7 U.S.C. 2026) is amended—

22 (A) in subsection (a)(2), by striking “food
23 stamp benefits” each place it appears and in-
24 serting “supplemental nutrition assistance pro-
25 gram benefits”;

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(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”;

1 (ii) in paragraph (2), by striking
2 “food stamp benefits” and inserting “sup-
3 plemental nutrition assistance program
4 benefits”; and

5 (iii) in paragraph (3)—

6 (I) in subparagraph (A), by strik-
7 ing “food stamp employment” and in-
8 serting “supplemental nutrition assist-
9 ance program employment”;

10 (II) in subparagraph (B), by
11 striking “food stamp recipients” and
12 inserting “supplemental nutrition as-
13 sistance program recipients”;

14 (III) in subparagraph (C), by
15 striking “food stamps” and inserting
16 “supplemental nutrition assistance
17 program benefits”; and

18 (IV) in subparagraph (D), by
19 striking “food stamp benefits” and in-
20 serting “supplemental nutrition assist-
21 ance program benefits”;

22 (C) in subsection (c), by striking “food
23 stamps” and inserting “supplemental nutrition
24 assistance”;

25 (D) in subsection (d)—

1 (i) in paragraph (1)(B), by striking
2 “food stamp benefits” and inserting “sup-
3 plemental nutrition assistance program
4 benefits”;

5 (ii) in paragraph (2)—

6 (I) in subparagraph (A), by strik-
7 ing “food stamp allotments” each
8 place it appears and inserting “allot-
9 ments”; and

10 (II) in subparagraph (C)(ii), by
11 striking “food stamp benefit” and in-
12 sserting “supplemental nutrition assist-
13 ance program benefits”; and

14 (iii) in paragraph (3)(E), by striking
15 “food stamp benefits” and inserting “sup-
16 plemental nutrition assistance program
17 benefits”;

18 (E) in subsections (e) and (f), by striking
19 “food stamp benefits” each place it appears and
20 inserting “supplemental nutrition assistance
21 program benefits”;

22 (F) in subsection (g), in the first sentence,
23 by striking “receipt of food stamp” and insert-
24 ing “receipt of supplemental nutrition assist-
25 ance program”; and

1 (G) in subsection (j), by striking “food
2 stamp agencies” and inserting “supplemental
3 nutrition assistance program agencies”.

4 (10) Section 18(a)(3)(A)(ii) of the Food and
5 Nutrition Act of 2008 (7 U.S.C. 2027(a)(3)(A)(ii))
6 is amended by striking “food stamps” and inserting
7 “supplemental nutrition assistance program bene-
8 fits”.

9 (11) Section 22 of the Food and Nutrition Act
10 of 2008 (7 U.S.C. 2031) is amended—

11 (A) in the section heading, by striking
12 **“FOOD STAMP PORTION OF MINNESOTA**
13 **FAMILY INVESTMENT PLAN”** and inserting
14 **“MINNESOTA FAMILY INVESTMENT**
15 **PROJECT”**;

16 (B) in subsections (b)(12) and (d)(3), by
17 striking “the Food Stamp Act, as amended,”
18 each place it appears and inserting “this Act”;
19 and

20 (C) in subsection (g)(1), by striking “the
21 Food Stamp Act of 1977 (7 U.S.C. 2011 et
22 seq.)” and inserting “this Act”.

23 (12) Section 26 of the Food and Nutrition Act
24 of 2008 (7 U.S.C. 2035) is amended—

1 (A) in the section heading, by striking
2 “**SIMPLIFIED FOOD STAMP PROGRAM**” and
3 inserting “**SIMPLIFIED SUPPLEMENTAL NU-**
4 **TRITION ASSISTANCE PROGRAM**”; and

5 (B) in subsection (b), by striking “sim-
6 plified food stamp program” and inserting
7 “simplified supplemental nutrition assistance
8 program”.

9 (b) CONFORMING CROSS-REFERENCES.—

10 (1) IN GENERAL.—Each provision of law de-
11 scribed in paragraph (2) is amended (as applica-
12 ble)—

13 (A) by striking “food stamp program”
14 each place it appears and inserting “supple-
15 mental nutrition assistance program”;

16 (B) by striking “Food Stamp Act of 1977”
17 each place it appears and inserting “Food and
18 Nutrition Act of 2008”;

19 (C) by striking “Food Stamp Act” each
20 place it appears and inserting “Food and Nutri-
21 tion Act of 2008”;

22 (D) by striking “food stamp” each place it
23 appears and inserting “supplemental nutrition
24 assistance program benefits”;

1 (E) by striking “food stamps” each place
2 it appears and inserting “supplemental nutri-
3 tion assistance program benefits”;

4 (F) in each applicable title, subtitle, chap-
5 ter, subchapter, and section heading, by strik-
6 ing “**FOOD STAMP ACT**” each place it appears
7 and inserting “**FOOD AND NUTRITION ACT**
8 **OF 2008**”;

9 (G) in each applicable subsection and ap-
10 propriations heading, by striking “FOOD STAMP
11 ACT” each place it appears and inserting
12 “FOOD AND NUTRITION ACT OF 2008”;

13 (H) in each applicable heading other than
14 a title, subtitle, chapter, subchapter, section,
15 subsection, or appropriations heading, by strik-
16 ing “**FOOD STAMP ACT**” each place it appears
17 and inserting “**FOOD AND NUTRITION ACT**
18 **OF 2008**”;

19 (I) in each applicable title, subtitle, chap-
20 ter, subchapter, and section heading, by strik-
21 ing “**FOOD STAMP PROGRAM**” each place it
22 appears and inserting “**SUPPLEMENTAL NU-**
23 **TRITION ASSISTANCE PROGRAM**”;

24 (J) in each applicable subsection and ap-
25 propriations heading, by striking “FOOD STAMP

1 PROGRAM” each place it appears and inserting
2 “SUPPLEMENTAL NUTRITION ASSISTANCE
3 PROGRAM”;

4 (K) in each applicable heading other than
5 a title, subtitle, chapter, subchapter, section,
6 subsection, or appropriations heading, by strik-
7 ing “**FOOD STAMP PROGRAM**” each place it
8 appears and inserting “**SUPPLEMENTAL NU-
9 TRITION ASSISTANCE PROGRAM**”;

10 (L) in each applicable title, subtitle, chap-
11 ter, subchapter, and section heading, by strik-
12 ing “**FOOD STAMPS**” each place it appears
13 and inserting “**SUPPLEMENTAL NUTRITION
14 ASSISTANCE PROGRAM BENEFITS**”;

15 (M) in each applicable subsection and ap-
16 propriations heading, by striking “**FOOD
17 STAMPS**” each place it appears and inserting
18 “**SUPPLEMENTAL NUTRITION ASSISTANCE
19 PROGRAM BENEFITS**”; and

20 (N) in each applicable heading other than
21 a title, subtitle, chapter, subchapter, section,
22 subsection, or appropriations heading, by strik-
23 ing “**FOOD STAMPS**” each place it appears
24 and inserting “**SUPPLEMENTAL NUTRITION
25 ASSISTANCE PROGRAM BENEFITS**”.

1 (2) PROVISIONS OF LAW.—The provisions of
2 law referred to in paragraph (1) are the following:

3 (A) The Hunger Prevention Act of 1988
4 (Public Law 100–435; 102 Stat. 1645).

5 (B) The Food Stamp Program Improve-
6 ments Act of 1994 (Public Law 103–225; 108
7 Stat. 106).

8 (C) Title IV of the Farm Security and
9 Rural Investment Act of 2002 (Public Law
10 107–171; 116 Stat. 305).

11 (D) Section 2 of Public Law 103–205 (7
12 U.S.C. 2012 note).

13 (E) Section 807(b) of the Stewart B.
14 McKinney Homeless Assistance Act (7 U.S.C.
15 2014 note; Public Law 100–77).

16 (F) The Electronic Benefit Transfer Inter-
17 operability and Portability Act of 2000 (Public
18 Law 106–171; 114 Stat. 3).

19 (G) Section 502(b) of the Agricultural Re-
20 search, Extension, and Education Reform Act
21 of 1998 (7 U.S.C. 2025 note; Public Law 105–
22 185).

23 (H) The National Agricultural Research,
24 Extension, and Teaching Policy Act of 1977 (7
25 U.S.C. 3101 et seq.).

1 (I) The Emergency Food Assistance Act of
2 1983 (7 U.S.C. 7501 et seq.).

3 (J) The Immigration and Nationality Act
4 (8 U.S.C. 1101 et seq.).

5 (K) Section 8119 of the Department of
6 Defense Appropriations Act, 1999 (10 U.S.C.
7 113 note; Public Law 105–262).

8 (L) The Armored Car Industry Reciprocity
9 Act of 1993 (15 U.S.C. 5901 et seq.).

10 (M) Title 18, United States Code.

11 (N) The Higher Education Act of 1965
12 (20 U.S.C. 1001 et seq.).

13 (O) The Internal Revenue Code of 1986.

14 (P) Section 650 of the Treasury and Gen-
15 eral Government Appropriations Act, 2000 (26
16 U.S.C. 7801 note; Public Law 106–58).

17 (Q) The Wagner-Peysner Act (29 U.S.C.
18 49 et seq.).

19 (R) The Workforce Investment Act of
20 1998 (29 U.S.C. 2801 et seq.).

21 (S) Title 31, United States Code.

22 (T) Title 37, United States Code.

23 (U) The Public Health Service Act (42
24 U.S.C. 201 et seq.).

1 (V) Titles II through XIX of the Social Se-
2 curity Act (42 U.S.C. 401 et seq.).

3 (W) Section 406 of the Family Support
4 Act of 1988 (Public Law 100–485; 102 Stat.
5 2400).

6 (X) Section 232 of the Social Security Act
7 Amendments of 1994 (42 U.S.C. 1314a).

8 (Y) The United States Housing Act of
9 1937 (42 U.S.C. 1437 et seq.).

10 (Z) The Richard B. Russell National
11 School Lunch Act (42 U.S.C. 1751 et seq.).

12 (AA) The Child Nutrition Act of 1966 (42
13 U.S.C. 1771 et seq.).

14 (BB) The Older Americans Act of 1965
15 (42 U.S.C. 3001 et seq.).

16 (CC) Section 208 of the Intergovernmental
17 Personnel Act of 1970 (42 U.S.C. 4728).

18 (DD) The Robert T. Stafford Disaster Re-
19 lief and Emergency Assistance Act (42 U.S.C.
20 5121 et seq.).

21 (EE) The Low-Income Home Energy As-
22 sistance Act of 1981 (42 U.S.C. 8621 et seq.).

23 (FF) Section 658K of the Child Care and
24 Development Block Grant Act of 1990 (42
25 U.S.C. 9858i).

1 (GG) The Alaska Native Claims Settle-
2 ment Act (43 U.S.C. 1601 et seq.).

3 (HH) Public Law 95–348 (92 Stat. 487).

4 (II) The Agriculture and Food Act of 1981
5 (Public Law 97–98; 95 Stat. 1213).

6 (JJ) The Disaster Assistance Act of 1988
7 (Public Law 100–387; 102 Stat. 924).

8 (KK) The Food, Agriculture, Conservation,
9 and Trade Act of 1990 (Public Law 101–624;
10 104 Stat. 3359).

11 (LL) The Cranston-Gonzalez National Af-
12 fordable Housing Act (Public Law 101–625;
13 104 Stat. 4079).

14 (MM) Section 388 of the Persian Gulf
15 Conflict Supplemental Authorization and Per-
16 sonnel Benefits Act of 1991 (Public Law 102–
17 25; 105 Stat. 98).

18 (NN) The Food, Agriculture, Conservation,
19 and Trade Act Amendments of 1991 (Public
20 Law 102–237; 105 Stat. 1818).

21 (OO) The Act of March 26, 1992 (Public
22 Law 102–265; 106 Stat. 90).

23 (PP) Public Law 105–379 (112 Stat.
24 3399).

1 (QQ) Section 101(c) of the Emergency
2 Supplemental Act, 2000 (Public Law 106–246;
3 114 Stat. 528).

4 (c) REFERENCES.—Any reference in any Federal,
5 State, tribal, or local law (including regulations) to the
6 “food stamp program” established under the Food and
7 Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) shall be
8 considered to be a reference to the “supplemental nutri-
9 tion assistance program” established under that Act.

10 **PART II—BENEFIT IMPROVEMENTS**

11 **SEC. 4101. EXCLUSION OF CERTAIN MILITARY PAYMENTS** 12 **FROM INCOME.**

13 Section 5(d) of the Food and Nutrition Act of 2008
14 (7 U.S.C. 2014(d)) is amended—

15 (1) by striking “(d) Household” and inserting
16 “(d) EXCLUSIONS FROM INCOME.—Household”;

17 (2) by striking “only (1) any” and inserting
18 “only—

19 “(1) any”;

20 (3) by indenting each of paragraphs (2)
21 through (18) so as to align with the margin of para-
22 graph (1) (as amended by paragraph (2));

23 (4) by striking the comma at the end of each
24 of paragraphs (1) through (16) and inserting a
25 semicolon;

1 (5) in paragraph (3)—

2 (A) by striking “like (A) awarded” and in-
3 serting “like—

4 “(A) awarded”;

5 (B) by striking “thereof, (B) to” and in-
6 serting “thereof;

7 “(B) to”; and

8 (C) by striking “program, and (C) to” and
9 inserting “program; and

10 “(C) to”;

11 (6) in paragraph (11), by striking “), or (B)
12 a” and inserting “)); or

13 “(B) a”;

14 (7) in paragraph (17), by striking “, and” at
15 the end and inserting a semicolon;

16 (8) in paragraph (18), by striking the period at
17 the end and inserting “; and”; and

18 (9) by adding at the end the following:

19 “(19) any additional payment under chapter 5
20 of title 37, United States Code, or otherwise des-
21 ignated by the Secretary to be appropriate for exclu-
22 sion under this paragraph, that is received by or
23 from a member of the United States Armed Forces
24 deployed to a designated combat zone, if the addi-
25 tional pay—

1 “(A) is the result of deployment to or serv-
2 ice in a combat zone; and

3 “(B) was not received immediately prior to
4 serving in a combat zone.”.

5 **SEC. 4102. STRENGTHENING THE FOOD PURCHASING**
6 **POWER OF LOW-INCOME AMERICANS.**

7 Section 5(e)(1) of the Food and Nutrition Act of
8 2008 (7 U.S.C. 2014(e)(1)) is amended—

9 (1) in subparagraph (A)(ii), by striking “not
10 less than \$134” and all that follows through the end
11 of the clause and inserting the following: “not less
12 than—

13 “(I) for fiscal year 2009, \$144,
14 \$246, \$203, and \$127, respectively;
15 and

16 “(II) for fiscal year 2010 and
17 each fiscal year thereafter, an amount
18 that is equal to the amount from the
19 previous fiscal year adjusted to the
20 nearest lower dollar increment to re-
21 flect changes for the 12-month period
22 ending on the preceding June 30 in
23 the Consumer Price Index for All
24 Urban Consumers published by the
25 Bureau of Labor Statistics of the De-

1 department of Labor, for items other
2 than food.”;

3 (2) in subparagraph (B)(ii), by striking “not
4 less than \$269” and all that follows through the end
5 of the clause and inserting the following: “not less
6 than—

7 “(I) for fiscal year 2009, \$289;
8 and

9 “(II) for fiscal year 2010 and
10 each fiscal year thereafter, an amount
11 that is equal to the amount from the
12 previous fiscal year adjusted to the
13 nearest lower dollar increment to re-
14 flect changes for the 12-month period
15 ending on the preceding June 30 in
16 the Consumer Price Index for All
17 Urban Consumers published by the
18 Bureau of Labor Statistics of the De-
19 partment of Labor, for items other
20 than food.”; and

21 (3) by adding at the end the following:

22 “(C) REQUIREMENT.—Each adjustment
23 under subparagraphs (A)(ii)(II) and (B)(ii)(II)
24 shall be based on the unrounded amount for the
25 prior 12-month period.”.

1 **SEC. 4103. SUPPORTING WORKING FAMILIES WITH CHILD**
2 **CARE EXPENSES.**

3 Section 5(e)(3)(A) of the Food and Nutrition Act of
4 2008 (7 U.S.C. 2014(e)(3)(A)) is amended by striking “,
5 the maximum allowable level of which shall be \$200 per
6 month for each dependent child under 2 years of age and
7 \$175 per month for each other dependent,”.

8 **SEC. 4104. ASSET INDEXATION, EDUCATION, AND RETIRE-**
9 **MENT ACCOUNTS.**

10 (a) **ADJUSTING COUNTABLE RESOURCES FOR INFLA-**
11 **TION.**—Section (5)(g) of the Food and Nutrition Act of
12 2008 (7 U.S.C. 2014(g)) is amended—

13 (1) by striking “(g)(1) The Secretary” and in-
14 serting the following:

15 “(g) **ALLOWABLE FINANCIAL RESOURCES.**—

16 “(1) **TOTAL AMOUNT.**—

17 “(A) **IN GENERAL.**—The Secretary”.

18 (2) in subparagraph (A) (as so designated by
19 paragraph (1))—

20 (A) by inserting “(as adjusted in accord-
21 ance with subparagraph (B))” after “\$2,000”;
22 and

23 (B) by inserting “(as adjusted in accord-
24 ance with subparagraph (B))” after “\$3,000”;
25 and

26 (3) by adding at the end the following:

1 “(B) ADJUSTMENT FOR INFLATION.—

2 “(i) IN GENERAL.—Beginning on Oc-
3 tober 1, 2008, and each October 1 there-
4 after, the amounts specified in subpara-
5 graph (A) shall be adjusted and rounded
6 down to the nearest \$250 increment to re-
7 flect changes for the 12-month period end-
8 ing the preceding June in the Consumer
9 Price Index for All Urban Consumers pub-
10 lished by the Bureau of Labor Statistics of
11 the Department of Labor.

12 “(ii) REQUIREMENT.—Each adjust-
13 ment under clause (i) shall be based on the
14 unrounded amount for the prior 12-month
15 period.”.

16 (b) EXCLUSION OF RETIREMENT ACCOUNTS FROM
17 ALLOWABLE FINANCIAL RESOURCES.—

18 (1) IN GENERAL.—Section 5(g)(2)(B)(v) of the
19 Food and Nutrition Act of 2008 (7 U.S.C.
20 2014(g)(2)(B)(v)) is amended by striking “or retire-
21 ment account (including an individual account)” and
22 inserting “account”.

23 (2) MANDATORY AND DISCRETIONARY EXCLU-
24 SIONS.—Section 5(g) of the Food and Nutrition Act

1 of 2008 (7 U.S.C. 2014(g)) is amended by adding
2 at the end the following:

3 “(7) EXCLUSION OF RETIREMENT ACCOUNTS
4 FROM ALLOWABLE FINANCIAL RESOURCES.—

5 “(A) MANDATORY EXCLUSIONS.—The Sec-
6 retary shall exclude from financial resources
7 under this subsection the value of—

8 “(i) any funds in a plan, contract, or
9 account, described in sections 401(a),
10 403(a), 403(b), 408, 408A, 457(b), and
11 501(c)(18) of the Internal Revenue Code
12 of 1986 and the value of funds in a Fed-
13 eral Thrift Savings Plan account as pro-
14 vided in section 8439 of title 5, United
15 States Code; and

16 “(ii) any retirement program or ac-
17 count included in any successor or similar
18 provision that may be enacted and deter-
19 mined to be exempt from tax under the In-
20 ternal Revenue Code of 1986.

21 “(B) DISCRETIONARY EXCLUSIONS.—The
22 Secretary may exclude from financial resources
23 under this subsection the value of any other re-
24 tirement plans, contracts, or accounts (as deter-
25 mined by the Secretary).”.

1 (c) EXCLUSION OF EDUCATION ACCOUNTS FROM AL-
2 LOWABLE FINANCIAL RESOURCES.—Section 5(g) of the
3 Food and Nutrition Act of 2008 (7 U.S.C. 2014(g)) (as
4 amended by subsection (b)) is amended by adding at the
5 end the following:

6 “(8) EXCLUSION OF EDUCATION ACCOUNTS
7 FROM ALLOWABLE FINANCIAL RESOURCES.—

8 “(A) MANDATORY EXCLUSIONS.—The Sec-
9 retary shall exclude from financial resources
10 under this subsection the value of any funds in
11 a qualified tuition program described in section
12 529 of the Internal Revenue Code of 1986 or
13 in a Coverdell education savings account under
14 section 530 of that Code.

15 “(B) DISCRETIONARY EXCLUSIONS.—The
16 Secretary may exclude from financial resources
17 under this subsection the value of any other
18 education programs, contracts, or accounts (as
19 determined by the Secretary).”.

20 **SEC. 4105. FACILITATING SIMPLIFIED REPORTING.**

21 Section 6(c)(1)(A) of the Food and Nutrition Act of
22 2008 (7 U.S.C. 2015(c)(1)(A)) is amended—

23 (1) by striking “reporting by” and inserting
24 “reporting”;

1 (2) in clause (i), by inserting “for periods short-
2 er than 4 months by” before “migrant”;

3 (3) in clause (ii), by inserting “for periods
4 shorter than 4 months by” before “households”; and

5 (4) in clause (iii), by inserting “for periods
6 shorter than 1 year by” before “households”.

7 **SEC. 4106. TRANSITIONAL BENEFITS OPTION.**

8 Section 11(s)(1) of the Food and Nutrition Act of
9 2008 (7 U.S.C. 2020(s)(1)) is amended—

10 (1) by striking “benefits to a household”; and
11 inserting “benefits—

12 “(A) to a household”;

13 (2) by striking the period at the end and insert-
14 ing “; or”; and

15 (3) by adding at the end the following:

16 “(B) at the option of the State, to a house-
17 hold with children that ceases to receive cash
18 assistance under a State-funded public assist-
19 ance program.”.

20 **SEC. 4107. INCREASING THE MINIMUM BENEFIT.**

21 Section 8(a) of the Food and Nutrition Act of 2008
22 (7 U.S.C. 2017(a)) is amended by striking “\$10 per
23 month” and inserting “8 percent of the cost of the thrifty
24 food plan for a household containing 1 member, as deter-

1 mined by the Secretary under section 3, rounded to the
2 nearest whole dollar increment”.

3 **SEC. 4108. EMPLOYMENT, TRAINING, AND JOB RETENTION.**

4 Section 6(d)(4) of the Food and Nutrition Act of
5 2008 (7 U.S.C. 2015(d)(4)) is amended—

6 (1) in subparagraph (B)—

7 (A) by redesignating clause (vii) as clause
8 (viii); and

9 (B) by inserting after clause (vi) the fol-
10 lowing:

11 “(vii) Programs intended to ensure
12 job retention by providing job retention
13 services, if the job retention services are
14 provided for a period of not more than 90
15 days after an individual who received em-
16 ployment and training services under this
17 paragraph gains employment.”; and

18 (2) in subparagraph (F), by adding at the end
19 the following:

20 “(iii) Any individual voluntarily elect-
21 ing to participate in a program under this
22 paragraph shall not be subject to the limi-
23 tations described in clauses (i) and (ii).”.

1 **PART III—PROGRAM OPERATIONS**

2 **SEC. 4111. NUTRITION EDUCATION.**

3 (a) **AUTHORITY TO PROVIDE NUTRITION EDU-**
4 **CATION.**—Section 4(a) of the Food and Nutrition Act of
5 2008 (7 U.S.C. 2013(a)) is amended in the first sentence
6 by inserting “and, through an approved State plan, nutri-
7 tion education” after “an allotment”.

8 (b) **IMPLEMENTATION.**—Section 11 of the Food and
9 Nutrition Act of 2008 (7 U.S.C. 2020) is amended by
10 striking subsection (f) and inserting the following:

11 “(f) **NUTRITION EDUCATION.**—

12 “(1) **IN GENERAL.**—State agencies may imple-
13 ment a nutrition education program for individuals
14 eligible for program benefits that promotes healthy
15 food choices consistent with the most recent Dietary
16 Guidelines for Americans published under section
17 301 of the National Nutrition Monitoring and Re-
18 lated Research Act of 1990 (7 U.S.C. 5341).

19 “(2) **DELIVERY OF NUTRITION EDUCATION.**—

20 State agencies may deliver nutrition education di-
21 rectly to eligible persons or through agreements with
22 the National Institute of Food and Agriculture, in-
23 cluding through the expanded food and nutrition
24 education program under section 3(d) of the Act of
25 May 8, 1914 (7 U.S.C. 343(d)), and other State and

1 community health and nutrition providers and orga-
2 nizations.

3 “(3) NUTRITION EDUCATION STATE PLANS.—

4 “(A) IN GENERAL.—A State agency that
5 elects to provide nutrition education under this
6 subsection shall submit a nutrition education
7 State plan to the Secretary for approval.

8 “(B) REQUIREMENTS.—The plan shall—

9 “(i) identify the uses of the funding
10 for local projects; and

11 “(ii) conform to standards established
12 by the Secretary through regulations or
13 guidance.

14 “(C) REIMBURSEMENT.—State costs for
15 providing nutrition education under this sub-
16 section shall be reimbursed pursuant to section
17 16(a).

18 “(4) NOTIFICATION.—To the maximum extent
19 practicable, State agencies shall notify applicants,
20 participants, and eligible program participants of the
21 availability of nutrition education under this sub-
22 section.”.

1 **SEC. 4112. TECHNICAL CLARIFICATION REGARDING ELIGI-**
2 **BILITY.**

3 Section 6(k) of the Food and Nutrition Act of 2008
4 (7 U.S.C. 2015(k)) is amended—

5 (1) by redesignating paragraphs (1) and (2) as
6 subparagraphs (A) and (B), respectively, and indent-
7 ing appropriately;

8 (2) by striking “No member” and inserting the
9 following:

10 “(1) IN GENERAL.—No member”; and

11 (3) by adding at the end the following:

12 “(2) PROCEDURES.—The Secretary shall—

13 “(A) define the terms ‘fleeing’ and ‘actively
14 seeking’ for purposes of this subsection; and

15 “(B) ensure that State agencies use con-
16 sistent procedures established by the Secretary
17 that disqualify individuals whom law enforce-
18 ment authorities are actively seeking for the
19 purpose of holding criminal proceedings against
20 the individual.”.

21 **SEC. 4113. CLARIFICATION OF SPLIT ISSUANCE.**

22 Section 7(h) of the Food and Nutrition Act of 2008
23 (7 U.S.C. 2016(h)) is amended by striking paragraph (2)
24 and inserting the following:

25 “(2) REQUIREMENTS.—

1 “(A) IN GENERAL.—Any procedure estab-
2 lished under paragraph (1) shall—

3 “(i) not reduce the allotment of any
4 household for any period; and

5 “(ii) ensure that no household experi-
6 ences an interval between issuances of
7 more than 40 days.

8 “(B) MULTIPLE ISSUANCES.—The proce-
9 dure may include issuing benefits to a house-
10 hold in more than 1 issuance during a month
11 only when a benefit correction is necessary.”.

12 **SEC. 4114. ACCRUAL OF BENEFITS.**

13 Section 7(i) of the Food and Nutrition Act of 2008
14 (7 U.S.C. 2016(i)) is amended by adding at the end the
15 following:

16 “(12) RECOVERING ELECTRONIC BENEFITS.—

17 “(A) IN GENERAL.—A State agency shall
18 establish a procedure for recovering electronic
19 benefits from the account of a household due to
20 inactivity.

21 “(B) BENEFIT STORAGE.—A State agency
22 may store recovered electronic benefits off-line
23 in accordance with subparagraph (D), if the
24 household has not accessed the account after 6
25 months.

1 “(C) BENEFIT EXPUNGING.—A State
2 agency shall expunge benefits that have not
3 been accessed by a household after a period of
4 12 months.

5 “(D) NOTICE.—A State agency shall—

6 “(i) send notice to a household the
7 benefits of which are stored under sub-
8 paragraph (B); and

9 “(ii) not later than 48 hours after re-
10 quest by the household, make the stored
11 benefits available to the household.”.

12 **SEC. 4115. ISSUANCE AND USE OF PROGRAM BENEFITS.**

13 (a) IN GENERAL.—Section 7 of the Food and Nutri-
14 tion Act of 2008 (7 U.S.C. 2016) is amended—

15 (1) by striking the section designation and
16 heading and all that follows through “subsection (j))
17 shall be” and inserting the following:

18 **“SEC. 7. ISSUANCE AND USE OF PROGRAM BENEFITS.**

19 “(a) IN GENERAL.—Except as provided in subsection
20 (i), EBT cards shall be”;

21 (2) in subsection (b)—

22 (A) by striking “(b) Coupons” and insert-
23 ing the following:

24 “(b) USE.—Benefits”; and

25 (B) by striking the second proviso;

1 (3) in subsection (c)—

2 (A) by striking “(c) Coupons” and insert-
3 ing the following:

4 “(c) DESIGN.—

5 “(1) IN GENERAL.—EBT cards”;

6 (B) in the first sentence, by striking “and
7 define their denomination”; and

8 (C) by striking the second sentence and in-
9 serting the following:

10 “(2) PROHIBITION.—The name of any public
11 official shall not appear on any EBT card.”;

12 (4) by striking subsection (d);

13 (5) in subsection (e)—

14 (A) by striking “coupons” each place it ap-
15 pears and inserting “benefits”; and

16 (B) by striking “coupon issuers” each
17 place it appears and inserting “benefit issuers”;

18 (6) in subsection (f)—

19 (A) by striking “coupons” each place it ap-
20 pears and inserting “benefits”;

21 (B) by striking “coupon issuer” and insert-
22 ing “benefit issuers”;

23 (C) by striking “including any losses” and
24 all that follows through “section 11(e)(20),”;

25 and

1 (D) by striking “and allotments”;

2 (7) by striking subsection (g) and inserting the
3 following:

4 “(g) ALTERNATIVE BENEFIT DELIVERY.—

5 “(1) IN GENERAL.—If the Secretary deter-
6 mines, in consultation with the Inspector General of
7 the Department of Agriculture, that it would im-
8 prove the integrity of the supplemental nutrition as-
9 sistance program, the Secretary shall require a State
10 agency to issue or deliver benefits using alternative
11 methods.

12 “(2) NO IMPOSITION OF COSTS.—The cost of
13 documents or systems that may be required by this
14 subsection may not be imposed upon a retail food
15 store participating in the supplemental nutrition as-
16 sistance program.

17 “(3) DEVALUATION AND TERMINATION OF
18 ISSUANCE OF PAPER COUPONS.—

19 “(A) COUPON ISSUANCE.—Effective on the
20 date of enactment of the Food, Conservation,
21 and Energy Act of 2008, no State shall issue
22 any coupon, stamp, certificate, or authorization
23 card to a household that receives supplemental
24 nutrition assistance under this Act.

1 “(B) EBT CARDS.—Effective beginning on
2 the date that is 1 year after the date of enact-
3 ment of the Food, Conservation, and Energy
4 Act of 2008, only an EBT card issued under
5 subsection (i) shall be eligible for exchange at
6 any retail food store.

7 “(C) DE-OBLIGATION OF COUPONS.—Cou-
8 pons not redeemed during the 1-year period be-
9 ginning on the date of enactment of the Food,
10 Conservation, and Energy Act of 2008 shall—

11 “(i) no longer be an obligation of the
12 Federal Government; and

13 “(ii) not be redeemable.”;

14 (8) in subsection (h)(1), by striking “coupons”
15 and inserting “benefits”;

16 (9) in subsection (i), by adding at the end the
17 following:

18 “(12) INTERCHANGE FEES.—No interchange
19 fees shall apply to electronic benefit transfer trans-
20 actions under this subsection.”;

21 (10) in subsection (j)—

22 (A) in paragraph (2)(A)(ii), by striking
23 “printing, shipping, and redeeming coupons”
24 and inserting “issuing and redeeming benefits”;
25 and

1 (B) in paragraph (5), by striking “coupon”
2 and inserting “benefit”;

3 (11) in subsection (k)—

4 (A) by striking “coupons in the form of”
5 each place it appears and inserting “program
6 benefits in the form of”;

7 (B) by striking “a coupon issued in the
8 form of” each place it appears and inserting
9 “program benefits in the form of”; and

10 (C) in subparagraph (A), by striking “sub-
11 section (i)(11)(A)” and inserting “subsection
12 (h)(11)(A)”; and

13 (12) by redesignating subsections (e) through
14 (k) as subsections (d) through (j), respectively.

15 (b) CONFORMING AMENDMENTS.—

16 (1) Section 3 of the Food and Nutrition Act of
17 2008 (7 U.S.C. 2012) is amended—

18 (A) in subsection (a), by striking “cou-
19 pons” and inserting “benefits”;

20 (B) by striking subsection (b) and insert-
21 ing the following:

22 “(b) BENEFIT.—The term ‘benefit’ means the value
23 of supplemental nutrition assistance provided to a house-
24 hold by means of—

1 “(1) an electronic benefit transfer under section
2 7(i); or

3 “(2) other means of providing assistance, as de-
4 termined by the Secretary.”;

5 (C) in subsection (c), in the first sentence,
6 by striking “authorization cards” and inserting
7 “benefits”;

8 (D) in subsection (d), by striking “or ac-
9 cess device” and all that follows through the
10 end of the subsection and inserting a period;

11 (E) in subsection (e)—

12 (i) by striking “(e) ‘Coupon issuer’
13 means” and inserting the following:

14 “(e) BENEFIT ISSUER.—The term ‘benefit issuer’
15 means”; and

16 (ii) by striking “coupons” and insert-
17 ing “benefits”;

18 (F) in subsection (g)(7), by striking “sub-
19 section (r)” and inserting “subsection (j)”;

20 (G) in subsection (i)(5)—

21 (i) in subparagraph (B), by striking
22 “subsection (r)” and inserting “subsection
23 (j)”;

24 (ii) in subparagraph (D), by striking
25 “coupons” and inserting “benefits”;

1 (H) in subsection (j), by striking “(as that
2 term is defined in subsection (p))”;

3 (I) in subsection (k)—

4 (i) in paragraph (1)(A), by striking
5 “subsection (u)(1)” and inserting “sub-
6 section (r)(1)”;

7 (ii) in paragraph (2), by striking
8 “subsections (g)(3), (4), (5), (7), (8), and
9 (9) of this section” and inserting “para-
10 graphs (3), (4), (5), (7), (8), and (9) of
11 subsection (k)”;

12 (iii) in paragraph (3), by striking
13 “subsection (g)(6) of this section” and in-
14 serting “subsection (k)(6)”;

15 (J) in subsection (t), by inserting “, in-
16 cluding point of sale devices,” after “other
17 means of access”;

18 (K) in subsection (u), by striking “(as de-
19 fined in subsection (g))”;

20 (L) by adding at the end the following:

21 “(v) EBT CARD.—The term ‘EBT card’ means an
22 electronic benefit transfer card issued under section 7(i).”;
23 and

24 (M) by redesignating subsections (a)
25 through (v) as subsections (b), (d), (f), (g), (e),

1 (h), (k), (l), (n), (o), (p), (q), (s), (t), (u), (v),
2 (e), (j), (m), (a), (r), and (i), respectively, and
3 moving the subsections so as to appear in al-
4 phabetical order.

5 (2) Section 4(a) of the Food and Nutrition Act
6 of 2008 (7 U.S.C. 2013(a)) is amended—

7 (A) by striking “coupons” each place it ap-
8 pears and inserting “benefits”; and

9 (B) by striking “Coupons issued” and in-
10 sserting “benefits issued”.

11 (3) Section 5 of the Food and Nutrition Act of
12 2008 (7 U.S.C. 2014) is amended—

13 (A) in subsection (a), by striking “section
14 3(i)(4)” and inserting “section 3(n)(4)”;

15 (B) in subsection (h)(3)(B), in the second
16 sentence, by striking “section 7(i)” and insert-
17 ing “section 7(h)”;

18 (C) in subsection (i)(2)(E), by striking “,
19 as defined in section 3(i) of this Act,”.

20 (4) Section 6 of the Food and Nutrition Act of
21 2008 (7 U.S.C. 2015) is amended—

22 (A) in subsection (b)(1)—

23 (i) in subparagraph (B), by striking
24 “coupons or authorization cards” and in-
25 sserting “program benefits”; and

1 (ii) by striking “coupons” each place
2 it appears and inserting “benefits”; and

3 (B) in subsection (d)(4)(L), by striking
4 “section 11(e)(22)” and inserting “section
5 11(e)(19)”.

6 (5) Section 8 of the Food and Nutrition Act of
7 2008 (7 U.S.C. 2017) is amended—

8 (A) in subsection (b), by striking “, wheth-
9 er through coupons, access devices, or other-
10 wise”; and

11 (B) in subsections (e)(1) and (f), by strik-
12 ing “section 3(i)(5)” each place it appears and
13 inserting “section 3(n)(5)”.

14 (6) Section 9 of the Food and Nutrition Act of
15 2008 (7 U.S.C. 2018) is amended—

16 (A) by striking “coupons” each place it ap-
17 pears and inserting “benefits”;

18 (B) in subsection (a)—

19 (i) in paragraph (1), by striking “cou-
20 pon business” and inserting “benefit trans-
21 actions”; and

22 (ii) by striking paragraph (3) and in-
23 serting the following:

24 “(3) AUTHORIZATION PERIODS.—The Secretary
25 shall establish specific time periods during which au-

1 thorization to accept and redeem benefits shall be
2 valid under the supplemental nutrition assistance
3 program.”; and

4 (C) in subsection (g), by striking “section
5 3(g)(9)” and inserting “section 3(k)(9)”.

6 (7) Section 10 of the Food and Nutrition Act
7 of 2008 (7 U.S.C. 2019) is amended—

8 (A) by striking the section designation and
9 heading and all that follows through “Regula-
10 tions” and inserting the following:

11 **“SEC. 10. REDEMPTION OF PROGRAM BENEFITS.**

12 “Regulations”;

13 (B) by striking “section 3(k)(4) of this
14 Act” and inserting “section 3(p)(4)”;

15 (C) by striking “section 7(i)” and inserting
16 “section 7(h)”;

17 (D) by striking “coupons” each place it
18 appears and inserting “benefits”.

19 (8) Section 11 of the Food and Nutrition Act
20 of 2008 (7 U.S.C. 2020) is amended—

21 (A) in subsection (d)—

22 (i) by striking “section 3(n)(1) of this
23 Act” each place it appears and inserting
24 “section 3(t)(1)”;

1 (ii) by striking “section 3(n)(2) of this
2 Act” each place it appears and inserting
3 “section 3(t)(2)”;

4 (B) in subsection (e)—

5 (i) in paragraph (8)(E), by striking
6 “paragraph (16) or (20)(B)” and inserting
7 “paragraph (15) or (18)(B)”;

8 (ii) by striking paragraphs (15) and
9 (19);

10 (iii) by redesignating paragraphs (16)
11 through (18) and (20) through (25) as
12 paragraphs (15) through (17) and (18)
13 through (23), respectively; and

14 (iv) in paragraph (17) (as so redesign-
15 ated), by striking “(described in section
16 3(n)(1) of this Act)” and inserting “de-
17 scribed in section 3(t)(1)”;

18 (C) in subsection (h), by striking “coupon
19 or coupons” and inserting “benefits”;

20 (D) by striking “coupon” each place it ap-
21 pears and inserting “benefit”;

22 (E) by striking “coupons” each place it ap-
23 pears and inserting “benefits”; and

1 (F) in subsection (q), by striking “section
2 11(e)(20)(B)” and inserting “subsection
3 (e)(18)(B)”.

4 (9) Section 13 of the Food and Nutrition Act
5 of 2008 (7 U.S.C. 2022) is amended by striking
6 “coupons” each place it appears and inserting “ben-
7 efits”.

8 (10) Section 15 of the Food and Nutrition Act
9 of 2008 (7 U.S.C. 2024) is amended—

10 (A) in subsection (a), by striking “cou-
11 pons” and inserting “benefits”;

12 (B) in subsection (b)(1)—

13 (i) by striking “coupons, authorization
14 cards, or access devices” each place it ap-
15 pears and inserting “benefits”;

16 (ii) by striking “coupons or authoriza-
17 tion cards” and inserting “benefits”; and

18 (iii) by striking “access device” each
19 place it appears and inserting “benefit”;

20 (C) in subsection (c), by striking “cou-
21 pons” each place it appears and inserting “ben-
22 efits”;

23 (D) in subsection (d), by striking “Cou-
24 pons” and inserting “Benefits”;

25 (E) by striking subsections (e) and (f);

1 (F) by redesignating subsections (g) and
2 (h) as subsections (e) and (f), respectively; and
3 (G) in subsection (e) (as so redesignated),
4 by striking “coupon, authorization cards or ac-
5 cess devices” and inserting “benefits”.

6 (11) Section 16(a) of the Food and Nutrition
7 Act of 2008 (7 U.S.C. 2025(a)) is amended by strik-
8 ing “coupons” each place it appears and inserting
9 “benefits”.

10 (12) Section 17 of the Food and Nutrition Act
11 of 2008 (7 U.S.C. 2026) is amended—

12 (A) in subsection (a)(2), by striking “cou-
13 pon” and inserting “benefit”;

14 (B) in subsection (b)(1)—

15 (i) in subparagraph (B)—

16 (I) in clause (iv)—

17 (aa) in subclause (I), insert-
18 ing “or otherwise providing bene-
19 fits in a form not restricted to
20 the purchase of food” after “of
21 cash”;

22 (bb) in subclause (III)(aa),
23 by striking “section 3(i)” and in-
24 serting “section 3(n)”; and

- 1 (cc) in subclause (VII), by
2 striking “section 7(j)” and in-
3 serting “section 7(i)”; and
4 (II) in clause (v)—
5 (aa) by striking
6 “countersigned food coupons or
7 similar”; and
8 (bb) by striking “food cou-
9 pons” and inserting “EBT
10 cards”; and
11 (ii) in subparagraph (C)(i)(I), by
12 striking “coupons” and inserting “EBT
13 cards”;
14 (C) in subsection (f), by striking “section
15 7(g)(2)” and inserting “section 7(f)(2)”; and
16 (D) in subsection (j), by striking “coupon”
17 and inserting “benefit”.
18 (13) Section 19(a)(2)(A)(ii) of the Food and
19 Nutrition Act of 2008 (7 U.S.C. 2028(a)(2)(A)(ii))
20 is amended by striking “section 3(o)(4)” and insert-
21 ing “section 3(u)(4)”.
22 (14) Section 21 of the Food and Nutrition Act
23 of 2008 (7 U.S.C. 2030) is repealed.
24 (15) Section 22 of the Food and Nutrition Act
25 of 2008 (7 U.S.C. 2031) is amended—

1 (A) by striking “food coupons” each place
2 it appears and inserting “benefits”;

3 (B) by striking “coupons” each place it ap-
4 pears and inserting “benefits”; and

5 (C) in subsection (g)(1)(A), by striking
6 “coupon” and inserting “benefits”.

7 (16) Section 26(f)(3) of the Food and Nutrition
8 Act of 2008 (7 U.S.C. 2035(f)(3)) is amended—

9 (A) in subparagraph (A), by striking “sub-
10 sections (a) through (g)” and inserting “sub-
11 sections (a) through (f)”;

12 (B) in subparagraph (E), by striking
13 “(16), (18), (20), (24), and (25)” and inserting
14 “(15), (17), (18), (22), and (23)”.

15 (c) CONFORMING CROSS-REFERENCES.—

16 (1) IN GENERAL.—

17 (A) USE OF TERMS.—Each provision of
18 law described in subparagraph (B) is amended
19 (as applicable)—

20 (i) by striking “coupons” each place it
21 appears and inserting “benefits”;

22 (ii) by striking “coupon” each place it
23 appears and inserting “benefit”;

24 (iii) by striking “food coupons” each
25 place it appears and inserting “benefits”;

1 (iv) in each section heading, by strik-
2 ing “**FOOD COUPONS**” each place it ap-
3 pears and inserting “**BENEFITS**”;

4 (v) by striking “food stamp coupon”
5 each place it appears and inserting “ben-
6 efit”; and

7 (vi) by striking “food stamps” each
8 place it appears and inserting “benefits”.

9 (B) PROVISIONS OF LAW.—The provisions
10 of law referred to in subparagraph (A) are the
11 following:

12 (i) Section 2 of Public Law 103–205
13 (7 U.S.C. 2012 note; 107 Stat. 2418).

14 (ii) Section 1956(c)(7)(D) of title 18,
15 United States Code.

16 (iii) Titles II through XIX of the So-
17 cial Security Act (42 U.S.C. 401 et seq.).

18 (iv) Section 401(b)(3) of the Social
19 Security Amendments of 1972 (42 U.S.C.
20 1382e note; Public Law 92–603).

21 (v) The Robert T. Stafford Disaster
22 Relief and Emergency Assistance Act (42
23 U.S.C. 5121 et seq.).

24 (vi) Section 802(d)(2)(A)(i)(II) of the
25 Cranston-Gonzalez National Affordable

1 Housing Act (42 U.S.C.
2 8011(d)(2)(A)(i)(II)).

3 (2) DEFINITION REFERENCES.—

4 (A) Section 2 of Public Law 103–205 (7
5 U.S.C. 2012 note; 107 Stat. 2418) is amended
6 by striking “section 3(k)(1)” and inserting
7 “section 3(p)(1)”.

8 (B) Section 205 of the Food Stamp Pro-
9 gram Improvements Act of 1994 (7 U.S.C.
10 2012 note; Public Law 103–225) is amended by
11 striking “section 3(k) of such Act (as amended
12 by section 201)” and inserting “section 3(p) of
13 that Act”.

14 (C) Section 115 of the Personal Responsi-
15 bility and Work Opportunity Reconciliation Act
16 of 1996 (21 U.S.C. 862a) is amended—

17 (i) by striking “section 3(h)” each
18 place it appears and inserting “section
19 3(l)”; and

20 (ii) in subsection (e)(2), by striking
21 “section 3(m)” and inserting “section
22 3(s)”.

23 (D) Section 402(a) of the Personal Re-
24 sponsibility and Work Opportunity Reconcili-

1 ation Act of 1996 (8 U.S.C. 1612(a)) is amend-
2 ed—

3 (i) in paragraph (2)(F)(ii), by striking
4 “section 3(r)” and inserting “section 3(j)”;
5 and

6 (ii) in paragraph (3)(B), by striking
7 “section 3(h)” and inserting “section 3(l)”.

8 (E) Section 3803(c)(2)(C)(vii) of title 31,
9 United States Code, is amended by striking
10 “section 3(h)” and inserting “section 3(l)”.

11 (F) Section 303(d)(4) of the Social Secu-
12 rity Act (42 U.S.C. 503(d)(4)) is amended by
13 striking “section 3(n)(1)” and inserting “sec-
14 tion 3(t)(1)”.

15 (G) Section 404 of the Social Security Act
16 (42 U.S.C. 604) is amended by striking “sec-
17 tion 3(h)” each place it appears and inserting
18 “section 3(l)”.

19 (H) Section 531 of the Social Security Act
20 (42 U.S.C. 654) is amended by striking “sec-
21 tion 3(h)” each place it appears and inserting
22 “section 3(l)”.

23 (I) Section 802(d)(2)(A)(i)(II) of the
24 Cranston-Gonzalez National Affordable Hous-
25 ing Act (42 U.S.C. 8011(d)(2)(A)(i)(II)) is

1 “(A) IN GENERAL.—Each State agency
2 shall keep such records as may be necessary to
3 determine whether the program is being con-
4 ducted in compliance with this Act (including
5 regulations issued under this Act).

6 “(B) INSPECTION AND AUDIT.—Records
7 described in subparagraph (A) shall—

8 “(i) be available for inspection and
9 audit at any reasonable time;

10 “(ii) subject to subsection (e)(8), be
11 available for review in any action filed by
12 a household to enforce any provision of
13 this Act (including regulations issued
14 under this Act); and

15 “(iii) be preserved for such period of
16 not less than 3 years as may be specified
17 in regulations.

18 “(4) REVIEW OF MAJOR CHANGES IN PROGRAM
19 DESIGN.—

20 “(A) IN GENERAL.—The Secretary shall
21 develop standards for identifying major changes
22 in the operations of a State agency, including—

23 “(i) large or substantially-increased
24 numbers of low-income households that do
25 not live in reasonable proximity to an of-

1 fice performing the major functions de-
2 scribed in subsection (e);

3 “(ii) substantial increases in reliance
4 on automated systems for the performance
5 of responsibilities previously performed by
6 personnel described in subsection
7 (e)(6)(B);

8 “(iii) changes that potentially increase
9 the difficulty of reporting information
10 under subsection (e) or section 6(c); and

11 “(iv) changes that may disproportion-
12 ately increase the burdens on any of the
13 types of households described in subsection
14 (e)(2)(A).

15 “(B) NOTIFICATION.—If a State agency
16 implements a major change in operations, the
17 State agency shall—

18 “(i) notify the Secretary; and

19 “(ii) collect such information as the
20 Secretary shall require to identify and cor-
21 rect any adverse effects on program integ-
22 rity or access, including access by any of
23 the types of households described in sub-
24 section (e)(2)(A).”.

1 **SEC. 4117. CIVIL RIGHTS COMPLIANCE.**

2 Section 11 of the Food and Nutrition Act of 2008
3 (7 U.S.C. 2020) is amended by striking subsection (c) and
4 inserting the following:

5 “(c) CIVIL RIGHTS COMPLIANCE.—

6 “(1) IN GENERAL.—In the certification of ap-
7 plicant households for the supplemental nutrition as-
8 sistance program, there shall be no discrimination by
9 reason of race, sex, religious creed, national origin,
10 or political affiliation.

11 “(2) RELATION TO OTHER LAWS.—The admin-
12 istration of the program by a State agency shall be
13 consistent with the rights of households under the
14 following laws (including implementing regulations):

15 “(A) The Age Discrimination Act of 1975
16 (42 U.S.C. 6101 et seq.).

17 “(B) Section 504 of the Rehabilitation Act
18 of 1973 (29 U.S.C. 794).

19 “(C) The Americans with Disabilities Act
20 of 1990 (42 U.S.C. 12101 et seq.).

21 “(D) Title VI of the Civil Rights Act of
22 1964 (42 U.S.C. 2000d et seq.).”.

23 **SEC. 4118. CODIFICATION OF ACCESS RULES.**

24 Section 11(e)(1) of the Food and Nutrition Act of
25 2008 (7 U.S.C. 2020(e)(1)) is amended—

1 (1) by striking “shall (A) at” and inserting
2 “shall—
3 “(A) at”; and
4 (2) by striking “and (B) use” and inserting
5 “and
6 “(B) comply with regulations of the Sec-
7 retary requiring the use of”.

8 **SEC. 4119. STATE OPTION FOR TELEPHONIC SIGNATURE.**

9 Section 11(e)(2)(C) of the Food and Nutrition Act
10 of 2008 (7 U.S.C. 2020(e)(2)(C)) is amended—

11 (1) by striking “(C) Nothing in this Act” and
12 inserting the following:

13 “(C) ELECTRONIC AND AUTOMATED SYS-
14 TEMS.—

15 “(i) IN GENERAL.—Nothing in this
16 Act”; and

17 (2) by adding at the end the following:

18 “(ii) STATE OPTION FOR TELEPHONIC
19 SIGNATURE.—A State agency may estab-
20 lish a system by which an applicant house-
21 hold may sign an application through a re-
22 corded verbal assent over the telephone.

23 “(iii) REQUIREMENTS.—A system es-
24 tablished under clause (ii) shall—

1 “(I) record for future reference
2 the verbal assent of the household
3 member and the information to which
4 assent was given;

5 “(II) include effective safeguards
6 against impersonation, identity theft,
7 and invasions of privacy;

8 “(III) not deny or interfere with
9 the right of the household to apply in
10 writing;

11 “(IV) promptly provide to the
12 household member a written copy of
13 the completed application, with in-
14 structions for a simple procedure for
15 correcting any errors or omissions;

16 “(V) comply with paragraph
17 (1)(B);

18 “(VI) satisfy all requirements for
19 a signature on an application under
20 this Act and other laws applicable to
21 the supplemental nutrition assistance
22 program, with the date on which the
23 household member provides verbal as-
24 sent considered as the date of applica-
25 tion for all purposes; and

1 “(VII) comply with such other
2 standards as the Secretary may estab-
3 lish.”.

4 **SEC. 4120. PRIVACY PROTECTIONS.**

5 Section 11(e)(8) of the Food and Nutrition Act of
6 2008 (7 U.S.C. 2020(e)(8)) is amended—

7 (1) in the matter preceding subparagraph (A)—

8 (A) by striking “limit” and inserting “pro-
9 hibit”; and

10 (B) by striking “to persons” and all that
11 follows through “State programs”;

12 (2) by redesignating subparagraphs (A) through
13 (E) as subparagraphs (B) through (F), respectively;

14 (3) by inserting before subparagraph (B) (as so
15 redesignated) the following:

16 “(A) the safeguards shall permit—

17 “(i) the disclosure of such information
18 to persons directly connected with the ad-
19 ministration or enforcement of the provi-
20 sions of this Act, regulations issued pursu-
21 ant to this Act, Federal assistance pro-
22 grams, or federally-assisted State pro-
23 grams; and

24 “(ii) the subsequent use of the infor-
25 mation by persons described in clause (i)

1 only for such administration or enforce-
2 ment;” and

3 (4) in subparagraph (F) (as so redesignated) by
4 inserting “or subsection (u)” before the semicolon at
5 the end.

6 **SEC. 4121. PRESERVATION OF ACCESS AND PAYMENT AC-**
7 **CURACY.**

8 Section 16 of the Food and Nutrition Act of 2008
9 (7 U.S.C. 2025) is amended by striking subsection (g) and
10 inserting the following:

11 “(g) COST SHARING FOR COMPUTERIZATION.—

12 “(1) IN GENERAL.—Except as provided in para-
13 graphs (2) and (3), the Secretary is authorized to
14 pay to each State agency the amount provided under
15 subsection (a)(6) for the costs incurred by the State
16 agency in the planning, design, development, or in-
17 stallation of 1 or more automatic data processing
18 and information retrieval systems that the Secretary
19 determines—

20 “(A) would assist in meeting the require-
21 ments of this Act;

22 “(B) meet such conditions as the Secretary
23 prescribes;

1 “(C) are likely to provide more efficient
2 and effective administration of the supplemental
3 nutrition assistance program;

4 “(D) would be compatible with other sys-
5 tems used in the administration of State pro-
6 grams, including the program funded under
7 part A of title IV of the Social Security Act (42
8 U.S.C. 601 et seq.);

9 “(E) would be tested adequately before
10 and after implementation, including through
11 pilot projects in limited areas for major systems
12 changes as determined under rules promulgated
13 by the Secretary, data from which shall be thor-
14 oughly evaluated before the Secretary approves
15 the system to be implemented more broadly;
16 and

17 “(F) would be operated in accordance with
18 an adequate plan for—

19 “(i) continuous updating to reflect
20 changed policy and circumstances; and

21 “(ii) testing the effect of the system
22 on access for eligible households and on
23 payment accuracy.

1 “(2) LIMITATION.—The Secretary shall not
2 make payments to a State agency under paragraph
3 (1) to the extent that the State agency—

4 “(A) is reimbursed for the costs under any
5 other Federal program; or

6 “(B) uses the systems for purposes not
7 connected with the supplemental nutrition as-
8 sistance program.”.

9 **SEC. 4122. FUNDING OF EMPLOYMENT AND TRAINING PRO-**
10 **GRAMS.**

11 Section 16(h)(1)(A) of the Food and Nutrition Act
12 of 2008 (7 U.S.C. 2025(h)(1)(A)) is amended in subpara-
13 graph (A), by striking “to remain available until ex-
14 pended” and inserting “to remain available for 15
15 months”.

16 **PART IV—PROGRAM INTEGRITY**

17 **SEC. 4131. ELIGIBILITY DISQUALIFICATION.**

18 Section 6 of the Food and Nutrition Act of 2008 (7
19 U.S.C. 2015) is amended by adding at the end the fol-
20 lowing:

21 “(p) DISQUALIFICATION FOR OBTAINING CASH BY
22 DESTROYING FOOD AND COLLECTING DEPOSITS.—Sub-
23 ject to any requirements established by the Secretary, any
24 person who has been found by a State or Federal court
25 or administrative agency in a hearing under subsection (b)

1 to have intentionally obtained cash by purchasing products
2 with supplemental nutrition assistance program benefits
3 that have containers that require return deposits, dis-
4 carding the product, and returning the container for the
5 deposit amount shall be ineligible for benefits under this
6 Act for such period of time as the Secretary shall prescribe
7 by regulation.

8 “(q) DISQUALIFICATION FOR SALE OF FOOD PUR-
9 CHASED WITH SUPPLEMENTAL NUTRITION ASSISTANCE
10 PROGRAM BENEFITS.—Subject to any requirements es-
11 tablished by the Secretary, any person who has been found
12 by a State or Federal court or administrative agency in
13 a hearing under subsection (b) to have intentionally sold
14 any food that was purchased using supplemental nutrition
15 assistance program benefits shall be ineligible for benefits
16 under this Act for such period of time as the Secretary
17 shall prescribe by regulation.”.

18 **SEC. 4132. CIVIL PENALTIES AND DISQUALIFICATION OF**
19 **RETAIL FOOD STORES AND WHOLESALE**
20 **FOOD CONCERNS.**

21 Section 12 of the Food and Nutrition Act of 2008
22 (7 U.S.C. 2021) is amended—

23 (1) by striking the section designation and
24 heading and all that follows through the end of sub-
25 section (a) and inserting the following:

1 **“SEC. 12. CIVIL PENALTIES AND DISQUALIFICATION OF RE-**
2 **TAIL FOOD STORES AND WHOLESALE FOOD**
3 **CONCERNS.**

4 “(a) DISQUALIFICATION.—

5 “(1) IN GENERAL.—An approved retail food
6 store or wholesale food concern that violates a provi-
7 sion of this Act or a regulation under this Act may
8 be—

9 “(A) disqualified for a specified period of
10 time from further participation in the supple-
11 mental nutrition assistance program;

12 “(B) assessed a civil penalty of up to
13 \$100,000 for each violation; or

14 “(C) both.

15 “(2) REGULATIONS.—Regulations promulgated
16 under this Act shall provide criteria for the finding
17 of a violation of, the suspension or disqualification
18 of and the assessment of a civil penalty against a re-
19 tail food store or wholesale food concern on the basis
20 of evidence that may include facts established
21 through on-site investigations, inconsistent redemp-
22 tion data, or evidence obtained through a trans-
23 action report under an electronic benefit transfer
24 system.”;

25 (2) in subsection (b)—

1 (A) by striking “(b) Disqualification” and
2 inserting the following:

3 “(b) PERIOD OF DISQUALIFICATION.—Subject to
4 subsection (c), a disqualification”;

5 (B) in paragraph (1), by striking “of no
6 less than six months nor more than five years”
7 and inserting “not to exceed 5 years”;

8 (C) in paragraph (2), by striking “of no
9 less than twelve months nor more than ten
10 years” and inserting “not to exceed 10 years”;

11 (D) in paragraph (3)(B)—

12 (i) by inserting “or a finding of the
13 unauthorized redemption, use, transfer, ac-
14 quisition, alteration, or possession of EBT
15 cards” after “concern” the first place it
16 appears; and

17 (ii) by striking “civil money penalties”
18 and inserting “civil penalties”; and

19 (E) by striking “civil money penalty” each
20 place it appears and inserting “civil penalty”;

21 (3) in subsection (c)—

22 (A) by striking “(c) The action” and in-
23 serting the following:

24 “(c) CIVIL PENALTY AND REVIEW OF DISQUALIFICA-
25 TION AND PENALTY DETERMINATIONS.—

1 “(1) CIVIL PENALTY.—In addition to a dis-
2 qualification under this section, the Secretary may
3 assess a civil penalty in an amount not to exceed
4 \$100,000 for each violation.

5 “(2) REVIEW.—The action”; and

6 (B) in paragraph (2) (as designated by
7 subparagraph (A)), by striking “civil money
8 penalty” and inserting “civil penalty”;

9 (4) in subsection (d)—

10 (A) by striking “(d)” and all that follows
11 through “. The Secretary shall” and inserting
12 the following:

13 “(d) CONDITIONS OF AUTHORIZATION.—

14 “(1) IN GENERAL.—As a condition of author-
15 ization to accept and redeem benefits, the Secretary
16 may require a retail food store or wholesale food
17 concern that, pursuant to subsection (a), has been
18 disqualified for more than 180 days, or has been
19 subjected to a civil penalty in lieu of a disqualifica-
20 tion period of more than 180 days, to furnish a col-
21 lateral bond or irrevocable letter of credit for a pe-
22 riod of not more than 5 years to cover the value of
23 benefits that the store or concern may in the future
24 accept and redeem in violation of this Act.

1 “(2) COLLATERAL.—The Secretary also may
2 require a retail food store or wholesale food concern
3 that has been sanctioned for a violation and incurs
4 a subsequent sanction regardless of the length of the
5 disqualification period to submit a collateral bond or
6 irrevocable letter of credit.

7 “(3) BOND REQUIREMENTS.—The Secretary
8 shall”;

9 (B) by striking “If the Secretary finds”
10 and inserting the following

11 “(4) FORFEITURE.—If the Secretary finds”;
12 and

13 (C) by striking “Such store or concern”
14 and inserting the following:

15 “(5) HEARING.—A store or concern described
16 in paragraph (4)”;

17 (5) in subsection (e), by striking “civil money
18 penalty” each place it appears and inserting “civil
19 penalty”; and

20 (6) by adding at the end the following:

21 “(h) FLAGRANT VIOLATIONS.—

22 “(1) IN GENERAL.—The Secretary, in consulta-
23 tion with the Inspector General of the Department
24 of Agriculture, shall establish procedures under
25 which the processing of program benefit redemptions

1 for a retail food store or wholesale food concern may
2 be immediately suspended pending administrative
3 action to disqualify the retail food store or wholesale
4 food concern.

5 “(2) REQUIREMENTS.—Under the procedures
6 described in paragraph (1), if the Secretary, in con-
7 sultation with the Inspector General, determines
8 that a retail food store or wholesale food concern is
9 engaged in flagrant violations of this Act (including
10 regulations promulgated under this Act), unsettled
11 program benefits that have been redeemed by the re-
12 tail food store or wholesale food concern—

13 “(A) may be suspended; and

14 “(B)(i) if the program disqualification is
15 upheld, may be subject to forfeiture pursuant to
16 section 15(g); or

17 “(ii) if the program disqualification is not
18 upheld, shall be released to the retail food store
19 or wholesale food concern.

20 “(3) NO LIABILITY FOR INTEREST.—The Sec-
21 retary shall not be liable for the value of any interest
22 on funds suspended under this subsection.”.

1 **SEC. 4133. MAJOR SYSTEMS FAILURES.**

2 Section 13(b) of the Food and Nutrition Act of 2008
3 (7 U.S.C. 2022(b)) is amended by adding at the end the
4 following:

5 “(5) OVERISSUANCES CAUSED BY SYSTEMIC
6 STATE ERRORS.—

7 “(A) IN GENERAL.—If the Secretary deter-
8 mines that a State agency overissued benefits to
9 a substantial number of households in a fiscal
10 year as a result of a major systemic error by
11 the State agency, as defined by the Secretary,
12 the Secretary may prohibit the State agency
13 from collecting these overissuances from some
14 or all households.

15 “(B) PROCEDURES.—

16 “(i) INFORMATION REPORTING BY
17 STATES.—Every State agency shall provide
18 to the Secretary all information requested
19 by the Secretary concerning the issuance of
20 benefits to households by the State agency
21 in the applicable fiscal year.

22 “(ii) FINAL DETERMINATION.—After
23 reviewing relevant information provided by
24 a State agency, the Secretary shall make a
25 final determination—

1 “(I) whether the State agency
2 overissued benefits to a substantial
3 number of households as a result of a
4 systemic error in the applicable fiscal
5 year; and

6 “(II) as to the amount of the
7 overissuance in the applicable fiscal
8 year for which the State agency is lia-
9 ble.

10 “(iii) ESTABLISHING A CLAIM.—Upon
11 determining under clause (ii) that a State
12 agency has overissued benefits to house-
13 holds due to a major systemic error deter-
14 mined under subparagraph (A), the Sec-
15 retary shall establish a claim against the
16 State agency equal to the value of the
17 overissuance caused by the systemic error.

18 “(iv) ADMINISTRATIVE AND JUDICIAL
19 REVIEW.—Administrative and judicial re-
20 view, as provided in section 14, shall apply
21 to the final determinations by the Sec-
22 retary under clause (ii).

23 “(v) REMISSION TO THE SEC-
24 RETARY.—

1 “(I) DETERMINATION NOT AP-
2 PEALED.—If the determination of the
3 Secretary under clause (ii) is not ap-
4 pealed, the State agency shall, as soon
5 as practicable, remit to the Secretary
6 the dollar amount specified in the
7 claim under clause (iii).

8 “(II) DETERMINATION AP-
9 PEALED.—If the determination of the
10 Secretary under clause (ii) is ap-
11 pealed, upon completion of adminis-
12 trative and judicial review under
13 clause (iv), and a finding of liability
14 on the part of the State, the appealing
15 State agency shall, as soon as prac-
16 ticable, remit to the Secretary a dollar
17 amount subject to the finding made in
18 the administrative and judicial review.

19 “(vi) ALTERNATIVE METHOD OF COL-
20 LECTION.—

21 “(I) IN GENERAL.—If a State
22 agency fails to make a payment under
23 clause (v) within a reasonable period
24 of time, as determined by the Sec-
25 retary, the Secretary may reduce any

1 amount due to the State agency under
2 any other provision of this Act by the
3 amount due.

4 “(II) ACCRUAL OF INTEREST.—
5 During the period of time determined
6 by the Secretary to be reasonable
7 under subclause (I), interest in the
8 amount owed shall not accrue.

9 “(vii) LIMITATION.—Any liability
10 amount established under section
11 16(c)(1)(C) shall be reduced by the
12 amount of the claim established under this
13 subparagraph.”.

14 **PART V—MISCELLANEOUS**

15 **SEC. 4141. PILOT PROJECTS TO EVALUATE HEALTH AND**
16 **NUTRITION PROMOTION IN THE SUPPLE-**
17 **MENTAL NUTRITION ASSISTANCE PROGRAM.**

18 Section 17 of the Food and Nutrition Act of 2008
19 (7 U.S.C. 2026) is amended by adding at the end the fol-
20 lowing:

21 “(k) PILOT PROJECTS TO EVALUATE HEALTH AND
22 NUTRITION PROMOTION IN THE SUPPLEMENTAL NUTRI-
23 TION ASSISTANCE PROGRAM.—

24 “(1) IN GENERAL.—The Secretary shall carry
25 out, under such terms and conditions as the Sec-

1 retary considers to be appropriate, pilot projects to
2 develop and test methods—

3 “(A) of using the supplemental nutrition
4 assistance program to improve the dietary and
5 health status of households eligible for or par-
6 ticipating in the supplemental nutrition assist-
7 ance program; and

8 “(B) to reduce overweight, obesity (includ-
9 ing childhood obesity), and associated co-
10 morbidity in the United States.

11 “(2) GRANTS.—

12 “(A) IN GENERAL.—In carrying out this
13 subsection, the Secretary may enter into com-
14 petitively awarded contracts or cooperative
15 agreements with, or provide grants to, public or
16 private organizations or agencies (as defined by
17 the Secretary), for use in accordance with
18 projects that meet the strategy goals of this
19 subsection.

20 “(B) APPLICATION.—To be eligible to re-
21 ceive a contract, cooperative agreement, or
22 grant under this paragraph, an organization
23 shall submit to the Secretary an application at
24 such time, in such manner, and containing such
25 information as the Secretary may require.

1 “(C) SELECTION CRITERIA.—Pilot projects
2 shall be evaluated against publicly disseminated
3 criteria that may include—

4 “(i) identification of a low-income tar-
5 get audience that corresponds to individ-
6 uals living in households with incomes at
7 or below 185 percent of the poverty level;

8 “(ii) incorporation of a scientifically
9 based strategy that is designed to improve
10 diet quality through more healthful food
11 purchases, preparation, or consumption;

12 “(iii) a commitment to a pilot project
13 that allows for a rigorous outcome evalua-
14 tion, including data collection;

15 “(iv) strategies to improve the nutri-
16 tional value of food served during school
17 hours and during after-school hours;

18 “(v) innovative ways to provide sig-
19 nificant improvement to the health and
20 wellness of children;

21 “(vi) other criteria, as determined by
22 the Secretary.

23 “(D) USE OF FUNDS.—Funds provided
24 under this paragraph shall not be used for any

1 project that limits the use of benefits under this
2 Act.

3 “(3) PROJECTS.—Pilot projects carried out
4 under paragraph (1) may include projects to deter-
5 mine whether healthier food purchases by and
6 healthier diets among households participating in
7 the supplemental nutrition assistance program result
8 from projects that—

9 “(A) increase the supplemental nutrition
10 assistance purchasing power of the participating
11 households by providing increased supplemental
12 nutrition assistance program benefit allotments
13 to the participating households;

14 “(B) increase access to farmers markets by
15 participating households through the electronic
16 redemption of supplemental nutrition assistance
17 program benefits at farmers’ markets;

18 “(C) provide incentives to authorized sup-
19 plemental nutrition assistance program retailers
20 to increase the availability of healthy foods to
21 participating households;

22 “(D) subject authorized supplemental nu-
23 trition assistance program retailers to stricter
24 retailer requirements with respect to carrying
25 and stocking healthful foods;

1 “(E) provide incentives at the point of pur-
2 chase to encourage households participating in
3 the supplemental nutrition assistance program
4 to purchase fruits, vegetables, or other healthful
5 foods; or

6 “(F) provide to participating households
7 integrated communication and education pro-
8 grams, including the provision of funding for a
9 portion of a school-based nutrition coordinator
10 to implement a broad nutrition action plan and
11 parent nutrition education programs in elemen-
12 tary schools, separately or in combination with
13 pilot projects carried out under subparagraphs
14 (A) through (E).

15 “(4) EVALUATION AND REPORTING.—

16 “(A) EVALUATION.—

17 “(i) INDEPENDENT EVALUATION.—

18 “(I) IN GENERAL.—The Sec-
19 retary shall provide for an inde-
20 pendent evaluation of projects selected
21 under this subsection that measures
22 the impact of the pilot program on
23 health and nutrition as described in
24 paragraph (1).

1 “(II) REQUIREMENT.—The inde-
2 pendent evaluation under subclause
3 (I) shall use rigorous methodologies,
4 particularly random assignment or
5 other methods that are capable of pro-
6 ducing scientifically valid information
7 regarding which activities are effec-
8 tive.

9 “(ii) COSTS.—The Secretary may use
10 funds provided to carry out this section to
11 pay costs associated with monitoring and
12 evaluating each pilot project.

13 “(B) REPORTING.—Not later than 90 days
14 after the last day of fiscal year 2009 and each
15 fiscal year thereafter until the completion of the
16 last evaluation under subparagraph (A), the
17 Secretary shall submit to the Committee on Ag-
18 riculture of the House of Representatives and
19 the Committee on Agriculture, Nutrition, and
20 Forestry of the Senate a report that includes a
21 description of—

22 “(i) the status of each pilot project;

23 “(ii) the results of the evaluation com-
24 pleted during the previous fiscal year; and

1 “(iii) to the maximum extent prac-
2 ticable—

3 “(I) the impact of the pilot
4 project on appropriate health, nutri-
5 tion, and associated behavioral out-
6 comes among households participating
7 in the pilot project;

8 “(II) baseline information rel-
9 evant to the stated goals and desired
10 outcomes of the pilot project; and

11 “(III) equivalent information
12 about similar or identical measures
13 among control or comparison groups
14 that did not participate in the pilot
15 project.

16 “(C) PUBLIC DISSEMINATION.—In addi-
17 tion to the reporting requirements under sub-
18 paragraph (B), evaluation results shall be
19 shared broadly to inform policy makers, service
20 providers, other partners, and the public in
21 order to promote wide use of successful strate-
22 gies.

23 “(5) FUNDING.—

24 “(A) AUTHORIZATION OF APPROPRIA-
25 TIONS.—There are authorized to be appro-

1 priated such sums as are necessary to carry out
2 this section for each of fiscal years 2008
3 through 2012.

4 “(B) MANDATORY FUNDING.—Out of any
5 funds made available under section 18, on Octo-
6 ber 1, 2008, the Secretary shall make available
7 \$20,000,000 to carry out a project described in
8 paragraph (3)(E), to remain available until ex-
9 pended.”.

10 **SEC. 4142. STUDY ON COMPARABLE ACCESS TO SUPPLE-**
11 **MENTAL NUTRITION ASSISTANCE FOR PUER-**
12 **TO RICO.**

13 (a) IN GENERAL.—The Secretary shall carry out a
14 study of the feasibility and effects of including the Com-
15 monwealth of Puerto Rico in the definition of the term
16 “State” under section 3 of the Food and Nutrition Act
17 of 2008 (7 U.S.C. 2012), in lieu of providing block grants
18 under section 19 of that Act (7 U.S.C. 2028).

19 (b) INCLUSIONS.—The study shall include—

20 (1) an assessment of the administrative, finan-
21 cial management, and other changes that would be
22 necessary for the Commonwealth to establish a com-
23 parable supplemental nutrition assistance program,
24 including compliance with appropriate program rules

1 under the Food and Nutrition Act of 2008 (7 U.S.C.
2 2011 et seq.), such as—

3 (A) benefit levels under section 3(u) of
4 that Act (7 U.S.C. 2012(u));

5 (B) income eligibility standards under sec-
6 tions 5(c) and 6 of that Act (7 U.S.C. 2014(e),
7 2015); and

8 (C) deduction levels under section 5(e) of
9 that Act (7 U.S.C. 2014(e));

10 (2) an estimate of the impact on Federal and
11 Commonwealth benefit and administrative costs;

12 (3) an assessment of the impact of the program
13 on low-income Puerto Ricans, as compared to the
14 program under section 19 of that Act (7 U.S.C.
15 2028); and

16 (4) such other matters as the Secretary con-
17 siders to be appropriate.

18 (c) REPORT.—Not later than 2 years after the date
19 of enactment of this Act, the Secretary shall submit to
20 the Committee on Agriculture of the House of Representa-
21 tives and the Committee on Agriculture, Nutrition, and
22 Forestry of the Senate a report that describes the results
23 of the study conducted under this section.

24 (d) FUNDING.—

1 chase a dollar amount described in paragraph (2)
2 of”; and

3 (2) by adding at the end the following:

4 “(2) AMOUNTS.—The Secretary shall use to
5 carry out paragraph (1)—

6 “(A) for fiscal year 2008, \$190,000,000;

7 “(B) for fiscal year 2009, \$250,000,000;

8 and

9 “(C) for each of fiscal years 2010 through
10 2012, the dollar amount of commodities speci-
11 fied in subparagraph (B) adjusted by the per-
12 centage by which the thrifty food plan has been
13 adjusted under section 3(u)(4) between June
14 30, 2008, and June 30 of the immediately pre-
15 ceding fiscal year.”.

16 (b) STATE PLANS.—Section 202A of the Emergency
17 Food Assistance Act of 1983 (7 U.S.C. 7503) is amended
18 by striking subsection (a) and inserting the following:

19 “(a) PLANS.—

20 “(1) IN GENERAL.—To receive commodities
21 under this Act, a State shall submit to the Secretary
22 an operation and administration plan for the provi-
23 sion of benefits under this Act.

24 “(2) UPDATES.—A State shall submit to the
25 Secretary for approval any amendment to a plan

1 submitted under paragraph (1) in any case in which
2 the State proposes to make a change to the oper-
3 ation or administration of a program described in
4 the plan.”.

5 (c) AUTHORIZATION AND APPROPRIATIONS.—Section
6 204(a)(1) of the Emergency Food Assistance Act of 1983
7 (7 U.S.C. 7508(a)(1)) is amended in the first sentence—
8 (1) by striking “\$60,000,000” and inserting
9 “\$100,000,000”; and
10 (2) by inserting “and donated wild game” be-
11 fore the period at the end.

12 **SEC. 4202. EMERGENCY FOOD PROGRAM INFRASTRUCTURE**
13 **GRANTS.**

14 The Emergency Food Assistance Act of 1983 is
15 amended by inserting after section 208 (7 U.S.C. 7511)
16 the following:

17 **“SEC. 209. EMERGENCY FOOD PROGRAM INFRASTRUCTURE**
18 **GRANTS.**

19 “(a) DEFINITION OF ELIGIBLE ENTITY.—In this sec-
20 tion, the term ‘eligible entity’ means an emergency feeding
21 organization.

22 “(b) PROGRAM AUTHORIZED.—

23 “(1) IN GENERAL.—The Secretary shall use
24 funds made available under subsection (d) to make

1 grants to eligible entities to pay the costs of an ac-
2 tivity described in subsection (c).

3 “(2) RURAL PREFERENCE.—The Secretary
4 shall use not less than 50 percent of the funds de-
5 scribed in paragraph (1) for a fiscal year to make
6 grants to eligible entities that serve predominantly
7 rural communities for the purposes of—

8 “(A) expanding the capacity and infra-
9 structure of food banks, State-wide food bank
10 associations, and food bank collaboratives that
11 operate in rural areas; and

12 “(B) improving the capacity of the food
13 banks to procure, receive, store, distribute,
14 track, and deliver time-sensitive or perishable
15 food products.

16 “(c) USE OF FUNDS.—An eligible entity shall use a
17 grant received under this section for any fiscal year to
18 carry out activities of the eligible entity, including—

19 “(1) the development and maintenance of a
20 computerized system for the tracking of time-sen-
21 sitive food products;

22 “(2) capital, infrastructure, and operating costs
23 associated with the collection, storage, distribution,
24 and transportation of time-sensitive and perishable
25 food products;

1 “(3) improving the security and diversity of the
2 emergency food distribution and recovery systems of
3 the United States through the support of small or
4 mid-size farms and ranches, fisheries, and aqua-
5 culture, and donations from local food producers and
6 manufacturers to persons in need;

7 “(4) providing recovered foods to food banks
8 and similar nonprofit emergency food providers to
9 reduce hunger in the United States;

10 “(5) improving the identification of—

11 “(A) potential providers of donated foods;

12 “(B) potential nonprofit emergency food
13 providers; and

14 “(C) persons in need of emergency food as-
15 sistance in rural areas; and

16 “(6) constructing, expanding, or repairing a fa-
17 cility or equipment to support hunger relief agencies
18 in the community.

19 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
20 is authorized to be appropriated to carry out this section
21 \$15,000,000 for each of fiscal years 2008 through 2012.”.

1 **PART II—FOOD DISTRIBUTION PROGRAM ON**

2 **INDIAN RESERVATIONS**

3 **SEC. 4211. ASSESSING THE NUTRITIONAL VALUE OF THE**

4 **FDPIR FOOD PACKAGE.**

5 (a) IN GENERAL.—Section 4 of the Food and Nutri-
6 tion Act of 2008 (7 U.S.C. 2013) is amended by striking
7 subsection (b) and inserting the following:

8 “(b) FOOD DISTRIBUTION PROGRAM ON INDIAN
9 RESERVATIONS.—

10 “(1) IN GENERAL.—Distribution of commod-
11 ities, with or without the supplemental nutrition as-
12 sistance program, shall be made whenever a request
13 for concurrent or separate food program operations,
14 respectively, is made by a tribal organization.

15 “(2) ADMINISTRATION.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graphs (B) and (C), in the event of distribution
18 on all or part of an Indian reservation, the ap-
19 propriate agency of the State government in the
20 area involved shall be responsible for the dis-
21 tribution.

22 “(B) ADMINISTRATION BY TRIBAL ORGANI-
23 ZATION.—If the Secretary determines that a
24 tribal organization is capable of effectively and
25 efficiently administering a distribution de-

1 scribed in paragraph (1), then the tribal organi-
2 zation shall administer the distribution.

3 “(C) PROHIBITION.—The Secretary shall
4 not approve any plan for a distribution de-
5 scribed in paragraph (1) that permits any
6 household on any Indian reservation to partici-
7 pate simultaneously in the supplemental nutri-
8 tion assistance program and the program estab-
9 lished under this subsection.

10 “(3) DISQUALIFIED PARTICIPANTS.—An indi-
11 vidual who is disqualified from participation in the
12 food distribution program on Indian reservations
13 under this subsection is not eligible to participate in
14 the supplemental nutrition assistance program under
15 this Act for a period of time to be determined by the
16 Secretary.

17 “(4) ADMINISTRATIVE COSTS.—The Secretary
18 is authorized to pay such amounts for administrative
19 costs and distribution costs on Indian reservations
20 as the Secretary finds necessary for effective admin-
21 istration of such distribution by a State agency or
22 tribal organization.

23 “(5) BISON MEAT.—Subject to the availability
24 of appropriations to carry out this paragraph, the
25 Secretary may purchase bison meat for recipients of

1 food distributed under this subsection, including
2 bison meat from—

3 “(A) Native American bison producers;
4 and

5 “(B) producer-owned cooperatives of bison
6 ranchers.

7 “(6) TRADITIONAL AND LOCALLY-GROWN FOOD
8 FUND.—

9 “(A) IN GENERAL.—Subject to the avail-
10 ability of appropriations, the Secretary shall es-
11 tablish a fund for use in purchasing traditional
12 and locally-grown foods for recipients of food
13 distributed under this subsection.

14 “(B) NATIVE AMERICAN PRODUCERS.—
15 Where practicable, of the food provided under
16 subparagraph (A), at least 50 percent shall be
17 produced by Native American farmers, ranch-
18 ers, and producers.

19 “(C) DEFINITION OF TRADITIONAL AND
20 LOCALLY GROWN.—The Secretary shall deter-
21 mine the definition of the term ‘traditional and
22 locally-grown’ with respect to food distributed
23 under this paragraph.

24 “(D) SURVEY.—In carrying out this para-
25 graph, the Secretary shall—

1 “(i) survey participants of the food
2 distribution program on Indian reserva-
3 tions established under this subsection to
4 determine which traditional foods are most
5 desired by those participants; and

6 “(ii) purchase or offer to purchase
7 those traditional foods that may be pro-
8 cured cost-effectively.

9 “(E) REPORT.—Not later than 1 year
10 after the date of enactment of this paragraph,
11 and annually thereafter, the Secretary shall
12 submit to the Committee on Agriculture of the
13 House of Representatives and the Committee
14 on Agriculture, Nutrition, and Forestry of the
15 Senate a report describing the activities carried
16 out under this paragraph during the preceding
17 calendar year.

18 “(F) AUTHORIZATION OF APPROPRIA-
19 TIONS.—There is authorized to be appropriated
20 to the Secretary to carry out this paragraph
21 \$5,000,000 for each of fiscal years 2008
22 through 2012.”.

23 (b) FDPIR FOOD PACKAGE.—Not later than 180
24 days after the date of enactment of this Act, the Secretary
25 shall submit to the Committee on Agriculture of the House

1 of Representatives and the Committee on Agriculture, Nu-
2 trition, and Forestry of the Senate a report that de-
3 scribes—

4 (1) how the Secretary derives the process for
5 determining the food package under the food dis-
6 tribution program on Indian reservations established
7 under section 4(b) of the Food and Nutrition Act of
8 2008 (7 U.S.C. 2013(b)) (referred to in this sub-
9 section as the “food package”);

10 (2) the extent to which the food package—

11 (A) addresses the nutritional needs of low-
12 income Native Americans compared to the sup-
13 plemental nutrition assistance program, par-
14 ticularly for very low-income households;

15 (B) conforms (or fails to conform) to the
16 2005 Dietary Guidelines for Americans pub-
17 lished under section 301 of the National Nutri-
18 tion Monitoring and Related Research Act of
19 1990 (7 U.S.C. 5341);

20 (C) addresses (or fails to address) the nu-
21 tritional and health challenges that are specific
22 to Native Americans; and

23 (D) is limited by distribution costs or chal-
24 lenges in infrastructure; and

1 **PART IV—SENIOR FARMERS’ MARKET**

2 **NUTRITION PROGRAM**

3 **SEC. 4231. SENIORS FARMERS’ MARKET NUTRITION PRO-**
4 **GRAM.**

5 Section 4402 of the Farm Security and Rural Invest-
6 ment Act of 2002 (7 U.S.C. 3007) is amended—

7 (1) in subsection (b)(1), by inserting “honey,”
8 after “vegetables,”;

9 (2) by striking subsection (c) and inserting the
10 following:

11 “(c) **EXCLUSION OF BENEFITS IN DETERMINING**
12 **ELIGIBILITY FOR OTHER PROGRAMS.**—The value of any
13 benefit provided to any eligible seniors farmers’ market
14 nutrition program recipient under this section shall not
15 be considered to be income or resources for any purposes
16 under any Federal, State, or local law.”; and

17 (3) by adding at the end the following:

18 “(d) **PROHIBITION ON COLLECTION OF SALES**
19 **TAX.**—Each State shall ensure that no State or local tax
20 is collected within the State on a purchase of food with
21 a benefit distributed under the seniors farmers’ market
22 nutrition program.

23 “(e) **REGULATIONS.**—The Secretary may promulgate
24 such regulations as the Secretary considers to be nec-
25 essary to carry out the seniors farmers’ market nutrition
26 program.”.

1 **Subtitle C—Child Nutrition and**
2 **Related Programs**

3 **SEC. 4301. STATE PERFORMANCE ON ENROLLING CHIL-**
4 **DREN RECEIVING PROGRAM BENEFITS FOR**
5 **FREE SCHOOL MEALS.**

6 (a) IN GENERAL.—Not later than December 31,
7 2008 and June 30 of each year thereafter, the Secretary
8 shall submit to the Committees on Agriculture and Edu-
9 cation and Labor of the House of Representatives and the
10 Committee on Agriculture, Nutrition, and Forestry of the
11 Senate a report that assesses the effectiveness of each
12 State in enrolling school-aged children in households re-
13 ceiving program benefits under the Food and Nutrition
14 Act of 2008 (7 U.S.C. 2011 et seq.) (referred to in this
15 section as “program benefits”) for free school meals using
16 direct certification.

17 (b) SPECIFIC MEASURES.—The assessment of the
18 Secretary of the performance of each State shall include—

19 (1) an estimate of the number of school-aged
20 children, by State, who were members of a house-
21 hold receiving program benefits at any time in July,
22 August, or September of the prior year;

23 (2) an estimate of the number of school-aged
24 children, by State, who were directly certified as eli-
25 gible for free lunches under the Richard B. Russell

1 National School Lunch Act (42 U.S.C. 1751 et
2 seq.), based on receipt of program benefits, as of Oc-
3 tober 1 of the prior year; and

4 (3) an estimate of the number of school-aged
5 children, by State, who were members of a house-
6 hold receiving program benefits at any time in July,
7 August, or September of the prior year who were not
8 candidates for direct certification because on Octo-
9 ber 1 of the prior year the children attended a
10 school operating under the special assistance provi-
11 sions of section 11(a)(1) of the Richard B. Russell
12 National School Lunch Act (42 U.S.C. 1759a(a)(1))
13 that is not operating in a base year.

14 (c) PERFORMANCE INNOVATIONS.—The report of the
15 Secretary shall describe best practices from States with
16 the best performance or the most improved performance
17 from the previous year.

18 **SEC. 4302. PURCHASES OF LOCALLY PRODUCED FOODS.**

19 Section 9(j) of the Richard B. Russell National
20 School Lunch Act (42 U.S.C. 1758(j)) is amended to read
21 as follows:

22 “(j) PURCHASES OF LOCALLY PRODUCED FOODS.—
23 The Secretary shall—

24 “(1) encourage institutions receiving funds
25 under this Act and the Child Nutrition Act of 1966

1 (42 U.S.C. 1771 et seq.) to purchase unprocessed
2 agricultural products, both locally grown and locally
3 raised, to the maximum extent practicable and ap-
4 propriate;

5 “(2) advise institutions participating in a pro-
6 gram described in paragraph (1) of the policy de-
7 scribed in that paragraph and paragraph (3) and
8 post information concerning the policy on the
9 website maintained by the Secretary; and

10 “(3) allow institutions receiving funds under
11 this Act and the Child Nutrition Act of 1966 (42
12 U.S.C. 1771 et seq.), including the Department of
13 Defense Fresh Fruit and Vegetable Program, to use
14 a geographic preference for the procurement of un-
15 processed agricultural products, both locally grown
16 and locally raised.”.

17 **SEC. 4303. HEALTHY FOOD EDUCATION AND PROGRAM**
18 **REPLICABILITY.**

19 Section 18(h) of the Richard B. Russell National
20 School Lunch Act (42 U.S.C. 1769(h)) is amended—

21 (1) in paragraph (1)(C), by inserting “promotes
22 healthy food education in the school curriculum
23 and” before “incorporates”;

24 (2) by redesignating paragraph (2) as para-
25 graph (4); and

1 (3) by inserting after paragraph (1) the fol-
2 lowing:

3 “(2) ADMINISTRATION.—In providing grants
4 under paragraph (1), the Secretary shall give pri-
5 ority to projects that can be replicated in schools.

6 “(3) PILOT PROGRAM FOR HIGH-POVERTY
7 SCHOOLS.—

8 “(A) DEFINITIONS.—In this paragraph:

9 “(i) ELIGIBLE PROGRAM.—The term
10 ‘eligible program’ means—

11 “(I) a school-based program with
12 hands-on vegetable gardening and nu-
13 trition education that is incorporated
14 into the curriculum for 1 or more
15 grades at 2 or more eligible schools;
16 or

17 “(II) a community-based summer
18 program with hands-on vegetable gar-
19 dening and nutrition education that is
20 part of, or coordinated with, a sum-
21 mer enrichment program at 2 or more
22 eligible schools.

23 “(ii) ELIGIBLE SCHOOL.—The term
24 ‘eligible school’ means a public school, at
25 least 50 percent of the students of which

1 are eligible for free or reduced price meals
2 under this Act.

3 “(B) ESTABLISHMENT.—The Secretary
4 shall carry out a pilot program under which the
5 Secretary shall provide to nonprofit organiza-
6 tions or public entities in not more than 5
7 States grants to develop and run, through eligi-
8 ble programs, community gardens at eligible
9 schools in the States that would—

10 “(i) be planted, cared for, and har-
11 vested by students at the eligible schools;
12 and

13 “(ii) teach the students participating
14 in the community gardens about agri-
15 culture production practices and diet.

16 “(C) PRIORITY STATES.—Of the States in
17 which grantees under this paragraph are lo-
18 cated—

19 “(i) at least 1 State shall be among
20 the 15 largest States, as determined by the
21 Secretary;

22 “(ii) at least 1 State shall be among
23 the 16th to 30th largest States, as deter-
24 mined by the Secretary; and

1 “(iii) at least 1 State shall be a State
2 that is not described in clause (i) or (ii).

3 “(D) USE OF PRODUCE.—Produce from a
4 community garden provided a grant under this
5 paragraph may be—

6 “(i) used to supplement food provided
7 at the eligible school;

8 “(ii) distributed to students to bring
9 home to the families of the students; or

10 “(iii) donated to a local food bank or
11 senior center nutrition program.

12 “(E) NO COST-SHARING REQUIREMENT.—
13 A nonprofit organization or public entity that
14 receives a grant under this paragraph shall not
15 be required to share the cost of carrying out the
16 activities assisted under this paragraph.

17 “(F) EVALUATION.—A nonprofit organiza-
18 tion or public entity that receives a grant under
19 this paragraph shall be required to cooperate in
20 an evaluation in accordance with paragraph
21 (1)(H).”.

22 **SEC. 4304. FRESH FRUIT AND VEGETABLE PROGRAM.**

23 (a) PROGRAM.—

1 (1) IN GENERAL.—The Richard B. Russell Na-
2 tional School Lunch Act is amended by inserting
3 after section 18 (42 U.S.C. 1769) the following:

4 **“SEC. 19. FRESH FRUIT AND VEGETABLE PROGRAM.**

5 “(a) IN GENERAL.—For the school year beginning
6 July 2008 and each subsequent school year, the Secretary
7 shall provide grants to States to carry out a program to
8 make free fresh fruits and vegetables available in elemen-
9 tary schools (referred to in this section as the ‘program’).

10 “(b) PROGRAM.—A school participating in the pro-
11 gram shall make free fresh fruits and vegetables available
12 to students throughout the school day (or at such other
13 times as are considered appropriate by the Secretary) in
14 1 or more areas designated by the school.

15 “(c) FUNDING TO STATES.—

16 “(1) MINIMUM GRANT.—Except as provided in
17 subsection (i)(2), the Secretary shall provide to each
18 of the 50 States and the District of Columbia an an-
19 nual grant in an amount equal to 1 percent of the
20 funds made available for a year to carry out the pro-
21 gram.

22 “(2) ADDITIONAL FUNDING.—Of the funds re-
23 maining after grants are made under paragraph (1),
24 the Secretary shall allocate additional funds to each

1 State that is operating a school lunch program
2 under section 4 based on the proportion that—

3 “(A) the population of the State; bears to

4 “(B) the population of the United States.

5 “(d) SELECTION OF SCHOOLS.—

6 “(1) IN GENERAL.—Except as provided in para-
7 graph (2) of this subsection and section 4304(a)(2)
8 of the Food, Conservation, and Energy Act of 2008,
9 each year, in selecting schools to participate in the
10 program, each State shall—

11 “(A) ensure that each school chosen to
12 participate in the program is a school—

13 “(i) in which not less than 50 percent
14 of the students are eligible for free or re-
15 duced price meals under this Act; and

16 “(ii) that submits an application in
17 accordance with subparagraph (D);

18 “(B) to the maximum extent practicable,
19 give the highest priority to schools with the
20 highest proportion of children who are eligible
21 for free or reduced price meals under this Act;

22 “(C) ensure that each school selected is an
23 elementary school (as defined in section 9101 of
24 the Elementary and Secondary Education Act
25 of 1965 (20 U.S.C. 7801));

1 “(D) solicit applications from interested
2 schools that include—

3 “(i) information pertaining to the per-
4 centage of students enrolled in the school
5 submitting the application who are eligible
6 for free or reduced price school lunches
7 under this Act;

8 “(ii) a certification of support for par-
9 ticipation in the program signed by the
10 school food manager, the school principal,
11 and the district superintendent (or equiva-
12 lent positions, as determined by the
13 school);

14 “(iii) a plan for implementation of the
15 program, including efforts to integrate ac-
16 tivities carried out under this section with
17 other efforts to promote sound health and
18 nutrition, reduce overweight and obesity,
19 or promote physical activity; and

20 “(iv) such other information as may
21 be requested by the Secretary; and

22 “(E) encourage applicants to submit a
23 plan for implementation of the program that in-
24 cludes a partnership with 1 or more entities
25 that will provide non-Federal resources (includ-

1 ing entities representing the fruit and vegetable
2 industry).

3 “(2) EXCEPTION.—Clause (i) of paragraph
4 (1)(A) shall not apply to a State if all schools that
5 meet the requirements of that clause have been se-
6 lected and the State does not have a sufficient num-
7 ber of additional schools that meet the requirement
8 of that clause.

9 “(3) OUTREACH TO LOW-INCOME SCHOOLS.—

10 “(A) IN GENERAL.—Prior to making deci-
11 sions regarding school participation in the pro-
12 gram, a State agency shall inform the schools
13 within the State with the highest proportion of
14 free and reduced price meal eligibility, including
15 Native American schools, of the eligibility of the
16 schools for the program with respect to priority
17 granted to schools with the highest proportion
18 of free and reduced price eligibility under para-
19 graph (1)(B).

20 “(B) REQUIREMENT.—In providing infor-
21 mation to schools in accordance with subpara-
22 graph (A), a State agency shall inform the
23 schools that would likely be chosen to partici-
24 pate in the program under paragraph (1)(B).

1 “(e) NOTICE OF AVAILABILITY.—If selected to par-
2 ticipate in the program, a school shall widely publicize
3 within the school the availability of free fresh fruits and
4 vegetables under the program.

5 “(f) PER-STUDENT GRANT.—The per-student grant
6 provided to a school under this section shall be—

7 “(1) determined by a State agency; and

8 “(2) not less than \$50, nor more than \$75.

9 “(g) LIMITATION.—To the maximum extent prac-
10 ticable, each State agency shall ensure that in making the
11 fruits and vegetables provided under this section available
12 to students, schools offer the fruits and vegetables sepa-
13 rately from meals otherwise provided at the school under
14 this Act or the Child Nutrition Act of 1966 (42 U.S.C.
15 1771 et seq.).

16 “(h) EVALUATION AND REPORTS.—

17 “(1) IN GENERAL.—The Secretary shall con-
18 duct an evaluation of the program, including a de-
19 termination as to whether children experienced, as a
20 result of participating in the program—

21 “(A) increased consumption of fruits and
22 vegetables;

23 “(B) other dietary changes, such as de-
24 creased consumption of less nutritious foods;
25 and

1 “(C) such other outcomes as are consid-
2 ered appropriate by the Secretary.

3 “(2) REPORT.—Not later than September 30,
4 2011, the Secretary shall submit to the Committee
5 on Education and Labor of the House of Represent-
6 atives and the Committee on Agriculture, Nutrition,
7 and Forestry of the Senate a report that describes
8 the results of the evaluation under paragraph (1).

9 “(i) FUNDING.—

10 “(1) IN GENERAL.—Out of the funds made
11 available under subsection (b)(2)(A) of section
12 14222 of the Food, Conservation, and Energy Act of
13 2008, the Secretary shall use the following amounts
14 to carry out this section:

15 “(A) On October 1, 2008, \$40,000,000.

16 “(B) On July 1, 2009, \$65,000,000.

17 “(C) On July 1, 2010, \$101,000,000.

18 “(D) On July 1, 2011, \$150,000,000.

19 “(E) On July 1, 2012, and each July 1
20 thereafter, the amount made available for the
21 preceding fiscal year, as adjusted to reflect
22 changes for the 12-month period ending the
23 preceding April 30 in the Consumer Price Index
24 for All Urban Consumers published by the Bu-

1 reau of Labor Statistics of the Department of
2 Labor, for items other than food.

3 “(2) MAINTENANCE OF EXISTING FUNDING.—

4 In allocating funding made available under para-
5 graph (1) among the States in accordance with sub-
6 section (c), the Secretary shall ensure that each
7 State that received funding under section 18(f) on
8 the day before the date of enactment of the Food,
9 Conservation, and Energy Act of 2008 shall con-
10 tinue to receive sufficient funding under this section
11 to maintain the caseload level of the State under
12 that section as in effect on that date.

13 “(3) EVALUATION FUNDING.—On October 1,
14 2008, out of any funds made available under sub-
15 section (b)(2)(A) of section 14222 of the Food, Con-
16 servation, and Energy Act of 2008, the Secretary
17 shall use to carry out the evaluation required under
18 subsection (h), \$3,000,000, to remain available for
19 obligation until September 30, 2010.

20 “(4) RECEIPT AND ACCEPTANCE.—The Sec-
21 retary shall be entitled to receive, shall accept, and
22 shall use to carry out this section any funds trans-
23 ferred for that purpose, without further appropria-
24 tion.

1 “(5) AUTHORIZATION OF APPROPRIATIONS.—In
2 addition to any other amounts made available to
3 carry out this section, there are authorized to be ap-
4 propriated such sums as are necessary to expand the
5 program established under this section.

6 “(6) ADMINISTRATIVE COSTS.—

7 “(A) IN GENERAL.—Of funds made avail-
8 able to carry out this section for a fiscal year,
9 the Secretary may use not more than \$500,000
10 for the administrative costs of carrying out the
11 program.

12 “(B) RESERVATION OF FUNDS.—The Sec-
13 retary shall allow each State to reserve such
14 funding as the Secretary determines to be nec-
15 essary to administer the program in the State
16 (with adjustments for the size of the State and
17 the grant amount), but not to exceed the
18 amount required to pay the costs of 1 full-time
19 coordinator for the program in the State.

20 “(7) REALLOCATION.—

21 “(A) AMONG STATES.—The Secretary may
22 reallocate any amounts made available to carry
23 out this section that are not obligated or ex-
24 pended by a date determined by the Secretary.

1 “(B) WITHIN STATES.—A State that re-
2 ceives a grant under this section may reallocate
3 any amounts made available under the grant
4 that are not obligated or expended by a date de-
5 termined by the Secretary.”.

6 (2) TRANSITION OF EXISTING SCHOOLS.—

7 (A) EXISTING SECONDARY SCHOOLS.—Sec-
8 tion 19(d)(1)(C) of the Richard B. Russell Na-
9 tional School Lunch Act (as amended by para-
10 graph (1)) may be waived by a State until July
11 1, 2010, for each secondary school in the State
12 that has been awarded funding under section
13 18(f) of that Act (42 U.S.C. 1769(f)) for the
14 school year beginning July 1, 2008.

15 (B) SCHOOL YEAR BEGINNING JULY 1,
16 2008.—To facilitate transition from the program
17 authorized under section 18(f) of the Richard
18 B. Russell National School Lunch Act (42
19 U.S.C. 1769(f)) (as in effect on the day before
20 the date of enactment of this Act) to the pro-
21 gram established under section 19 of that Act
22 (as amended by paragraph (1))—

23 (i) for the school year beginning July
24 1, 2008, the Secretary may permit any
25 school selected for participation under sec-

1 tion 18(f) of that Act (42 U.S.C. 1769(f))
2 for that school year to continue to partici-
3 pate under section 19 of that Act until the
4 end of that school year; and

5 (ii) funds made available under that
6 Act for fiscal year 2009 may be used to
7 support the participation of any schools se-
8 lected to participate in the program au-
9 thorized under section 18(f) of that Act
10 (42 U.S.C. 1769(f)) (as in effect on the
11 day before the date of enactment of this
12 Act).

13 (b) CONFORMING AMENDMENTS.—Section 18 of the
14 Richard B. Russell National School Lunch Act (42 U.S.C.
15 1769) is amended—

16 (1) by striking subsection (f); and

17 (2) by redesignating subsections (g) through (j)
18 as subsections (f) through (i), respectively.

19 **SEC. 4305. WHOLE GRAIN PRODUCTS.**

20 (a) PURPOSE.—The purpose of this section is to en-
21 courage greater awareness and interest in the number and
22 variety of whole grain products available to schoolchildren,
23 as recommended by the 2005 Dietary Guidelines for
24 Americans.

1 (b) DEFINITION OF ELIGIBLE WHOLE GRAINS AND
2 WHOLE GRAIN PRODUCTS.—In this section, the terms
3 “whole grains” and “whole grain products” have the
4 meaning given the terms by the Food and Nutrition Serv-
5 ice in the HealthierUS School Challenge.

6 (c) PURCHASE OF WHOLE GRAINS AND WHOLE
7 GRAIN PRODUCTS.—In addition to the commodities deliv-
8 ered under section 6 of the Richard B. Russell National
9 School Lunch Act (42 U.S.C. 1755), the Secretary shall
10 purchase whole grains and whole grain products for use
11 in—

12 (1) the school lunch program established under
13 the Richard B. Russell National School Lunch Act
14 (42 U.S.C. 1751 et seq.); and

15 (2) the school breakfast program established by
16 section 4 of the Child Nutrition Act of 1966 (42
17 U.S.C. 1773).

18 (d) EVALUATION.—Not later than September 30,
19 2011, the Secretary shall conduct an evaluation of the ac-
20 tivities conducted under subsection (c) that includes—

21 (1) an evaluation of whether children partici-
22 pating in the school lunch and breakfast programs
23 increased their consumption of whole grains;

1 (2) an evaluation of which whole grains and
2 whole grain products are most acceptable for use in
3 the school lunch and breakfast programs;

4 (3) any recommendations of the Secretary re-
5 garding the integration of whole grain products in
6 the school lunch and breakfast programs; and

7 (4) an evaluation of any other outcomes deter-
8 mined to be appropriate by the Secretary.

9 (e) REPORT.—As soon as practicable after the com-
10 pletion of the evaluation under subsection (d), the Sec-
11 retary shall submit to the Committee on Agriculture, Nu-
12 trition, and Forestry of the Senate and the Committee on
13 Education and Labor of the House of Representative a
14 report describing the results of the evaluation.

15 **SEC. 4306. BUY AMERICAN REQUIREMENTS.**

16 (a) FINDINGS.—The Congress finds the following:

17 (1) Federal law requires that commodities and
18 products purchased with Federal funds be, to the ex-
19 tent practicable, of domestic origin.

20 (2) Federal Buy American statutory require-
21 ments seek to ensure that purchases made with Fed-
22 eral funds benefit domestic producers.

23 (3) The Richard B. Russell National School
24 Lunch Act (42 U.S.C. 1751 et seq.) requires the use
25 of domestic food products for all meals served under

1 the program, including food products purchased with
2 local funds.

3 (b) BUY AMERICAN STATUTORY REQUIREMENTS.—

4 The Department of Agriculture should undertake training,
5 guidance, and enforcement of the various current Buy
6 American statutory requirements and regulations, includ-
7 ing those of the Richard B. Russell National School Lunch
8 Act (42 U.S.C. 1751 et seq.).

9 **SEC. 4307. SURVEY OF FOODS PURCHASED BY SCHOOL**
10 **FOOD AUTHORITIES.**

11 (a) IN GENERAL.—For fiscal year 2009, the Sec-
12 retary shall carry out a nationally representative survey
13 of the foods purchased during the most recent school year
14 for which data is available by school authorities partici-
15 pating in the school lunch program established under the
16 Richard B. Russell National School Lunch Act (42 U.S.C.
17 1751 et seq.).

18 (b) REPORT.—

19 (1) IN GENERAL.—On completion of the survey,
20 the Secretary shall submit to the Committees on Ag-
21 riculture and Education and Labor of the House of
22 Representatives and the Committee on Agriculture,
23 Nutrition, and Forestry of the Senate a report that
24 describes the results of the survey.

1 (2) INTERIM REQUIREMENT.—If the initial re-
 2 port required under paragraph (1) is not submitted
 3 to the Committees referred to in that paragraph by
 4 June 30, 2009, the Secretary shall submit to the
 5 Committees an interim report that describes the rel-
 6 evant survey data, or a sample of such data, avail-
 7 able to the Secretary as of that date.

8 (c) FUNDING.—Of the funds of the Commodity Cred-
 9 it Corporation, the Secretary shall use to carry out this
 10 section not more than \$3,000,000.

11 **Subtitle D—Miscellaneous**

12 **SEC. 4401. BILL EMERSON NATIONAL HUNGER FELLOWS** 13 **AND MICKEY LELAND INTERNATIONAL HUN-** 14 **GER FELLOWS.**

15 Section 4404 of the Farm Security and Rural Invest-
 16 ment Act of 2002 (2 U.S.C. 1161) is amended to read
 17 as follows:

18 **“SEC. 4404. BILL EMERSON NATIONAL HUNGER FELLOWS** 19 **AND MICKEY LELAND INTERNATIONAL HUN-** 20 **GER FELLOWS.**

21 “(a) SHORT TITLE.—This section may be cited as the
 22 ‘Bill Emerson National Hunger Fellows and Mickey Le-
 23 land International Hunger Fellows Program Act of 2008’.

24 “(b) DEFINITIONS.—In this subsection:

1 “(1) DIRECTOR.—The term ‘Director’ means
2 the head of the Congressional Hunger Center.

3 “(2) FELLOW.—The term ‘fellow’ means—

4 “(A) a Bill Emerson Hunger Fellow; or

5 “(B) Mickey Leland Hunger Fellow.

6 “(3) FELLOWSHIP PROGRAMS.—The term ‘Fel-
7 lowship Programs’ means the Bill Emerson National
8 Hunger Fellowship Program and the Mickey Leland
9 International Hunger Fellowship Program estab-
10 lished under subsection (c)(1).

11 “(c) FELLOWSHIP PROGRAMS.—

12 “(1) IN GENERAL.—There is established the
13 Bill Emerson National Hunger Fellowship Program
14 and the Mickey Leland International Hunger Fel-
15 lowship Program.

16 “(2) PURPOSES.—

17 “(A) IN GENERAL.—The purposes of the
18 Fellowship Programs are—

19 “(i) to encourage future leaders of the
20 United States—

21 “(I) to pursue careers in humani-
22 tarian and public service;

23 “(II) to recognize the needs of
24 low-income people and hungry people;

1 “(III) to provide assistance to
2 people in need; and

3 “(IV) to seek public policy solu-
4 tions to the challenges of hunger and
5 poverty;

6 “(ii) to provide training and develop-
7 ment opportunities for such leaders
8 through placement in programs operated
9 by appropriate organizations or entities;
10 and

11 “(iii) to increase awareness of the im-
12 portance of public service.

13 “(B) BILL EMERSON HUNGER FELLOW-
14 SHIP PROGRAM.—The purpose of the Bill Emer-
15 son Hunger Fellowship Program is to address
16 hunger and poverty in the United States.

17 “(C) MICKEY LELAND HUNGER FELLOW-
18 SHIP PROGRAM.—The purpose of the Mickey
19 Leland Hunger Fellowship Program is to ad-
20 dress international hunger and other humani-
21 tarian needs.

22 “(3) ADMINISTRATION.—

23 “(A) IN GENERAL.—Subject to subpara-
24 graph (B), the Secretary shall offer to provide

1 a grant to the Congressional Hunger Center to
2 administer the Fellowship Programs.

3 “(B) TERMS OF GRANT.—The terms of the
4 grant provided under subparagraph (A), includ-
5 ing the length of the grant and provisions for
6 the alteration or termination of the grant, shall
7 be determined by the Secretary in accordance
8 with this section.

9 “(d) FELLOWSHIPS.—

10 “(1) IN GENERAL.—The Director shall make
11 available Bill Emerson Hunger Fellowships and
12 Mickey Leland Hunger Fellowships in accordance
13 with this subsection.

14 “(2) CURRICULUM.—

15 “(A) IN GENERAL.—The Fellowship Pro-
16 grams shall provide experience and training to
17 develop the skills necessary to train fellows to
18 carry out the purposes described in subsection
19 (c)(2), including—

20 “(i) training in direct service pro-
21 grams for the hungry and other anti-hun-
22 ger programs in conjunction with commu-
23 nity-based organizations through a pro-
24 gram of field placement; and

1 “(ii) providing experience in policy de-
2 velopment through placement in a govern-
3 mental entity or nongovernmental, non-
4 profit, or private sector organization.

5 “(B) WORK PLAN.—To carry out subpara-
6 graph (A) and assist in the evaluation of the
7 fellowships under paragraph (6), the Director
8 shall, for each fellow, approve a work plan that
9 identifies the target objectives for the fellow in
10 the fellowship, including specific duties and re-
11 sponsibilities relating to those objectives.

12 “(3) PERIOD OF FELLOWSHIP.—

13 “(A) BILL EMERSON HUNGER FELLOW.—
14 A Bill Emerson Hunger Fellowship awarded
15 under this section shall be for not more than 15
16 months.

17 “(B) MICKEY LELAND HUNGER FEL-
18 LOW.—A Mickey Leland Hunger Fellowship
19 awarded under this section shall be for not
20 more than 2 years.

21 “(4) SELECTION OF FELLOWS.—

22 “(A) IN GENERAL.—Fellowships shall be
23 awarded pursuant to a nationwide competition
24 established by the Director.

1 “(B) QUALIFICATIONS.—A successful pro-
2 gram applicant shall be an individual who has
3 demonstrated—

4 “(i) an intent to pursue a career in
5 humanitarian services and outstanding po-
6 tential for such a career;

7 “(ii) leadership potential or actual
8 leadership experience;

9 “(iii) diverse life experience;

10 “(iv) proficient writing and speaking
11 skills;

12 “(v) an ability to live in poor or di-
13 verse communities; and

14 “(vi) such other attributes as are con-
15 sidered to be appropriate by the Director.

16 “(5) AMOUNT OF AWARD.—

17 “(A) IN GENERAL.—A fellow shall re-
18 ceive—

19 “(i) a living allowance during the term
20 of the Fellowship; and

21 “(ii) subject to subparagraph (B), an
22 end-of-service award.

23 “(B) REQUIREMENT FOR SUCCESSFUL
24 COMPLETION OF FELLOWSHIP.—Each fellow
25 shall be entitled to receive an end-of-service

1 award at an appropriate rate for each month of
2 satisfactory service completed, as determined by
3 the Director.

4 “(C) TERMS OF FELLOWSHIP.—A fellow
5 shall not be considered an employee of—

6 “(i) the Department of Agriculture;

7 “(ii) the Congressional Hunger Cen-
8 ter; or

9 “(iii) a host agency in the field or pol-
10 icy placement of the fellow.

11 “(D) RECOGNITION OF FELLOWSHIP
12 AWARD.—

13 “(i) EMERSON FELLOW.—An indi-
14 vidual awarded a fellowship from the Bill
15 Emerson Hunger Fellowship shall be
16 known as an ‘Emerson Fellow’.

17 “(ii) LELAND FELLOW.—An indi-
18 vidual awarded a fellowship from the Mick-
19 ey Leland Hunger Fellowship shall be
20 known as a ‘Leland Fellow’.

21 “(6) EVALUATIONS AND AUDITS.—Under terms
22 stipulated in the contract entered into under sub-
23 section (c)(3), the Director shall—

24 “(A) conduct periodic evaluations of the
25 Fellowship Programs; and

1 “(B) arrange for annual independent fi-
2 nancial audits of expenditures under the Fel-
3 lowship Programs.

4 “(e) AUTHORITY.—

5 “(1) IN GENERAL.—Subject to paragraph (2),
6 in carrying out this section, the Director may solicit,
7 accept, use, and dispose of gifts, bequests, or devises
8 of services or property, both real and personal, for
9 the purpose of facilitating the work of the Fellow-
10 ship Programs.

11 “(2) LIMITATION.—Gifts, bequests, or devises
12 of money and proceeds from sales of other property
13 received as gifts, bequests, or devises shall be used
14 exclusively for the purposes of the Fellowship Pro-
15 grams.

16 “(f) REPORT.—The Director shall annually submit to
17 the Secretary of Agriculture, the Committee on Agri-
18 culture of the House of Representatives, and the Com-
19 mittee on Agriculture, Nutrition, and Forestry of the Sen-
20 ate a report that—

21 “(1) describes the activities and expenditures of
22 the Fellowship Programs during the preceding fiscal
23 year, including expenditures made from funds made
24 available under subsection (g); and

1 “(2) includes the results of evaluations and au-
2 dits required by subsection (d).

3 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Secretary such
5 sums as are necessary to carry out this section, to remain
6 available until expended.”.

7 **SEC. 4402. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.**

8 Section 25 of the Food and Nutrition Act of 2008
9 (7 U.S.C. 2034) is amended—

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

12 “(a) DEFINITIONS.—In this section:

13 “(1) COMMUNITY FOOD PROJECT.—In this sec-
14 tion, the term ‘community food project’ means a
15 community-based project that—

16 “(A) requires a 1-time contribution of Fed-
17 eral assistance to become self-sustaining; and

18 “(B) is designed—

19 “(i)(I) to meet the food needs of low-
20 income individuals;

21 “(II) to increase the self-reliance of
22 communities in providing for the food
23 needs of the communities; and

1 “(III) to promote comprehensive re-
2 sponses to local food, farm, and nutrition
3 issues; or

4 “(ii) to meet specific State, local, or
5 neighborhood food and agricultural needs,
6 including needs relating to—

7 “(I) infrastructure improvement
8 and development;

9 “(II) planning for long-term solu-
10 tions; or

11 “(III) the creation of innovative
12 marketing activities that mutually
13 benefit agricultural producers and
14 low-income consumers.

15 “(2) CENTER.—The term ‘Center’ means the
16 healthy urban food enterprise development center es-
17 tablished under subsection (h).

18 “(3) UNDERSERVED COMMUNITY.—The term
19 ‘underserved community’ means a community (in-
20 cluding an urban or rural community or an Indian
21 tribe) that, as determined by the Secretary, has—

22 “(A) limited access to affordable, healthy
23 foods, including fresh fruits and vegetables;

1 “(B) a high incidence of a diet-related dis-
2 ease (including obesity) as compared to the na-
3 tional average;

4 “(C) a high rate of hunger or food insecu-
5 rity; or

6 “(D) severe or persistent poverty.”;

7 (2) by redesignating subsection (h) as sub-
8 section (i); and

9 (3) by inserting after subsection (g) the fol-
10 lowing:

11 “(h) HEALTHY URBAN FOOD ENTERPRISE DEVEL-
12 OPMENT CENTER.—

13 “(1) DEFINITION OF ELIGIBLE ENTITY.—In
14 this subsection, the term ‘eligible entity’ means—

15 “(A) a nonprofit organization;

16 “(B) a cooperative;

17 “(C) a commercial entity;

18 “(D) an agricultural producer;

19 “(E) an academic institution;

20 “(F) an individual; and

21 “(G) such other entities as the Secretary
22 may designate.

23 “(2) ESTABLISHMENT.—The Secretary shall
24 offer to provide a grant to a nonprofit organization
25 to establish and support a healthy urban food enter-

1 prise development center to carry out the purpose
2 described in paragraph (3).

3 “(3) PURPOSE.—The purpose of the Center is
4 to increase access to healthy affordable foods, in-
5 cluding locally produced agricultural products, to un-
6 derserved communities.

7 “(4) ACTIVITIES.—

8 “(A) TECHNICAL ASSISTANCE AND INFOR-
9 MATION.—The Center shall collect, develop, and
10 provide technical assistance and information to
11 small and medium-sized agricultural producers,
12 food wholesalers and retailers, schools, and
13 other individuals and entities regarding best
14 practices and the availability of assistance for
15 aggregating, storing, processing, and marketing
16 locally produced agricultural products and in-
17 creasing the availability of such products in un-
18 derserved communities.

19 “(B) AUTHORITY TO SUBGRANT.—The
20 Center may provide subgrants to eligible enti-
21 ties—

22 “(i) to carry out feasibility studies to
23 establish businesses for the purpose de-
24 scribed in paragraph (3); and

1 “(ii) to establish and otherwise assist
2 enterprises that process, distribute, aggre-
3 gate, store, and market healthy affordable
4 foods.

5 “(5) PRIORITY.—In providing technical assist-
6 ance and grants under paragraph (4), the Center
7 shall give priority to applications that include
8 projects—

9 “(A) to benefit underserved communities;
10 and

11 “(B) to develop market opportunities for
12 small and mid-sized farm and ranch operations.

13 “(6) REPORT.—For each fiscal year for which
14 the nonprofit organization described in paragraph
15 (2) receives funds, the organization shall submit to
16 the Secretary a report describing the activities car-
17 ried out in the preceding fiscal year, including—

18 “(A) a description of technical assistance
19 provided by the Center;

20 “(B) the total number and a description of
21 the subgrants provided under paragraph (4)(B);

22 “(C) a complete listing of cases in which
23 the activities of the Center have resulted in in-
24 creased access to healthy, affordable foods, such
25 as fresh fruit and vegetables, particularly for

1 school-aged children and individuals in low-in-
2 come communities; and

3 “(D) a determination of whether the activi-
4 ties identified in subparagraph (C) are sus-
5 tained during the years following the initial pro-
6 vision of technical assistance and subgrants
7 under this section.

8 “(7) COMPETITIVE AWARD PROCESS.—The Sec-
9 retary shall use a competitive process to award
10 funds to establish the Center.

11 “(8) LIMITATION ON ADMINISTRATIVE EX-
12 PENSES.—Not more than 10 percent of the total
13 amount allocated for this subsection in a given fiscal
14 year may be used for administrative expenses.

15 “(9) FUNDING.—

16 “(A) IN GENERAL.—Out of any funds in
17 the Treasury not otherwise appropriated, the
18 Secretary of the Treasury shall transfer to the
19 Secretary to carry out this subsection
20 \$1,000,000 for each of fiscal years 2009
21 through 2011.

22 “(B) ADDITIONAL FUNDING.—There is au-
23 thorized to be appropriated \$2,000,000 to carry
24 out this subsection for fiscal year 2012.”.

1 **SEC. 4403. JOINT NUTRITION MONITORING AND RELATED**
2 **RESEARCH ACTIVITIES.**

3 The Secretary and the Secretary of Health and
4 Human Services shall continue to provide jointly for na-
5 tional nutrition monitoring and related research activities
6 carried out as of the date of enactment of this Act—

7 (1) to collect continuous dietary, health, phys-
8 ical activity, and diet and health knowledge data on
9 a nationally representative sample;

10 (2) to periodically collect data on special at-risk
11 populations, as identified by the Secretaries;

12 (3) to distribute information on health, nutri-
13 tion, the environment, and physical activity to the
14 public in a timely fashion;

15 (4) to analyze new data that becomes available;

16 (5) to continuously update food composition ta-
17 bles; and

18 (6) to research and develop data collection
19 methods and standards.

20 **SEC. 4404. SECTION 32 FUNDS FOR PURCHASE OF FRUITS,**
21 **VEGETABLES, AND NUTS TO SUPPORT DO-**
22 **MESTIC NUTRITION ASSISTANCE PROGRAMS.**

23 (a) **FUNDING FOR ADDITIONAL PURCHASES OF**
24 **FRUITS, VEGETABLES, AND NUTS.**—In addition to the
25 purchases of fruits, vegetables, and nuts required by sec-
26 tion 10603 of the Farm Security and Rural Investment

1 Act of 2002 (7 U.S.C. 612c-4), the Secretary of Agri-
2 culture shall purchase fruits, vegetables, and nuts for the
3 purpose of providing nutritious foods for use in domestic
4 nutrition assistance programs, using, of the funds made
5 available under section 32 of the Act of August 24, 1935
6 (7 U.S.C. 612c), the following amounts:

- 7 (1) \$190,000,000 for fiscal year 2008.
- 8 (2) \$193,000,000 for fiscal year 2009.
- 9 (3) \$199,000,000 for fiscal year 2010.
- 10 (4) \$203,000,000 for fiscal year 2011.
- 11 (5) \$206,000,000 for fiscal year 2012 and each
12 fiscal year thereafter.

13 (b) FORM OF PURCHASES.—Fruits, vegetables, and
14 nuts may be purchased under this section in the form of
15 frozen, canned, dried, or fresh fruits, vegetables, and nuts.

16 (c) PURCHASE OF FRESH FRUITS AND VEGETABLES
17 FOR DISTRIBUTION TO SCHOOLS AND SERVICE INSTITU-
18 TIONS.—Section 10603 of the Farm Security and Rural
19 Investment Act of 2002 (7 U.S.C. 612c-4) is amended
20 by striking subsection (b) and inserting the following:

21 “(b) PURCHASE OF FRESH FRUITS AND VEGETA-
22 BLES FOR DISTRIBUTION TO SCHOOLS AND SERVICE IN-
23 STITUTIONS.—The Secretary of Agriculture shall purchase
24 fresh fruits and vegetables for distribution to schools and
25 service institutions in accordance with section 6(a) of the

1 Richard B. Russell National School Lunch Act (42 U.S.C.
2 1755(a)) using, of the amount specified in subsection (a),
3 not less than \$50,000,000 for each of fiscal years 2008
4 through 2012.”.

5 **SEC. 4405. HUNGER-FREE COMMUNITIES.**

6 (a) DEFINITIONS.—In this section:

7 (1) ELIGIBLE ENTITY.—The term “eligible enti-
8 ty” means a public food program service provider or
9 nonprofit organization, including an emergency feed-
10 ing organization, that has collaborated, or will col-
11 laborate, with 1 or more local partner organizations
12 to achieve at least 1 hunger-free communities goal.

13 (2) EMERGENCY FEEDING ORGANIZATION.—
14 The term “emergency feeding organization” has the
15 meaning given the term in section 201A of the
16 Emergency Food Assistance Act of 1983 (7 U.S.C.
17 7501).

18 (3) HUNGER-FREE COMMUNITIES GOAL.—The
19 term “hunger-free communities goal” means any of
20 the 14 goals described in the H. Con. Res. 302
21 (102nd Congress).

22 (b) HUNGER-FREE COMMUNITIES COLLABORATIVE
23 GRANTS.—

24 (1) PROGRAM.—

1 (A) IN GENERAL.—The Secretary shall use
2 not more than 50 percent of any funds made
3 available under subsection (e) to make grants to
4 eligible entities to pay the Federal share of the
5 costs of an activity described in paragraph (2).

6 (B) FEDERAL SHARE.—The Federal share
7 of the cost of carrying out an activity under
8 this subsection shall not exceed 80 percent.

9 (C) NON-FEDERAL SHARE.—

10 (i) CALCULATION.—The non-Federal
11 share of the cost of an activity under this
12 subsection may be provided in cash or fair-
13 ly evaluated in-kind contributions, includ-
14 ing facilities, equipment, or services.

15 (ii) SOURCES.—Any entity may pro-
16 vide the non-Federal share of the cost of
17 an activity under this subsection through a
18 State government, a local government, or a
19 private source.

20 (2) USE OF FUNDS.—An eligible entity in a
21 community shall use a grant received under this sub-
22 section for any fiscal year for hunger relief activities,
23 including—

1 (A) meeting the immediate needs of people
2 who experience hunger in the community served
3 by the eligible entity by—

4 (i) distributing food;

5 (ii) providing community outreach to
6 assist in participation in federally assisted
7 nutrition programs, including—

8 (I) the school breakfast program
9 established by section 4 of the Child
10 Nutrition Act of 1966 (42 U.S.C.
11 1773);

12 (II) the school lunch program es-
13 tablished under the Richard B. Rus-
14 sell National School Lunch Act (42
15 U.S.C. 1751 et seq.);

16 (III) the summer food service
17 program for children established
18 under section 13 of that Act; and

19 (IV) other Federal programs that
20 provide food for children in child care
21 facilities and homeless and older indi-
22 viduals; or

23 (iii) improving access to food as part
24 of a comprehensive service; and

1 (B) developing new resources and strate-
2 gies to help reduce hunger in the community
3 and prevent hunger in the future by—

4 (i) developing creative food resources,
5 such as community gardens, buying clubs,
6 food cooperatives, community-owned and
7 operated grocery stores, and farmers' mar-
8 kets;

9 (ii) coordinating food services with
10 park and recreation programs and other
11 community-based outlets to reduce barriers
12 to access; or

13 (iii) creating nutrition education pro-
14 grams for at-risk populations to enhance
15 food-purchasing and food-preparation skills
16 and to heighten awareness of the connec-
17 tion between diet and health.

18 (c) HUNGER-FREE COMMUNITIES INFRASTRUCTURE

19 GRANTS.—

20 (1) PROGRAM AUTHORIZED.—

21 (A) IN GENERAL.—The Secretary shall use
22 not more than 50 percent of any funds made
23 available for a fiscal year under subsection (e)
24 to make grants to eligible entities to pay the

1 Federal share of the costs of an activity de-
2 scribed in paragraph (2).

3 (B) FEDERAL SHARE.—The Federal share
4 of the cost of carrying out an activity under
5 this subsection shall not exceed 80 percent.

6 (2) APPLICATION.—

7 (A) IN GENERAL.—To receive a grant
8 under this subsection, an eligible entity shall
9 submit an application at such time, in such
10 form, and containing such information as the
11 Secretary may prescribe.

12 (B) CONTENTS.—Each application sub-
13 mitted under subparagraph (A) shall—

14 (i) identify any activity described in
15 paragraph (3) that the grant will be used
16 to fund; and

17 (ii) describe the means by which an
18 activity identified under clause (i) will re-
19 duce hunger in the community of the eligi-
20 ble entity.

21 (C) PRIORITY.—In making grants under
22 this subsection, the Secretary shall give priority
23 to eligible entities that demonstrate 2 or more
24 of the following:

1 (i) The eligible entity serves a commu-
2 nity in which the rates of food insecurity,
3 hunger, poverty, or unemployment are de-
4 monstrably higher than national average
5 rates.

6 (ii) The eligible entity serves a com-
7 munity that has successfully carried out
8 long-term efforts to reduce hunger in the
9 community.

10 (iii) The eligible entity serves a com-
11 munity that provides public support for the
12 efforts of the eligible entity.

13 (iv) The eligible entity is committed to
14 achieving more than 1 hunger-free commu-
15 nities goal.

16 (3) USE OF FUNDS.—An eligible entity shall
17 use a grant received under this subsection to con-
18 struct, expand, or repair a facility or equipment to
19 support hunger relief efforts in the community.

20 (d) REPORT.—If funds are made available under sub-
21 section (e) to carry out this section, not later than Sep-
22 tember 30, 2012, the Secretary shall submit to Congress
23 a report that describes—

24 (1) each grant made under this section, includ-
25 ing—

1 (A) a description of any activity funded;
2 and

3 (B) the degree of success of each activity
4 funded in achieving hunger free-communities
5 goals; and

6 (2) the degree of success of all activities funded
7 under this section in achieving domestic hunger
8 goals.

9 (e) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated such sums as are nec-
11 essary to carry out this section for each of fiscal years
12 2008 through 2012.

13 **SEC. 4406. REAUTHORIZATION OF FEDERAL FOOD ASSIST-**
14 **ANCE PROGRAMS.**

15 (a) SUPPLEMENTAL NUTRITION ASSISTANCE PRO-
16 GRAM.—

17 (1) AUTHORIZATION OF APPROPRIATIONS.—
18 Section 18(a)(1) of the Food and Nutrition Act of
19 2008 (7 U.S.C. 2027(a)(1)) is amended in the first
20 sentence by striking “for each of the fiscal years
21 2003 through 2007” and inserting “for each of fis-
22 cal years 2008 through 2012”.

23 (2) GRANTS FOR SIMPLE APPLICATION AND
24 ELIGIBILITY DETERMINATION SYSTEMS AND IM-
25 PROVED ACCESS TO BENEFITS.—Section 11(t)(1) of

1 the Food and Nutrition Act of 2008 (7 U.S.C.
2 2020(t)(1)) is amended by striking “For each of fis-
3 cal years 2003 through 2007” and inserting “Sub-
4 ject to the availability of appropriations under sec-
5 tion 18(a), for each fiscal year”.

6 (3) FUNDING OF EMPLOYMENT AND TRAINING
7 PROGRAMS.—Section 16(h)(1) of the Food and Nu-
8 trition Act of 2008 (7 U.S.C. 2025(h)(1)) is amend-
9 ed—

10 (A) in subparagraph (A), by striking “the
11 amount of—” and all that follows through the
12 end of the subparagraph and inserting “,
13 \$90,000,000 for each fiscal year.”; and

14 (B) in subparagraph (E)(i), by striking
15 “for each of fiscal years 2002 through 2007”
16 and inserting “for each fiscal year”.

17 (4) REDUCTIONS IN PAYMENTS FOR ADMINIS-
18 TRATIVE COSTS.—Section 16(k)(3) of the Food and
19 Nutrition Act of 2008 (7 U.S.C. 2025(k)(3)) is
20 amended—

21 (A) in the first sentence of subparagraph
22 (A), by striking “effective for each of fiscal
23 years 1999 through 2007,”; and

24 (B) in subparagraph (B)(ii), by striking
25 “through fiscal year 2007”.

1 (5) CASH PAYMENT PILOT PROJECTS.—Section
2 17(b)(1)(B)(vi) of the Food and Nutrition Act of
3 2008 (7 U.S.C. 2026(b)(1)(B)(vi)) is amended—

4 (A) by striking “Any pilot” and inserting
5 “Subject to the availability of appropriations
6 under section 18(a), any pilot”; and

7 (B) by striking “through October 1,
8 2007,”.

9 (6) CONSOLIDATED BLOCK GRANTS FOR PUER-
10 TO RICO AND AMERICAN SAMOA.—Section
11 19(a)(2)(A)(ii) of the Food and Nutrition Act of
12 2008 (7 U.S.C. 2028(a)(2)(A)(ii)) is amended by
13 striking “for each of fiscal years 2004 through
14 2007” and inserting “subject to the availability of
15 appropriations under section 18(a), for each fiscal
16 year thereafter”.

17 (7) ASSISTANCE FOR COMMUNITY FOOD
18 PROJECTS.—Section 25 of the Food and Nutrition
19 Act of 2008 (7 U.S.C. 2034) is amended—

20 (A) in subsection (b)(2)(B), by striking
21 “for each of fiscal years 1997 through 2007”
22 and inserting “for fiscal year 2008 and each
23 fiscal year thereafter”; and

24 (B) in subsection (i)(4) (as redesignated by
25 section 4402), by striking “of fiscal years 2003

1 through 2007” and inserting “fiscal year there-
2 after”.

3 (b) COMMODITY DISTRIBUTION.—

4 (1) EMERGENCY FOOD ASSISTANCE.—Section
5 204(a)(1) of the Emergency Food Assistance Act of
6 1983 (7 U.S.C. 7508(a)(1)) is amended in the first
7 sentence by striking “for each of the fiscal years
8 2003 through 2007” and inserting “for fiscal year
9 2008 and each fiscal year thereafter”.

10 (2) COMMODITY DISTRIBUTION PROGRAM.—
11 Section 4(a) of the Agriculture and Consumer Pro-
12 tection Act of 1973 (7 U.S.C. 612c note; Public Law
13 93–86) is amended in the first sentence by striking
14 “years 1991 through 2007” and inserting “years
15 2008 through 2012”.

16 (3) COMMODITY SUPPLEMENTAL FOOD PRO-
17 GRAM.—Section 5 of the Agriculture and Consumer
18 Protection Act of 1973 (7 U.S.C. 612c note; Public
19 Law 93–86) is amended—

20 (A) in subsection (a)—

21 (i) in paragraph (1), by striking “each
22 of fiscal years 2003 through 2007” and in-
23 serting “each of fiscal years 2008 through
24 2012”; and

1 (ii) in paragraph (2)(B), by striking
2 the subparagraph designation and heading
3 and all that follows through “2007” and
4 inserting the following:

5 “(B) SUBSEQUENT FISCAL YEARS.—For
6 each of fiscal years 2004 through 2012”; and

7 (B) in subsection (d)(2), by striking “each
8 of the fiscal years 1991 through 2007” and in-
9 serting “each of fiscal years 2008 through
10 2012”.

11 (4) DISTRIBUTION OF SURPLUS COMMODITIES
12 TO SPECIAL NUTRITION PROJECTS.—Section
13 1114(a)(2)(A) of the Agriculture and Food Act of
14 1981 (7 U.S.C. 1431e(2)(A)) is amended in the first
15 sentence by striking “Effective through September
16 30, 2007” and inserting “For each of fiscal years
17 2008 through 2012”.

18 (c) FARM SECURITY AND RURAL INVESTMENT.—

19 (1) SENIORS FARMERS’ MARKET NUTRITION
20 PROGRAM.—Section 4402 of the Farm Security and
21 Rural Investment Act of 2002 (7 U.S.C. 3007) is
22 amended by striking by striking subsection (a) and
23 inserting the following:

24 “(a) FUNDING.—Of the funds of the Commodity
25 Credit Corporation, the Secretary of Agriculture shall use

1 to carry out and expand the seniors farmers' market nutri-
2 tion program \$20,600,000 for each of fiscal years 2008
3 through 2012.”.

4 (2) NUTRITION INFORMATION AND AWARENESS
5 PILOT PROGRAM.—Section 4403(f) of the Farm Se-
6 curity and Rural Investment Act of 2002 (7 U.S.C.
7 3171 note; Public Law 107–171) is amended by
8 striking “2007” and inserting “2012”.

9 **SEC. 4407. EFFECTIVE AND IMPLEMENTATION DATES.**

10 Except as otherwise provided in this title, this title
11 and the amendments made by this title take effect on Oc-
12 tober 1, 2008.

13 **TITLE V—CREDIT**

14 **Subtitle A—Farm Ownership Loans**

15 **SEC. 5001. DIRECT LOANS.**

16 Section 302 of the Consolidated Farm and Rural De-
17 velopment Act (7 U.S.C. 1922) is amended—

18 (1) by striking the section designation and
19 heading and all that follows through “(a) The Sec-
20 retary is authorized to” and inserting the following:

21 **“SEC. 302. PERSONS ELIGIBLE FOR REAL ESTATE LOANS.**

22 “(a) IN GENERAL.—The Secretary may”; and

23 (2) in subsection (a)(2), by inserting “, taking
24 into consideration all farming experience of the ap-

1 plicant, without regard to any lapse between farming
2 experiences” after “farming operations”.

3 **SEC. 5002. CONSERVATION LOAN AND LOAN GUARANTEE**
4 **PROGRAM.**

5 Section 304 of the Consolidated Farm and Rural De-
6 velopment Act (7 U.S.C. 1924) is amended to read as fol-
7 lows:

8 **“SEC. 304. CONSERVATION LOAN AND LOAN GUARANTEE**
9 **PROGRAM.**

10 “(a) IN GENERAL.—The Secretary may make or
11 guarantee qualified conservation loans to eligible bor-
12 rowers under this section.

13 “(b) DEFINITIONS.—In this section:

14 “(1) QUALIFIED CONSERVATION LOAN.—The
15 term ‘qualified conservation loan’ means a loan, the
16 proceeds of which are used to cover the costs to the
17 borrower of carrying out a qualified conservation
18 project.

19 “(2) QUALIFIED CONSERVATION PROJECT.—
20 The term ‘qualified conservation project’ means con-
21 servation measures that address provisions of a con-
22 servation plan of the eligible borrower.

23 “(3) CONSERVATION PLAN.—The term ‘con-
24 servation plan’ means a plan, approved by the Sec-
25 retary, that, for a farming or ranching operation,

1 identifies the conservation activities that will be ad-
2 dressed with loan funds provided under this section,
3 including—

4 “(A) the installation of conservation struc-
5 tures to address soil, water, and related re-
6 sources;

7 “(B) the establishment of forest cover for
8 sustained yield timber management, erosion
9 control, or shelter belt purposes;

10 “(C) the installation of water conservation
11 measures;

12 “(D) the installation of waste management
13 systems;

14 “(E) the establishment or improvement of
15 permanent pasture;

16 “(F) compliance with section 1212 of the
17 Food Security Act of 1985; and

18 “(G) other purposes consistent with the
19 plan, including the adoption of any other
20 emerging or existing conservation practices,
21 techniques, or technologies approved by the Sec-
22 retary.

23 “(c) ELIGIBILITY.—

24 “(1) IN GENERAL.—The Secretary may make
25 or guarantee loans to farmers or ranchers in the

1 United States, farm cooperatives, private domestic
2 corporations, partnerships, joint operations, trusts,
3 or limited liability companies that are controlled by
4 farmers or ranchers and engaged primarily and di-
5 rectly in agricultural production in the United
6 States.

7 “(2) REQUIREMENTS.—To be eligible for a loan
8 under this section, applicants shall meet the require-
9 ments in paragraphs (1) and (2) of section 302(a).

10 “(d) PRIORITY.—In making or guaranteeing loans
11 under this section, the Secretary shall give priority to—

12 “(1) qualified beginning farmers or ranchers
13 and socially disadvantaged farmers or ranchers;

14 “(2) owners or tenants who use the loans to
15 convert to sustainable or organic agricultural pro-
16 duction systems; and

17 “(3) producers who use the loans to build con-
18 servation structures or establish conservation prac-
19 tices to comply with section 1212 of the Food Secu-
20 rity Act of 1985.

21 “(e) LIMITATIONS APPLICABLE TO LOAN GUARAN-
22 TEES.—The portion of a loan that the Secretary may
23 guarantee under this section shall be 75 percent of the
24 principal amount of the loan.

1 “(f) ADMINISTRATIVE PROVISIONS.—The Secretary
2 shall ensure, to the maximum extent practicable, that
3 loans made or guaranteed under this section are distrib-
4 uted across diverse geographic regions.

5 “(g) CREDIT ELIGIBILITY.—The provisions of para-
6 graphs (1) and (3) of section 333 shall not apply to loans
7 made or guaranteed under this section.

8 “(h) AUTHORIZATION OF APPROPRIATIONS.—For
9 each of fiscal years 2008 through 2012, there are author-
10 ized to be appropriated to the Secretary such funds as are
11 necessary to carry out this section.”.

12 **SEC. 5003. LIMITATIONS ON AMOUNT OF FARM OWNERSHIP**
13 **LOANS.**

14 Section 305(a)(2) of the Consolidated Farm and
15 Rural Development Act (7 U.S.C. 1925(a)(2)) is amended
16 by striking “\$200,000” and inserting “\$300,000”.

17 **SEC. 5004. DOWN PAYMENT LOAN PROGRAM.**

18 Section 310E of the Consolidated Farm and Rural
19 Development Act (7 U.S.C. 1935) is amended—

20 (1) in subsection (a)(1), by striking “and
21 ranchers” and inserting “or ranchers and socially
22 disadvantaged farmers or ranchers”;

23 (2) in subsection (b)—

24 (A) by striking paragraph (1) and insert-
25 ing the following;

1 “(1) PRINCIPAL.—Each loan made under this
2 section shall be in an amount that does not exceed
3 45 percent of the least of—

4 “(A) the purchase price of the farm or
5 ranch to be acquired;

6 “(B) the appraised value of the farm or
7 ranch to be acquired; or

8 “(C) \$500,000.

9 “(2) INTEREST RATE.—The interest rate on
10 any loan made by the Secretary under this section
11 shall be a rate equal to the greater of—

12 “(A) the difference obtained by subtracting
13 4 percent from the interest rate for farm own-
14 ership loans under this subtitle; or

15 “(B) 1.5 percent.”; and

16 (B) in paragraph (3), by striking “15” and
17 inserting “20”;

18 (3) in subsection (c)—

19 (A) in paragraph (1), by striking “10” and
20 inserting “5”;

21 (B) by striking paragraph (2) and redesign-
22 ating paragraph (3) as paragraph (2); and

23 (C) in paragraph (2)(B) (as so redesign-
24 ated), by striking “15-year” and inserting
25 “20-year”;

1 (4) in subsection (d)—

2 (A) in paragraph (3)—

3 (i) by inserting “and socially dis-
4 advantaged farmers or ranchers” after
5 “ranchers”; and

6 (ii) by striking “and” at the end;

7 (B) in paragraph (4), by striking “and
8 ranchers.” and inserting “ or ranchers or so-
9 cially disadvantaged farmers or ranchers; and”;
10 and

11 (C) by adding at the end the following:

12 “(5) establish annual performance goals to pro-
13 mote the use of the down payment loan program and
14 other joint financing arrangements as the preferred
15 choice for direct real estate loans made by any lend-
16 er to a qualified beginning farmer or rancher or so-
17 cially disadvantaged farmer or rancher.”; and

18 (5) by adding at the end the following:

19 “(e) SOCIALLY DISADVANTAGED FARMER OR
20 RANCHER DEFINED.—In this section, the term ‘socially
21 disadvantaged farmer or rancher’ has the meaning given
22 that term in section 355(e)(2).”.

1 **SEC. 5005. BEGINNING FARMER OR RANCHER AND SO-**
2 **CIALLY DISADVANTAGED FARMER OR**
3 **RANCHER CONTRACT LAND SALES PROGRAM.**

4 Section 310F of the Consolidated Farm and Rural
5 Development Act (7 U.S.C. 1936) is amended to read as
6 follows:

7 **“SEC. 310F. BEGINNING FARMER OR RANCHER AND SO-**
8 **CIALLY DISADVANTAGED FARMER OR**
9 **RANCHER CONTRACT LAND SALES PROGRAM.**

10 “(a) **IN GENERAL.**—The Secretary shall, in accord-
11 ance with this section, guarantee a loan made by a private
12 seller of a farm or ranch to a qualified beginning farmer
13 or rancher or socially disadvantaged farmer or rancher (as
14 defined in section 355(e)(2)) on a contract land sales
15 basis.

16 “(b) **ELIGIBILITY.**—In order to be eligible for a loan
17 guarantee under subsection (a)—

18 “(1) the qualified beginning farmer or rancher
19 or socially disadvantaged farmer or rancher shall—

20 “(A) on the date the contract land sale
21 that is subject of the loan is complete, own and
22 operate the farm or ranch that is the subject of
23 the contract land sale;

24 “(B) have a credit history that—

1 “(i) includes a record of satisfactory
2 debt repayment, as determined by the Sec-
3 retary; and

4 “(ii) is acceptable to the Secretary;
5 and

6 “(C) demonstrate to the Secretary that the
7 farmer or rancher, as the case may be, is un-
8 able to obtain sufficient credit without a guar-
9 antee to finance any actual need of the farmer
10 or rancher, as the case may be, at a reasonable
11 rate or term; and

12 “(2) the loan shall meet applicable underwriting
13 criteria, as determined by the Secretary.

14 “(c) LIMITATIONS.—

15 “(1) DOWN PAYMENT.—The Secretary shall not
16 provide a loan guarantee under subsection (a) if the
17 contribution of the qualified beginning farmer or
18 rancher or socially disadvantaged farmer or rancher
19 to the down payment for the farm or ranch that is
20 the subject of the contract land sale would be less
21 than 5 percent of the purchase price of the farm or
22 ranch.

23 “(2) MAXIMUM PURCHASE PRICE.—The Sec-
24 retary shall not provide a loan guarantee under sub-
25 section (a) if the purchase price or the appraisal

1 value of the farm or ranch that is the subject of the
2 contract land sale is greater than \$500,000.

3 “(d) PERIOD OF GUARANTEE.—The period during
4 which a loan guarantee under this section is in effect shall
5 be the 10-year period beginning with the date the guar-
6 antee is provided.

7 “(e) GUARANTEE PLAN.—

8 “(1) SELECTION OF PLAN.—A private seller of
9 a farm or ranch who makes a loan that is guaran-
10 teed by the Secretary under subsection (a) may se-
11 lect—

12 “(A) a prompt payment guarantee plan,
13 which shall cover—

14 “(i) 3 amortized annual installments;

15 or

16 “(ii) an amount equal to 3 annual in-
17 stallments (including an amount equal to
18 the total cost of any tax and insurance in-
19 curred during the period covered by the
20 annual installments); or

21 “(B) a standard guarantee plan, which
22 shall cover an amount equal to 90 percent of
23 the outstanding principal of the loan.

24 “(2) ELIGIBILITY FOR STANDARD GUARANTEE
25 PLAN.—In order for a private seller to be eligible for

1 a standard guarantee plan referred to in paragraph
2 (1)(B), the private seller shall—

3 “(A) secure a commercial lending institu-
4 tion or similar entity, as determined by the Sec-
5 retary, to serve as an escrow agent; or

6 “(B) in cooperation with the farmer or
7 rancher, use an appropriate alternate arrange-
8 ment, as determined by the Secretary.

9 “(f) TRANSITION FROM PILOT PROGRAM.—

10 “(1) IN GENERAL.—The Secretary may phase-
11 in the implementation of the changes to the Begin-
12 ning Farmer and Rancher and Socially Disadvan-
13 taged Farmer or Rancher Contract Land Sales Pro-
14 gram provided for in this section.

15 “(2) LIMITATION.—All changes to the Begin-
16 ning Farmer and Rancher and Socially Disadvan-
17 taged Farmer or Rancher Contract Land Sales Pro-
18 gram must be implemented for the 2011 Fiscal
19 Year.”.

20 **Subtitle B—Operating Loans**

21 **SEC. 5101. FARMING EXPERIENCE AS ELIGIBILITY RE-** 22 **QUIREMENT.**

23 Section 311 of the Consolidated Farm and Rural De-
24 velopment Act (7 U.S.C. 1941) is amended—

1 **Subtitle C—Emergency Loans**

2 **SEC. 5201. ELIGIBILITY OF EQUINE FARMERS AND RANCH-**
 3 **ERS FOR EMERGENCY LOANS.**

4 Section 321(a) of the Consolidated Farm and Rural
 5 Development Act (7 U.S.C. 1961(a)) is amended—

6 (1) in paragraph (1), by striking “farmers,
 7 ranchers” and inserting “farmers or ranchers (in-
 8 cluding equine farmers or ranchers)”; and

9 (2) in paragraph (2)(A), by striking “farming,
 10 ranching,” and inserting “farming or ranching (in-
 11 cluding equine farming or ranching)”.

12 **Subtitle D—Administrative**
 13 **Provisions**

14 **SEC. 5301. BEGINNING FARMER AND RANCHER INDIVIDUAL**
 15 **DEVELOPMENT ACCOUNTS PILOT PROGRAM.**

16 Subtitle D of the Consolidated Farm and Rural De-
 17 velopment Act (7 U.S.C. 1981–2008r) is amended by in-
 18 serting after section 333A the following:

19 **“SEC. 333B. BEGINNING FARMER AND RANCHER INDI-**
 20 **VIDUAL DEVELOPMENT ACCOUNTS PILOT**
 21 **PROGRAM.**

22 “(a) DEFINITIONS.—In this section:

23 “(1) DEMONSTRATION PROGRAM.—The term
 24 ‘demonstration program’ means a demonstration

1 program carried out by a qualified entity under the
2 pilot program established in subsection (b)(1).

3 “(2) ELIGIBLE PARTICIPANT.—The term ‘eligi-
4 ble participant’ means a qualified beginning farmer
5 or rancher that—

6 “(A) lacks significant financial resources
7 or assets; and

8 “(B) has an income that is less than—

9 “(i) 80 percent of the median income
10 of the State in which the farmer or ranch-
11 er resides; or

12 “(ii) 200 percent of the most recent
13 annual Federal Poverty Income Guidelines
14 published by the Department of Health
15 and Human Services for the State.

16 “(3) INDIVIDUAL DEVELOPMENT ACCOUNT.—
17 The term ‘individual development account’ means a
18 savings account described in subsection (b)(4)(A).

19 “(4) QUALIFIED ENTITY.—

20 “(A) IN GENERAL.—The term ‘qualified
21 entity’ means—

22 “(i) 1 or more organizations—

23 “(I) described in section
24 501(c)(3) of the Internal Revenue
25 Code of 1986; and

1 “(II) exempt from taxation under
2 section 501(a) of such Code; or

3 “(ii) a State, local, or tribal govern-
4 ment submitting an application jointly with
5 an organization described in clause (i).

6 “(B) NO PROHIBITION ON COLLABORA-
7 TION.—An organization described in subpara-
8 graph (A)(i) may collaborate with a financial
9 institution or for-profit community development
10 corporation to carry out the purposes of this
11 section.

12 “(b) PILOT PROGRAM.—

13 “(1) IN GENERAL.—The Secretary shall estab-
14 lish a pilot program to be known as the ‘New Farm-
15 er Individual Development Accounts Pilot Program’
16 under which the Secretary shall work through quali-
17 fied entities to establish demonstration programs—

18 “(A) of at least 5 years in duration; and

19 “(B) in at least 15 States.

20 “(2) COORDINATION.—The Secretary shall op-
21 erate the pilot program through, and in coordination
22 with the farm loan programs of, the Farm Service
23 Agency.

24 “(3) RESERVE FUNDS.—

1 “(A) IN GENERAL.—A qualified entity car-
2 rying out a demonstration program under this
3 section shall establish a reserve fund consisting
4 of a non-Federal match of 50 percent of the
5 total amount of the grant awarded to the dem-
6 onstration program under this section.

7 “(B) FEDERAL FUNDS.—After the quali-
8 fied entity has deposited the non-Federal
9 matching funds described in subparagraph (A)
10 in the reserve fund, the Secretary shall provide
11 the total amount of the grant awarded under
12 this section to the demonstration program for
13 deposit in the reserve fund.

14 “(C) USE OF FUNDS.—Of the funds depos-
15 ited under subparagraph (B) in the reserve
16 fund established for a demonstration program,
17 the qualified entity carrying out the demonstra-
18 tion program—

19 “(i) may use up to 10 percent for ad-
20 ministrative expenses; and

21 “(ii) shall use the remainder in mak-
22 ing matching awards described in para-
23 graph (4)(B)(ii)(I).

24 “(D) INTEREST.—Any interest earned on
25 amounts in a reserve fund established under

1 subparagraph (A) may be used by the qualified
2 entity as additional matching funds for, or to
3 administer, the demonstration program.

4 “(E) GUIDANCE.—The Secretary shall
5 issue guidance regarding the investment re-
6 quirements of reserve funds established under
7 this paragraph.

8 “(F) REVERSION.—On the date on which
9 all funds remaining in any individual develop-
10 ment account established by a qualified entity
11 have reverted under paragraph (5)(B)(ii) to the
12 reserve fund established by the qualified entity,
13 there shall revert to the Treasury of the United
14 States a percentage of the amount (if any) in
15 the reserve fund equal to—

16 “(i) the amount of Federal funds de-
17 posited in the reserve fund under subpara-
18 graph (B) that were not used for adminis-
19 trative expenses; divided by

20 “(ii) the total amount of funds depos-
21 ited in the reserve fund.

22 “(4) INDIVIDUAL DEVELOPMENT ACCOUNTS.—

23 “(A) IN GENERAL.—A qualified entity re-
24 ceiving a grant under this section shall establish

1 and administer individual development accounts
2 for eligible participants.

3 “(B) CONTRACT REQUIREMENTS.—To be
4 eligible to receive funds under this section from
5 a qualified entity, an eligible participant shall
6 enter into a contract with only 1 qualified enti-
7 ty under which—

8 “(i) the eligible participant agrees—

9 “(I) to deposit a certain amount
10 of funds of the eligible participant in
11 a personal savings account, as pre-
12 scribed by the contractual agreement
13 between the eligible participant and
14 the qualified entity;

15 “(II) to use the funds described
16 in subclause (I) only for 1 or more eli-
17 gible expenditures described in para-
18 graph (5)(A); and

19 “(III) to complete financial train-
20 ing; and

21 “(ii) the qualified entity agrees—

22 “(I) to deposit, not later than 1
23 month after an amount is deposited
24 pursuant to clause (i)(I), at least a
25 100-percent, and up to a 200-percent,

1 match of that amount into the indi-
2 vidual development account estab-
3 lished for the eligible participant; and

4 “(II) with uses of funds proposed
5 by the eligible participant.

6 “(C) LIMITATION.—

7 “(i) IN GENERAL.—A qualified entity
8 administering a demonstration program
9 under this section may provide not more
10 than \$6,000 for each fiscal year in match-
11 ing funds to the individual development ac-
12 count established by the qualified entity
13 for an eligible participant.

14 “(ii) TREATMENT OF AMOUNT.—An
15 amount provided under clause (i) shall not
16 be considered to be a gift or loan for mort-
17 gage purposes.

18 “(5) ELIGIBLE EXPENDITURES.—

19 “(A) IN GENERAL.—An eligible expendi-
20 ture described in this subparagraph is an ex-
21 penditure—

22 “(i) to purchase farmland or make a
23 down payment on an accepted purchase
24 offer for farmland;

1 “(ii) to make mortgage payments on
2 farmland purchased pursuant to clause (i),
3 for up to 180 days after the date of the
4 purchase;

5 “(iii) to purchase breeding stock, fruit
6 or nut trees, or trees to harvest for timber;
7 and

8 “(iv) for other similar expenditures,
9 as determined by the Secretary.

10 “(B) TIMING.—

11 “(i) IN GENERAL.—An eligible partici-
12 pant may make an eligible expenditure at
13 any time during the 2-year period begin-
14 ning on the date on which the last match-
15 ing funds are provided under paragraph
16 (4)(B)(ii)(I) to the individual development
17 account established for the eligible partici-
18 pant.

19 “(ii) UNEXPENDED FUNDS.—At the
20 end of the period described in clause (i),
21 any funds remaining in an individual devel-
22 opment account established for an eligible
23 participant shall revert to the reserve fund
24 of the demonstration program under which
25 the account was established.

1 “(c) APPLICATIONS.—

2 “(1) IN GENERAL.—A qualified entity that
3 seeks to carry out a demonstration program under
4 this section may submit to the Secretary an applica-
5 tion at such time, in such form, and containing such
6 information as the Secretary may prescribe.

7 “(2) CRITERIA.—In considering whether to ap-
8 prove an application to carry out a demonstration
9 program under this section, the Secretary shall as-
10 sess—

11 “(A) the degree to which the demonstra-
12 tion program described in the application is
13 likely to aid eligible participants in successfully
14 pursuing new farming opportunities;

15 “(B) the experience and ability of the
16 qualified entity to responsibly administer the
17 demonstration program;

18 “(C) the experience and ability of the
19 qualified entity in recruiting, educating, and as-
20 sisting eligible participants to increase economic
21 independence and pursue or advance farming
22 opportunities;

23 “(D) the aggregate amount of direct funds
24 from non-Federal public sector and private
25 sources that are formally committed to the

1 demonstration program as matching contribu-
2 tions;

3 “(E) the adequacy of the plan of the quali-
4 fied entity to provide information relevant to an
5 evaluation of the demonstration program; and

6 “(F) such other factors as the Secretary
7 considers to be appropriate.

8 “(3) PREFERENCES.—In considering an appli-
9 cation to conduct a demonstration program under
10 this section, the Secretary shall give preference to an
11 application from a qualified entity that dem-
12 onstrates—

13 “(A) a track record of serving clients tar-
14 geted by the program, including, as appro-
15 priate, socially disadvantaged farmers or ranch-
16 ers (as defined in section 355(e)(2)); and

17 “(B) expertise in dealing with financial
18 management aspects of farming.

19 “(4) APPROVAL.—Not later than 1 year after
20 the date of enactment of this section, in accordance
21 with this section, the Secretary shall, on a competi-
22 tive basis, approve such applications to conduct dem-
23 onstration programs as the Secretary considers ap-
24 propriate.

1 “(5) TERM OF AUTHORITY.—If the Secretary
2 approves an application to carry out a demonstration
3 program, the Secretary shall authorize the applicant
4 to carry out the project for a period of 5 years, plus
5 an additional 2 years to make eligible expenditures
6 in accordance with subsection (b)(5)(B).

7 “(d) GRANT AUTHORITY.—

8 “(1) IN GENERAL.—The Secretary shall make a
9 grant to a qualified entity authorized to carry out a
10 demonstration program under this section.

11 “(2) MAXIMUM AMOUNT OF GRANTS.—The ag-
12 gregate amount of grant funds provided to a dem-
13 onstration program carried out under this section
14 shall not exceed \$250,000.

15 “(3) TIMING OF GRANT PAYMENTS.—The Sec-
16 retary shall pay the amounts awarded under a grant
17 made under this section—

18 “(A) on the awarding of the grant; or

19 “(B) pursuant to such payment plan as
20 the qualified entity may specify.

21 “(e) REPORTS.—

22 “(1) ANNUAL PROGRESS REPORTS.—

23 “(A) IN GENERAL.—Not later than 60
24 days after the end of the calendar year in which
25 the Secretary authorizes a qualified entity to

1 carry out a demonstration program under this
2 section, and annually thereafter until the con-
3 clusion of the demonstration program, the
4 qualified entity shall prepare an annual report
5 that includes, for the period covered by the re-
6 port—

7 “(i) an evaluation of the progress of
8 the demonstration program;

9 “(ii) information about the dem-
10 onstration program, including the eligible
11 participants and the individual develop-
12 ment accounts that have been established;
13 and

14 “(iii) such other information as the
15 Secretary may require.

16 “(B) SUBMISSION OF REPORTS.—A quali-
17 fied entity shall submit each report required
18 under subparagraph (A) to the Secretary.

19 “(2) REPORTS BY THE SECRETARY.—Not later
20 than 1 year after the date on which all demonstra-
21 tion programs under this section are concluded, the
22 Secretary shall submit to Congress a final report
23 that describes the results and findings of all reports
24 and evaluations carried out under this section.

1 “(f) ANNUAL REVIEW.—The Secretary may conduct
2 an annual review of the financial records of a qualified
3 entity—

4 “(1) to assess the financial soundness of the
5 qualified entity; and

6 “(2) to determine the use of grant funds made
7 available to the qualified entity under this section.

8 “(g) REGULATIONS.—In carrying out this section,
9 the Secretary may promulgate regulations to ensure that
10 the program includes provisions for—

11 “(1) the termination of demonstration pro-
12 grams;

13 “(2) control of the reserve funds in the case of
14 such a termination;

15 “(3) transfer of demonstration programs to
16 other qualified entities; and

17 “(4) remissions from a reserve fund to the Sec-
18 retary in a case in which a demonstration program
19 is terminated without transfer to a new qualified en-
20 tity.

21 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
22 is authorized to be appropriated to carry out this section
23 \$5,000,000 for each of fiscal years 2008 through 2012.”.

1 **SEC. 5302. INVENTORY SALES PREFERENCES; LOAN FUND**
2 **SET-ASIDES.**

3 (a) INVENTORY SALES PREFERENCES.—Section
4 335(c) of the Consolidated Farm and Rural Development
5 Act (7 U.S.C. 1985(c)) is amended—

6 (1) in paragraph (1)—

7 (A) in subparagraph (B)—

8 (i) in the subparagraph heading, by
9 inserting “; SOCIALLY DISADVANTAGED
10 FARMER OR RANCHER” after “OR RANCH-
11 ER”;

12 (ii) in clause (i), by inserting “ or a
13 socially disadvantaged farmer or rancher”
14 after “or rancher”;

15 (iii) in clause (ii), by inserting “or so-
16 cially disadvantaged farmer or rancher”
17 after “or rancher”;

18 (iv) in clause (iii), by inserting “or a
19 socially disadvantaged farmer or rancher”
20 after “or rancher”; and

21 (v) in clause (iv), by striking “and
22 ranchers” and inserting “or ranchers and
23 socially disadvantaged farmers or ranch-
24 ers”; and

- 1 (B) in subparagraph (C), by inserting “or
2 a socially disadvantaged farmer or rancher”
3 after “or rancher”;
- 4 (2) in paragraph (5)(B)—
- 5 (A) in clause (i)—
- 6 (i) in the clause heading, by inserting
7 “; SOCIALLY DISADVANTAGED FARMER OR
8 RANCHER” after “OR RANCHER”;
- 9 (ii) by inserting “or a socially dis-
10 advantaged farmer or rancher” after “a
11 beginning farmer or rancher”; and
- 12 (iii) by inserting “or the socially dis-
13 advantaged farmer or rancher” after “the
14 beginning farmer or rancher”; and
- 15 (B) in clause (ii)—
- 16 (i) in the matter preceding subclause
17 (I), by inserting “or a socially disadvan-
18 taged farmer or rancher” after “or ranch-
19 er”; and
- 20 (ii) in subclause (II), by inserting “or
21 the socially disadvantaged farmer or ranch-
22 er” after “or rancher”; and
- 23 (3) in paragraph (6)—

1 (A) in subparagraph (A), by inserting “or
2 a socially disadvantaged farmer or rancher”
3 after “or rancher”; and

4 (B) in subparagraph (C)—

5 (i) in clause (i)(I), by striking “and
6 ranchers” and inserting “or ranchers and
7 socially disadvantaged farmers or ranch-
8 ers”; and

9 (ii) in clause (ii), by inserting “or so-
10 cially disadvantaged farmers or ranchers”
11 after “or ranchers”.

12 (b) LOAN FUND SET-ASIDES.—Section 346(b)(2) of
13 such Act (7 U.S.C. 1994(b)(2)) is amended—

14 (1) in subparagraph (A)—

15 (A) in clause (i)—

16 (i) in subclause (I), by striking “70
17 percent” and inserting “an amount that is
18 not less than 75 percent of the total
19 amount”; and

20 (ii) in subclause (II)—

21 (I) in the subclause heading, by
22 inserting “; JOINT FINANCING AR-
23 RANGEMENTS” after “PAYMENT
24 LOANS”;

1 (II) by striking “60 percent” and
2 inserting “an amount not less than $\frac{2}{3}$
3 of the amount”; and

4 (III) by inserting “and joint fi-
5 nancing arrangements under section
6 307(a)(3)(D)” after “section 310E”;
7 and

8 (B) in clause (ii)(III), by striking “2003
9 through 2007, 35 percent” and inserting “2008
10 through 2012, an amount that is not less than
11 50 percent of the total amount”; and

12 (2) in subparagraph (B)(i), by striking “25 per-
13 cent” and inserting “an amount that is not less than
14 40 percent of the total amount”.

15 **SEC. 5303. LOAN AUTHORIZATION LEVELS.**

16 Section 346(b)(1) of the Consolidated Farm and
17 Rural Development Act (7 U.S.C. 1994(b)(1)) is amend-
18 ed—

19 (1) in the matter preceding subparagraph (A),
20 by striking “\$3,796,000,000 for each of fiscal years
21 2003 through 2007” and inserting “\$4,226,000,000
22 for each of fiscal years 2008 through 2012”; and

23 (2) in subparagraph (A)—

1 (A) in the matter preceding clause (i), by
2 striking “\$770,000,000” and inserting
3 “\$1,200,000,000”;

4 (B) in clause (i), by striking
5 “\$205,000,000” and inserting “\$350,000,000”;
6 and

7 (C) in clause (ii), by striking
8 “\$565,000,000” and inserting “\$850,000,000”.

9 **SEC. 5304. TRANSITION TO PRIVATE COMMERCIAL OR**
10 **OTHER SOURCES OF CREDIT.**

11 Subtitle D of the Consolidated Farm and Rural De-
12 velopment Act (7 U.S.C. 1981–2008r) is amended by in-
13 serting after section 344 the following:

14 **“SEC. 345. TRANSITION TO PRIVATE COMMERCIAL OR**
15 **OTHER SOURCES OF CREDIT.**

16 “(a) IN GENERAL.—In making or insuring a farm
17 loan under subtitle A or B, the Secretary shall establish
18 a plan and promulgate regulations (including performance
19 criteria) that promote the goal of transitioning borrowers
20 to private commercial credit and other sources of credit
21 in the shortest period of time practicable.

22 “(b) COORDINATION.—In carrying out this section,
23 the Secretary shall integrate and coordinate the transition
24 policy described in subsection (a) with—

1 “(1) the borrower training program established
2 by section 359;

3 “(2) the loan assessment process established by
4 section 360;

5 “(3) the supervised credit requirement estab-
6 lished by section 361;

7 “(4) the market placement program established
8 by section 362; and

9 “(5) other appropriate programs and authori-
10 ties, as determined by the Secretary.”.

11 **SEC. 5305. EXTENSION OF THE RIGHT OF FIRST REFUSAL**
12 **TO REACQUIRE HOMESTEAD PROPERTY TO**
13 **IMMEDIATE FAMILY MEMBERS OF BOR-**
14 **ROWER-OWNER.**

15 Section 352(c)(4)(B) of the Consolidated Farm and
16 Rural Development Act (7 U.S.C. 2000(c)(4)(B)) is
17 amended—

18 (1) in the 1st sentence, by striking “, the bor-
19 rower-owner” inserting “of a borrower-owner who is
20 a socially disadvantaged farmer or rancher (as de-
21 fined in section 355(e)(2)), the borrower-owner or a
22 member of the immediate family of the borrower-
23 owner”; and

1 (2) in the 2nd sentence, by inserting “or imme-
2 diate family member, as the case may be,” before
3 “from”.

4 **SEC. 5306. RURAL DEVELOPMENT AND FARM LOAN PRO-**
5 **GRAM ACTIVITIES.**

6 Subtitle D of the Consolidated Farm and Rural De-
7 velopment Act (7 U.S.C. 1981–2008r) is amended by in-
8 serting after section 364 the following:

9 **“SEC. 365. RURAL DEVELOPMENT AND FARM LOAN PRO-**
10 **GRAM ACTIVITIES.**

11 “The Secretary may not complete a study of, or enter
12 into a contract with a private party to carry out, without
13 specific authorization in a subsequent Act of Congress, a
14 competitive sourcing activity of the Secretary, including
15 support personnel of the Department of Agriculture, relat-
16 ing to rural development or farm loan programs.”.

17 **Subtitle E—Farm Credit**

18 **SEC. 5401. FARM CREDIT SYSTEM INSURANCE CORPORA-**
19 **TION.**

20 (a) IN GENERAL.—Section 1.12(b) of the Farm
21 Credit Act of 1971 (12 U.S.C. 2020(b)) is amended—

22 (1) in the first sentence, by striking “Each
23 Farm” and inserting the following;

24 “(1) IN GENERAL.—Each Farm”; and

1 (2) by striking the second sentence and insert-
2 ing the following:

3 “(2) COMPUTATION.—The assessment on any
4 association or other financing institution described
5 in paragraph (1) for any period shall be computed
6 in an equitable manner, as determined by the Cor-
7 poration.”.

8 (b) RULES AND REGULATIONS.—Section 5.58(10) of
9 such Act (12 U.S.C. 2277a-7(10)) is amended by inserting
10 “and section 1.12(b)” after “part”.

11 **SEC. 5402. TECHNICAL CORRECTION.**

12 Section 3.3(b) of the Farm Credit Act of 1971 (12
13 U.S.C. 2124(b)) is amended in the first sentence by strik-
14 ing “per” and inserting “par”.

15 **SEC. 5403. BANK FOR COOPERATIVES VOTING STOCK.**

16 (a) IN GENERAL.—Section 3.3(c) of the Farm Credit
17 Act of 1971 (12 U.S.C. 2124(c)) is amended by striking
18 “and (ii)” and inserting “(ii) other categories of persons
19 and entities described in sections 3.7 and 3.8 eligible to
20 borrow from the bank, as determined by the bank’s board
21 of directors; and (iii)”.

22 (b) CONFORMING AMENDMENTS.—Section
23 4.3A(e)(1)(D) of such Act (12 U.S.C. 2154a(c)(1)(D)) is
24 amended by redesignating clauses (ii) and (iii) as clauses

1 (iii) and (iv), respectively, and inserting after clause (i)
2 the following:

3 “(ii) persons and entities eligible to
4 borrow from the banks for cooperatives, as
5 described in section 3.3(c)(ii);”.

6 **SEC. 5404. PREMIUMS.**

7 (a) AMOUNT IN FUND NOT EXCEEDING SECURE
8 BASE AMOUNT.—Section 5.55(a) of the Farm Credit Act
9 of 1971 (12 U.S.C. 2277a-4(a)) is amended—

10 (1) in paragraph (1)—

11 (A) in the matter preceding subparagraph

12 (A)—

13 (i) by striking “paragraph (2)” and
14 inserting “paragraph (3)”; and

15 (ii) by striking “annual” ; and

16 (B) by striking subparagraphs (A) through
17 (D) and inserting the following:

18 “(A) the average outstanding insured obli-
19 gations issued by the bank for the calendar
20 year, after deducting from the obligations the
21 percentages of the guaranteed portions of loans
22 and investments described in paragraph (2),
23 multiplied by 0.0020; and

24 “(B) the product obtained by multi-
25 plying—

1 “(i) the sum of—

2 “(I) the average principal out-
3 standing for the calendar year on
4 loans made by the bank that are in
5 nonaccrual status; and

6 “(II) the average amount out-
7 standing for the calendar year of
8 other-than-temporarily impaired in-
9 vestments made by the bank; by

10 “(ii) 0.0010.”;

11 (2) by striking paragraph (4);

12 (3) by redesignating paragraphs (2) and (3) as
13 paragraphs (3) and (4), respectively;

14 (4) by inserting after paragraph (1) the fol-
15 lowing:

16 “(2) DEDUCTIONS FROM AVERAGE OUT-
17 STANDING INSURED OBLIGATIONS.—The average
18 outstanding insured obligations issued by the bank
19 for the calendar year referred to in paragraph (1)(A)
20 shall be reduced by deducting from the obligations
21 the sum of (as determined by the Corporation)—

22 “(A) 90 percent of each of—

23 “(i) the average principal outstanding
24 for the calendar year on the guaranteed
25 portions of Federal government-guaranteed

1 loans made by the bank that are in accrual
2 status; and

3 “(ii) the average amount outstanding
4 for the calendar year of the guaranteed
5 portions of Federal government-guaranteed
6 investments made by the bank that are not
7 permanently impaired; and

8 “(B) 80 percent of each of—

9 “(i) the average principal outstanding
10 for the calendar year on the guaranteed
11 portions of State government-guaranteed
12 loans made by the bank that are in accrual
13 status; and

14 “(ii) the average amount outstanding
15 for the calendar year of the guaranteed
16 portions of State government-guaranteed
17 investments made by the bank that are not
18 permanently impaired.”;

19 (5) in paragraph (3) (as so redesignated by
20 paragraph (3) of this subsection), by striking “an-
21 nual”; and

22 (6) in paragraph (4) (as so redesignated by
23 paragraph (3) of this subsection)—

24 (A) in the paragraph heading, by inserting
25 “OR INVESTMENTS” after “LOANS” ; and

1 (B) in the matter preceding subparagraph
2 (A), by striking “As used” and all that follows
3 through “guaranteed—” and inserting “In this
4 section, the term ‘government-guaranteed’,
5 when applied to a loan or an investment, means
6 a loan, credit, or investment, or portion of a
7 loan, credit, or investment, that is guaran-
8 teed—”.

9 (b) AMOUNT IN FUND EXCEEDING SECURE BASE
10 AMOUNT.—Section 5.55(b) of such Act (12 U.S.C. 2277a-
11 4(b)) is amended by striking “annual”.

12 (c) SECURE BASE AMOUNT.—Section 5.55(c) of such
13 Act (12 U.S.C. 2277a-4(c)) is amended—

14 (1) by striking “For purposes” and inserting
15 the following:

16 “(1) IN GENERAL.—For purposes”;

17 (2) by striking “(adjusted downward” and all
18 that follows through “by the Corporation)” and in-
19 serting “(as adjusted under paragraph (2))”; and

20 (3) by adding at the end the following:

21 “(2) ADJUSTMENT.—The aggregate out-
22 standing insured obligations of all insured System
23 banks under paragraph (1) shall be adjusted down-
24 ward to exclude an amount equal to the sum of (as
25 determined by the corporation)—

1 “(A) 90 percent of each of—

2 “(i) the guaranteed portions of prin-
3 cipal outstanding on Federal government-
4 guaranteed loans in accrual status made
5 by the banks; and

6 “(ii) the guaranteed portions of the
7 amount of Federal government-guaranteed
8 investments made by the banks that are
9 not permanently impaired; and

10 “(B) 80 percent of each of—

11 “(i) the guaranteed portions of prin-
12 cipal outstanding on State government-
13 guaranteed loans in accrual status made
14 by the banks; and

15 “(ii) the guaranteed portions of the
16 amount of State government-guaranteed
17 investments made by the banks that are
18 not permanently impaired.”.

19 (d) DETERMINATION OF LOAN AND INVESTMENT
20 AMOUNTS.—Section 5.55(d) of such Act (12 U.S.C.
21 2277a-4(d)) is amended—

22 (1) in the subsection heading, by striking
23 “PRINCIPAL OUTSTANDING” and inserting “LOAN
24 AND INVESTMENT AMOUNTS”;

1 (2) in the matter preceding paragraph (1), by
2 striking “For the purpose” and all that follows
3 through “made—” and inserting “For the purpose
4 of subsections (a) and (c), the principal outstanding
5 on all loans made by an insured System bank, and
6 the amount outstanding on all investments made by
7 an insured System bank, shall be determined based
8 on—”;

9 (3) in each of paragraphs (1), (2), and (3), by
10 inserting “all loans or investments made” before
11 “by” the first place it appears; and

12 (4) in each of paragraphs (1) and (2), by in-
13 serting “or investments” after “that is able to make
14 such loans” each place it appears.

15 (e) ALLOCATION TO SYSTEM INSTITUTIONS OF EX-
16 CESS RESERVES.—Section 5.55(e) of such Act (12 U.S.C.
17 2277a-4(e)) is amended—

18 (1) in paragraph (3), by striking “the average
19 secure base amount for the calendar year (as cal-
20 culated on an average daily balance basis)” and in-
21 serting “the secure base amount”;

22 (2) in paragraph (4), by striking subparagraph
23 (B) and inserting the following:

24 “(B) there shall be credited to the allo-
25 cated insurance reserves account of each in-

1 sured system bank an amount that bears the
2 same ratio to the total amount (less any
3 amount credited under subparagraph (A)) as—

4 “(i) the average principal outstanding
5 for the calendar year on insured obliga-
6 tions issued by the bank (after deducting
7 from the principal the percentages of the
8 guaranteed portions of loans and invest-
9 ments described in subsection (a)(2));
10 bears to

11 “(ii) the average principal outstanding
12 for the calendar year on insured obliga-
13 tions issued by all insured System banks
14 (after deducting from the principal the
15 percentages of the guaranteed portions of
16 loans and investments described in sub-
17 section (a)(2)).”;

18 (3) in paragraph (6)—

19 (A) in subparagraph (A)—

20 (i) in the matter preceding clause (i),
21 by striking “beginning more” and all that
22 follows through “January 1, 2005”;

23 (ii) by striking clause (i) and inserting
24 the following:

1 “(i) subject to subparagraph (D), pay
2 to each insured System bank, in a manner
3 determined by the Corporation, an amount
4 equal to the balance in the Allocated Insur-
5 ance Reserves Account of the System
6 bank; and”;

7 (iii) in clause (ii)—

8 (I) by striking “subparagraphs
9 (C), (E), and (F)” and inserting
10 “subparagraphs (C) and (E)”; and

11 (II) by striking “, of the lesser
12 of—” and all that follows through the
13 end of subclause (II) and inserting
14 “at the time of the termination of the
15 Financial Assistance Corporation, of
16 the balance in the Allocated Insurance
17 Reserves Account established under
18 paragraph (1)(B).”;

19 (B) in subparagraph (C)—

20 (i) in clause (i), by striking “(in addi-
21 tion to the amounts described in subpara-
22 graph (F)(ii))”; and

23 (ii) by striking clause (ii) and insert-
24 ing the following:

1 “(ii) TERMINATION OF ACCOUNT.—

2 On disbursement of an amount equal to
3 \$56,000,000, the Corporation shall—

4 “(I) close the account established
5 under paragraph (1)(B); and

6 “(II) transfer any remaining
7 funds in the Account to the remaining
8 Allocated Insurance Reserves Ac-
9 counts in accordance with paragraph
10 (4)(B) for the calendar year in which
11 the transfer occurs.”; and

12 (C) by striking subparagraph (F).

13 **SEC. 5405. CERTIFICATION OF PREMIUMS.**

14 (a) FILING CERTIFIED STATEMENT.—Section 5.56
15 of the Farm Credit Act of 1971 (12 U.S.C. 2277a–5) is
16 amended by striking subsection (a) and inserting the fol-
17 lowing:

18 “(a) FILING CERTIFIED STATEMENT.—On a date to
19 be determined in the sole discretion of the Board of Direc-
20 tors of the Corporation, each insured System bank that
21 became insured before the beginning of the period for
22 which premiums are being assessed (referred to in this
23 section as the ‘period’) shall file with the Corporation a
24 certified statement showing—

1 “(1) the average outstanding insured obliga-
2 tions for the period issued by the bank;

3 “(2)(A) the average principal outstanding for
4 the period on the guaranteed portion of Federal gov-
5 ernment-guaranteed loans that are in accrual status;
6 and

7 “(B) the average amount outstanding for the
8 period of Federal government-guaranteed invest-
9 ments that are not permanently impaired (as defined
10 in section 5.55(a)(4));

11 “(3)(A) the average principal outstanding for
12 the period on State government-guaranteed loans
13 that are in accrual status; and

14 “(B) the average amount outstanding for the
15 period of State government-guaranteed investments
16 that are not permanently impaired (as defined in
17 section 5.55(a)(4));

18 “(4)(A) the average principal outstanding for
19 the period on loans that are in nonaccrual status;
20 and

21 “(B) the average amount outstanding for the
22 period of other-than-temporarily impaired invest-
23 ments; and

24 “(5) the amount of the premium due the Cor-
25 poration from the bank for the period.”.

1 (b) PREMIUM PAYMENTS.—Section 5.56 of such Act
2 (12 U.S.C. 2277a–5) is amended by striking subsection
3 (c) and inserting the following:

4 “(c) PREMIUM PAYMENTS.—

5 “(1) IN GENERAL.—Except as provided in para-
6 graph (2), each insured System bank shall pay to
7 the Corporation the premium payments required
8 under subsection (a), not more frequently than once
9 in each calendar quarter, in such manner and at
10 such 1 or more times as the Board of Directors shall
11 prescribe.

12 “(2) PREMIUM AMOUNT.—The amount of the
13 premium shall be established not later than 60 days
14 after filing the certified statement specifying the
15 amount of the premium.”.

16 (c) SUBSEQUENT PREMIUM PAYMENTS.—Section
17 5.56 of such Act (12 U.S.C. 2277a–5) is amended—

18 (1) by striking subsection (d); and

19 (2) by redesignating subsection (e) as sub-
20 section (d).

21 **SEC. 5406. RURAL UTILITY LOANS.**

22 (a) DEFINITION OF QUALIFIED LOAN.—Section
23 8.0(9) of the Farm Credit Act of 1971 (12 U.S.C.
24 2279aa(9)) is amended—

1 (1) in subparagraph (A)(iii), by striking “or” at
2 the end;

3 (2) in subparagraph (B)(ii), by striking the pe-
4 riod at the end and inserting “; or”; and

5 (3) by adding at the end the following:

6 “(C) that is a loan, or an interest in a
7 loan, for an electric or telephone facility by a
8 cooperative lender to a borrower that has re-
9 ceived, or is eligible to receive, a loan under the
10 Rural Electrification Act of 1936 (7 U.S.C. 901
11 et seq.).”.

12 (b) GUARANTEE OF QUALIFIED LOANS.—Section
13 8.6(a)(1) of such Act (12 U.S.C. 2279aa–6(a)(1)) is
14 amended by inserting “applicable” before “standards”
15 each place it appears in subparagraphs (A) and (B)(i).

16 (c) STANDARDS FOR QUALIFIED LOANS.—Section
17 8.8 of such Act (12 U.S.C. 2279aa–8) is amended—

18 (1) in subsection (a)—

19 (A) by striking the first sentence and in-
20 serting the following:

21 “(1) IN GENERAL.—The Corporation shall es-
22 tablish underwriting, security appraisal, and repay-
23 ment standards for qualified loans taking into ac-
24 count the nature, risk profile, and other differences
25 between different categories of qualified loans.

1 “(2) SUPERVISION, EXAMINATION, AND REPORT
2 OF CONDITION.—The standards shall be subject to
3 the authorities of the Farm Credit Administration
4 under section 8.11.”; and

5 (B) in the last sentence, by striking “In
6 establishing” and inserting the following:

7 “(3) MORTGAGE LOANS.—In establishing”;
8 (2) in subsection (b)—

9 (A) in the matter preceding paragraph (1),
10 by inserting “with respect to loans secured by
11 agricultural real estate” after “subsection (a)”;
12 and

13 (B) in paragraph (5)—

14 (i) by striking “borrower” the first
15 place it appears and inserting “farmer or
16 rancher”; and

17 (ii) by striking “site” and inserting
18 “farm or ranch”;

19 (3) in subsection (c)(1), by inserting “secured
20 by agricultural real estate” after “A loan”;

21 (4) by striking subsection (d); and

22 (5) by redesignating subsection (e) as sub-
23 section (d).

1 (d) RISK-BASED CAPITAL LEVELS.—Section
 2 8.32(a)(1) of such Act (12 U.S.C. 2279bb–1(a)(1)) is
 3 amended—

4 (1) by striking “With respect” and inserting
 5 the following:

6 “(A) IN GENERAL.—With respect”; and

7 (2) by adding at the end the following:

8 “(B) RURAL UTILITY LOANS.—With re-
 9 spect to securities representing an interest in,
 10 or obligation backed by, a pool of qualified
 11 loans described in section 8.0(9)(C) owned or
 12 guaranteed by the Corporation, losses occur at
 13 a rate of default and severity reasonably related
 14 to risks in electric and telephone facility loans
 15 (as applicable), as determined by the Direc-
 16 tor.”.

17 **SEC. 5407. EQUALIZATION OF LOAN-MAKING POWERS OF**
 18 **CERTAIN DISTRICT ASSOCIATIONS.**

19 (a) IN GENERAL.—The Farm Credit Act of 1971 is
 20 amended by inserting after section 7.6 (12 U.S.C. 2279b)
 21 the following:

22 **“SEC. 7.7. EQUALIZATION OF LOAN-MAKING POWERS OF**
 23 **CERTAIN DISTRICT ASSOCIATIONS.**

24 “(a) EQUALIZATION OF LOAN-MAKING POWERS.—

25 “(1) IN GENERAL.—

1 “(A) FEDERAL LAND BANK ASSOCIA-
2 TIONS.—Subject to paragraph (2), any associa-
3 tion that owns a Federal land bank association
4 authorized as of January 1, 2007, to make
5 long-term loans under title I in its chartered
6 territory within the geographic area described
7 in subsection (b) may make short- and inter-
8 mediate-term loans and otherwise operate as a
9 production credit association under title II
10 within that same chartered territory.

11 “(B) PRODUCTION CREDIT ASSOCIA-
12 TIONS.—Subject to paragraph (2), any associa-
13 tion that under its charter has title I lending
14 authority and that owns a production credit as-
15 sociation authorized as of January 1, 2007, to
16 make short- and intermediate-term loans under
17 title II in the geographic area described in sub-
18 section (b) may make long-term loans and oth-
19 erwise operate, directly or through a subsidiary
20 association, as a Federal land bank association
21 or Federal land credit association under title I
22 in the geographic area.

23 “(C) FARM CREDIT BANK.—Notwith-
24 standing section 5.17(a), the Farm Credit Bank
25 with which any association had a written fi-

1 nancing agreement as of January 1, 2007, may
2 make loans and extend other comparable finan-
3 cial assistance with respect to, and may pur-
4 chase, any loans made under the new authority
5 provided under subparagraph (A) or (B) by an
6 association exercising such authority.

7 “(2) REQUIRED APPROVALS.—An association
8 may exercise the additional authority provided for in
9 paragraph (1) only after the exercise of the author-
10 ity is approved by—

11 “(A) the board of directors of the associa-
12 tion; and

13 “(B) a majority of the voting stockholders
14 of the association (or, if the association is a
15 subsidiary of another association, the voting
16 stockholders of the parent association) voting,
17 in person or by proxy, at a duly authorized
18 meeting of stockholders in accordance with the
19 process described in section 7.11.

20 “(b) APPLICABILITY.—This section applies only to
21 associations the chartered territory of which was within
22 the geographic area served by the Federal intermediate
23 credit bank immediately prior to its merger with a Farm
24 Credit Bank under section 410(e)(1) of the Agricultural

1 Credit Act of 1987 (12 U.S.C. 2011 note; Public Law
2 100–233).”.

3 (b) CHARTER AMENDMENTS.—Section 5.17(a) of the
4 Farm Credit Act of 1971 (12 U.S.C. 2252(a)) is amended
5 by adding at the end the following:

6 “(15)(A) Approve amendments to the charters
7 of institutions of the Farm Credit System to imple-
8 ment the equalization of loan-making powers of a
9 Farm Credit System association under section 7.7.

10 “(B) Amendments described in subparagraph
11 (A) to the charters of an association and the related
12 Farm Credit Bank shall be approved by the Farm
13 Credit Administration, subject to any conditions of
14 approval imposed, by not later than 30 days after
15 the date on which the Farm Credit Administration
16 receives all approvals required by section 7.7(a)(2).”.

17 (c) CONFORMING AMENDMENTS.—

18 (1) Section 5.17(a)(2) of the Farm Credit Act
19 of 1971 (12 U.S.C. 2252(a)(2)) is amended—

20 (A) by striking “(2)(A)” and inserting
21 “(2)”; and

22 (B) by striking subparagraphs (B) and
23 (C).

24 (2) SECTION 410 OF THE 1987 ACT.—Section
25 410(e)(1)(A)(iii) of the Agricultural Credit Act of

1 1987 (12 U.S.C. 2011 note; Public Law 100–233)
 2 is amended by inserting “(except section 7.7 of that
 3 Act)” after “(12 U.S.C. 2001 et seq.)”.

4 (3) SECTION 401 OF THE 1992 ACT.—Section
 5 401(b) of the Farm Credit Banks and Associations
 6 Safety and Soundness Act of 1992 (12 U.S.C. 2011
 7 note; Public Law 102–552) is amended—

8 (A) by inserting “(except section 7.7 of the
 9 Farm Credit Act of 1971)” after “provision of
 10 law”; and

11 (B) by striking “, subject to such limita-
 12 tions” and all that follows through the end of
 13 the paragraph and inserting a period.

14 (d) EFFECTIVE DATE.—The amendments made by
 15 this section take effect on January 1, 2010.

16 **Subtitle F—Miscellaneous**

17 **SEC. 5501. LOANS TO PURCHASERS OF HIGHLY** 18 **FRACTIONED LAND.**

19 The first section of Public Law 91–229 (25 U.S.C.
 20 488) is amended—

21 (1) by striking “That the Secretary” and in-
 22 sserting the following:

23 **“SECTION 1. LOANS TO PURCHASERS OF HIGHLY** 24 **FRACTIONED LAND.**

25 “(a) IN GENERAL.—The Secretary”; and

1 (2) by adding at the end the following:

2 “(b) HIGHLY FRACTIONATED LAND.—

3 “(1) IN GENERAL.—Subject to paragraph (2),
4 the Secretary of Agriculture may make and insure
5 loans in accordance with section 309 of the Consoli-
6 dated Farm and Rural Development Act (7 U.S.C.
7 1929) to eligible purchasers of highly fractionated
8 land pursuant to section 205(c) of the Indian Land
9 Consolidation Act (25 U.S.C. 2204(c)).

10 “(2) EXCLUSION.—Section 4 shall not apply to
11 trust land, restricted tribal land, or tribal corpora-
12 tion land that is mortgaged in accordance with para-
13 graph (1).”.

14 **TITLE VI—RURAL**
15 **DEVELOPMENT**

16 **Subtitle A—Consolidated Farm and**
17 **Rural Development Act**

18 **SEC. 6001. WATER, WASTE DISPOSAL, AND WASTEWATER**
19 **FACILITY GRANTS.**

20 Section 306(a)(2)(B)(vii) of the Consolidated Farm
21 and Rural Development Act (7 U.S.C. 1926(a)(2)(B)(vii))
22 is amended by striking “2002 through 2007” and insert-
23 ing “2008 through 2012”.

1 **SEC. 6002. SEARCH GRANTS.**

2 (a) IN GENERAL.—Section 306(a)(2) of the Consoli-
3 dated Farm and Rural Development Act (7 U.S.C.
4 1926(a)(2)) is amended by adding at the end the fol-
5 lowing:

6 “(C) SPECIAL EVALUATION ASSISTANCE
7 FOR RURAL COMMUNITIES AND HOUSEHOLDS
8 PROGRAM.—

9 “(i) IN GENERAL.—The Secretary
10 may establish the Special Evaluation As-
11 sistance for Rural Communities and
12 Households (SEARCH) program, to make
13 predevelopment planning grants for feasi-
14 bility studies, design assistance, and tech-
15 nical assistance, to financially distressed
16 communities in rural areas with popu-
17 lations of 2,500 or fewer inhabitants for
18 water and waste disposal projects described
19 in paragraph (1), this paragraph, and
20 paragraph (24).

21 “(ii) TERMS.—

22 “(I) DOCUMENTATION.—With re-
23 spect to grants made under this sub-
24 paragraph, the Secretary shall require
25 the lowest amount of documentation
26 practicable.

1 “(II) MATCHING.—Notwith-
2 standing any other provisions in this
3 subsection, the Secretary may fund up
4 to 100 percent of the eligible costs of
5 grants provided under this subpara-
6 graph, as determined by the Sec-
7 retary.

8 “(iii) FUNDING.—The Secretary may
9 use not more than 4 percent of the total
10 amount of funds made available for a fiscal
11 year for water, waste disposal, and essen-
12 tial community facility activities under this
13 title to carry out this subparagraph.

14 “(iv) RELATIONSHIP TO OTHER AU-
15 THORITY.—The funds and authorities pro-
16 vided under this subparagraph are in addi-
17 tion to any other funds or authorities the
18 Secretary may have to carry out activities
19 described in clause (i).”.

20 (b) CONFORMING AMENDMENT.—Subtitle D of title
21 VI of the Farm Security and Rural Investment Act of
22 2002 (7 U.S.C. 2009ee et seq.) is repealed.

23 **SEC. 6003. RURAL BUSINESS OPPORTUNITY GRANTS.**

24 Section 306(a)(11)(D) of the Consolidated Farm and
25 Rural Development Act (7 U.S.C. 1926(a)(11)(D)) is

1 amended by striking “1996 through 2007” and inserting
2 “2008 through 2012”.

3 **SEC. 6004. CHILD DAY CARE FACILITY GRANTS, LOANS, AND**
4 **LOAN GUARANTEES.**

5 Section 306(a)(19)(C)(ii) of the Consolidated Farm
6 and Rural Development Act (7 U.S.C. 1926(a)(19)(C)(ii))
7 is amended by striking “April” and inserting “June”.

8 **SEC. 6005. COMMUNITY FACILITY GRANTS TO ADVANCE**
9 **BROADBAND.**

10 Section 306(a)(20)(E) of the Consolidated Farm and
11 Rural Development Act (7 U.S.C. 1926(a)(20)(E)) is
12 amended—

13 (1) by striking “state” and inserting “State”;

14 and

15 (2) by striking “dial-up Internet access or”.

16 **SEC. 6006. RURAL WATER AND WASTEWATER CIRCUIT**
17 **RIDER PROGRAM.**

18 Section 306(a)(22)(C) of the Consolidated Farm and
19 Rural Development Act (7 U.S.C. 1926(a)(22)(C)) is
20 amended by striking “\$15,000,000 for fiscal year 2003”
21 and inserting “\$25,000,000 for fiscal year 2008”.

1 **SEC. 6007. TRIBAL COLLEGE AND UNIVERSITY ESSENTIAL**
2 **COMMUNITY FACILITIES.**

3 Section 306(a)(25) of the Consolidated Farm and
4 Rural Development Act (7 U.S.C. 1926(a)(25)) is amend-
5 ed—

6 (1) in subparagraph (A)—

7 (A) by striking “tribal colleges and univer-
8 sities” and inserting “an entity that is a Tribal
9 College or University”; and

10 (B) by striking “tribal college or univer-
11 sity” and inserting “Tribal College or Univer-
12 sity”;

13 (2) by striking subparagraph (B) and inserting
14 the following:

15 “(B) FEDERAL SHARE.—The Secretary
16 shall establish the maximum percentage of the
17 cost of the facility that may be covered by a
18 grant under this paragraph, except that the
19 Secretary may not require non-Federal financial
20 support in an amount that is greater than 5
21 percent of the total cost of the facility.”; and

22 (3) in subparagraph (C), by striking “2003
23 through 2007” and inserting “2008 through 2012”.

1 **SEC. 6008. EMERGENCY AND IMMINENT COMMUNITY**
2 **WATER ASSISTANCE GRANT PROGRAM.**

3 Section 306A(i)(2) of the Consolidated Farm and
4 Rural Development Act (7 U.S.C. 1926a(i)(2)) is amended
5 by striking “2003 through 2007” and inserting “2008
6 through 2012”.

7 **SEC. 6009. WATER SYSTEMS FOR RURAL AND NATIVE VIL-**
8 **LAGES IN ALASKA.**

9 (a) **IN GENERAL.**—Section 306D(d)(1) of the Con-
10 solidated Farm and Rural Development Act (7 U.S.C.
11 1926d(d)(1)) is amended by striking “2001 through
12 2007” and inserting “2008 through 2012”.

13 (b) **RURAL COMMUNITIES ASSISTANCE.**—Section
14 4009 of the Solid Waste Disposal Act (42 U.S.C. 6949)
15 is amended by adding at the end the following:

16 “(e) **ADDITIONAL APPROPRIATIONS.**—

17 “(1) **IN GENERAL.**—There are authorized to be
18 appropriated to carry out this section for the Denali
19 Commission to provide assistance to municipalities
20 in the State of Alaska \$1,500,000 for each of fiscal
21 years 2008 through 2012.

22 “(2) **ADMINISTRATION.**—For the purpose of
23 carrying out this subsection, the Denali Commission
24 shall—

25 “(A) be considered a State; and

1 “(B) comply with all other requirements
2 and limitations of this section.”.

3 **SEC. 6010. GRANTS TO NONPROFIT ORGANIZATIONS TO FI-**
4 **NANCE THE CONSTRUCTION, REFURBISHING,**
5 **AND SERVICING OF INDIVIDUALLY-OWNED**
6 **HOUSEHOLD WATER WELL SYSTEMS IN**
7 **RURAL AREAS FOR INDIVIDUALS WITH LOW**
8 **OR MODERATE INCOMES.**

9 Section 306E of the Consolidated Farm and Rural
10 Development Act (7 U.S.C. 1926e) is amended—

11 (1) in subsection (b)(2)(C), by striking
12 “\$8,000” and inserting “\$11,000”; and

13 (2) in subsection (d), by striking “2003 through
14 2007” and inserting “2008 through 2012”.

15 **SEC. 6011. INTEREST RATES FOR WATER AND WASTE DIS-**
16 **POSAL FACILITIES LOANS.**

17 Section 307(a)(3) of the Consolidated Farm and
18 Rural Development Act (7 U.S.C. 1927(a)(3)) is amended
19 by adding at the end the following:

20 “(E) INTEREST RATES FOR WATER AND
21 WASTE DISPOSAL FACILITIES LOANS.—

22 “(i) IN GENERAL.—Except as pro-
23 vided in clause (ii) and notwithstanding
24 subparagraph (A), in the case of a direct

1 loan for a water or waste disposal facil-
2 ity—

3 “(I) in the case of a loan that
4 would be subject to the 5 percent in-
5 terest rate limitation under subpara-
6 graph (A), the Secretary shall estab-
7 lish the interest rate at a rate that is
8 equal to 60 percent of the current
9 market yield for outstanding munic-
10 ipal obligations with remaining peri-
11 ods to maturity comparable to the av-
12 erage maturity of the loan, adjusted
13 to the nearest $\frac{1}{8}$ of 1 percent; and

14 “(II) in the case of a loan that
15 would be subject to the 7 percent limi-
16 tation under subparagraph (A), the
17 Secretary shall establish the interest
18 rate at a rate that is equal to 80 per-
19 cent of the current market yield for
20 outstanding municipal obligations
21 with remaining periods to maturity
22 comparable to the average maturity of
23 the loan, adjusted to the nearest $\frac{1}{8}$ of
24 1 percent.

1 “(ii) EXCEPTION.—Clause (i) does not
2 apply to a loan for a specific project that
3 is the subject of a loan that has been ap-
4 proved, but not closed, as of the date of
5 enactment of this subparagraph.”.

6 **SEC. 6012. COOPERATIVE EQUITY SECURITY GUARANTEE.**

7 (a) IN GENERAL.—Section 310B of the Consolidated
8 Farm and Rural Development Act (7 U.S.C. 1932) is
9 amended—

10 (1) by striking “SEC. 310B. (a)” and inserting
11 the following:

12 **“SEC. 310B. ASSISTANCE FOR RURAL ENTITIES.**

13 “(a) LOANS TO PRIVATE BUSINESS ENTERPRISES.—

14 “(1) DEFINITIONS.—In this subsection:”;

15 (2) in subsection (a)—

16 (A) by moving the second and fourth sen-
17 tences so as to appear as the second and first
18 sentences, respectively;

19 (B) in the sentence beginning “As used in
20 this subsection, the” (as moved by subpara-
21 graph (A)), by striking “As used in this sub-
22 section, the” and inserting the following:

23 “(A) AQUACULTURE.—The”;

24 (C) in the sentence beginning “For the
25 purposes of this subsection, the”, by striking

1 “For the purposes of this subsection, the” and
2 inserting the following:

3 “(B) SOLAR ENERGY.—The”;

4 (D) in the sentence beginning “The Sec-
5 retary may also”—

6 (i) by striking “The Secretary may
7 also” and inserting the following:

8 “(2) LOAN PURPOSES.—The Secretary may”;

9 (ii) by inserting “and private invest-
10 ment funds that invest primarily in cooper-
11 ative organizations” after “or nonprofit”;

12 (iii) by striking “of (1) improving”
13 and inserting “of—

14 “(A) improving”;

15 (iv) by striking “control, (2) the” and
16 inserting “control;

17 “(B) the”;

18 (v) by striking “areas, (3) reducing”
19 and inserting “areas;

20 “(C) reducing”;

21 (vi) by striking “areas, and (4) to”
22 and inserting “areas; and

23 “(D) to”;

1 (E) in the sentence beginning “Such
2 loans,” by striking “Such loans,” and inserting
3 the following:

4 “(3) LOAN GUARANTEES.—Loans described in
5 paragraph (2),”; and

6 (F) in the last sentence, by striking “No
7 loan” and inserting the following:

8 “(4) MAXIMUM AMOUNT OF PRINCIPAL.—No
9 loan”; and

10 (3) in subsection (g)—

11 (A) in paragraph (1), by inserting “, in-
12 cluding guarantees described in paragraph
13 (3)(A)(ii)” before the period at the end;

14 (B) in paragraph (3)(A)—

15 (i) by striking “(A) IN GENERAL.—
16 The Secretary” and inserting the following:

17 “(A) ELIGIBILITY.—

18 “(i) IN GENERAL.—The Secretary”;

19 and

20 (ii) by adding at the end the fol-
21 lowing:

22 “(ii) EQUITY.—The Secretary may
23 guarantee a loan made for the purchase of
24 preferred stock or similar equity issued by
25 a cooperative organization or a fund that

1 invests primarily in cooperative organiza-
2 tions, if the guarantee significantly bene-
3 fits 1 or more entities eligible for assist-
4 ance for the purposes described in sub-
5 section (a)(1), as determined by the Sec-
6 retary.”; and

7 (C) in paragraph (8)(A)(ii), by striking “a
8 project—” and all that follows through the end
9 of subclause (II) and inserting “a project
10 that—

11 “(I)(aa) is in a rural area; and

12 “(bb) provides for the value-
13 added processing of agricultural com-
14 modities; or

15 “(II) significantly benefits 1 or
16 more entities eligible for assistance for
17 the purposes described in subsection
18 (a)(1), as determined by the Sec-
19 retary.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Section 307(a)(6)(B) of the Consolidated
22 Farm and Rural Development Act (7 U.S.C.
23 1927(a)(6)(B)) is amended by striking clause (ii)
24 and inserting the following:

25 “(ii) section 310B(a)(2)(A); and”.

1 (2) Section 310B(g) of the Consolidated Farm
2 and Rural Development Act (7 U.S.C. 1932(g)) is
3 amended by striking “subsection (a)(1)” each place
4 it appears in paragraphs (1), (6)(A)(iii), and (8)(C)
5 and inserting “subsection (a)(2)(A)”.

6 (3) Section 333A(g)(1)(B) of the Consolidated
7 Farm and Rural Development Act (7 U.S.C.
8 1983a(g)(1)(B)) is amended by striking “section
9 310B(a)(1)” and inserting “section 310B(a)(2)(A)”.

10 (4) Section 381E(d)(3)(B) of the Consolidated
11 Farm and Rural Development Act (7 U.S.C.
12 2009d(d)(3)(B)) is amended by striking “section
13 310B(a)(1)” and inserting “section 310B(a)(2)(A)”.

14 **SEC. 6013. RURAL COOPERATIVE DEVELOPMENT GRANTS.**

15 (a) **ELIGIBILITY.**—Section 310B(e)(5) of the Consoli-
16 dated Farm and Rural Development Act (7 U.S.C.
17 1932(e)(5)) is amended—

18 (1) in subparagraph (A), by striking “admin-
19 istering a nationally coordinated, regionally or State-
20 wide operated project” and inserting “carrying out
21 activities to promote and assist the development of
22 cooperatively and mutually owned businesses”;

23 (2) in subparagraph (B), by inserting “to pro-
24 mote and assist the development of cooperatively

1 and mutually owned businesses” before the semi-
2 colon;

3 (3) by striking subparagraph (D);

4 (4) by redesignating subparagraph (E) as sub-
5 paragraph (D);

6 (5) in subparagraph (D) (as so redesignated),
7 by striking “and” at the end;

8 (6) by inserting after subparagraph (D) (as so
9 redesignated) the following:

10 “(E) demonstrate a commitment to—

11 “(i) networking with and sharing the
12 results of the efforts of the center with
13 other cooperative development centers and
14 other organizations involved in rural eco-
15 nomic development efforts; and

16 “(ii) developing multiorganization and
17 multistate approaches to addressing the
18 economic development and cooperative
19 needs of rural areas; and”;

20 (7) in subparagraph (F), by striking “providing
21 greater than” and inserting “providing”.

22 (b) **AUTHORITY TO AWARD MULTIYEAR GRANTS.**—
23 Section 310B(e) of the Consolidated Farm and Rural De-
24 velopment Act (7 U.S.C. 1932(e)) is amended by striking
25 paragraph (6) and inserting the following:

1 “(6) GRANT PERIOD.—

2 “(A) IN GENERAL.—A grant awarded to a
3 center that has received no prior funding under
4 this subsection shall be made for a period of 1
5 year.

6 “(B) MULTIYEAR GRANTS.—If the Sec-
7 retary determines it to be in the best interest
8 of the program, the Secretary shall award
9 grants for a period of more than 1 year, but
10 not more than 3 years, to a center that has suc-
11 cessfully met the parameters described in para-
12 graph (5), as determined by the Secretary.”.

13 (c) AUTHORITY TO EXTEND GRANT PERIOD.—Sec-
14 tion 310B(e) of the Consolidated Farm and Rural Devel-
15 opment Act (7 U.S.C. 1932(e)) is amended—

16 (1) by redesignating paragraphs (7), (8), and
17 (9) as paragraphs (8), (9), and (12), respectively;
18 and

19 (2) by inserting after paragraph (6) the fol-
20 lowing:

21 “(7) AUTHORITY TO EXTEND GRANT PERIOD.—
22 The Secretary may extend for 1 additional 12-month
23 period the period in which a grantee may use a
24 grant made under this subsection.”.

1 (d) COOPERATIVE RESEARCH PROGRAM.—Section
2 310B(e) of the Consolidated Farm and Rural Develop-
3 ment Act (7 U.S.C. 1932(e)) is amended by inserting after
4 paragraph (9) (as redesignated by subsection (c)(1)) the
5 following:

6 “(10) COOPERATIVE RESEARCH PROGRAM.—
7 The Secretary shall enter into a cooperative research
8 agreement with 1 or more qualified academic institu-
9 tions in each fiscal year to conduct research on the
10 effects of all types of cooperatives on the national
11 economy.”.

12 (e) ADDRESSING NEEDS OF MINORITY COMMU-
13 NITIES.—Section 310B(e) of the Consolidated Farm and
14 Rural Development Act (7 U.S.C. 1932(e)) is amended by
15 inserting after paragraph (10) (as added by subsection
16 (d)) the following:

17 “(11) ADDRESSING NEEDS OF MINORITY COM-
18 MUNITIES.—

19 “(A) DEFINITION OF SOCIALLY DISADVAN-
20 TAGED GROUP.—In this paragraph, the term
21 ‘socially disadvantaged group’ has the meaning
22 given the term in section 355(e).

23 “(B) RESERVATION OF FUNDS.—

24 “(i) IN GENERAL.—If the total
25 amount appropriated under paragraph

1 (12) for a fiscal year exceeds \$7,500,000,
2 the Secretary shall reserve an amount
3 equal to 20 percent of the total amount ap-
4 propriated for grants for cooperative devel-
5 opment centers, individual cooperatives, or
6 groups of cooperatives—

7 “(I) that serve socially disadvan-
8 tagged groups; and

9 “(II) a majority of the boards of
10 directors or governing boards of which
11 are comprised of individuals who are
12 members of socially disadvantaged
13 groups.

14 “(ii) INSUFFICIENT APPLICATIONS.—
15 To the extent there are insufficient appli-
16 cations to carry out clause (i), the Sec-
17 retary shall use the funds as otherwise au-
18 thorized by this subsection.”.

19 (f) AUTHORIZATION OF APPROPRIATIONS.—Para-
20 graph (12) of section 310B(e) of the Consolidated Farm
21 and Rural Development Act (7 U.S.C. 1932(e)) (as redes-
22 igned by subsection (c)(1)) is amended by striking
23 “1996 through 2007” and inserting “2008 through
24 2012”.

1 **SEC. 6014. GRANTS TO BROADCASTING SYSTEMS.**

2 Section 310B(f)(3) of the Consolidated Farm and
3 Rural Development Act (7 U.S.C. 1932(f)(3)) is amended
4 by striking “2002 through 2007” and inserting “2008
5 through 2012”.

6 **SEC. 6015. LOCALLY OR REGIONALLY PRODUCED AGRICUL-**
7 **TURAL FOOD PRODUCTS.**

8 Section 310B(g) of the Consolidated Farm and Rural
9 Development Act (7 U.S.C. 1932(g)) is amended by add-
10 ing at the end the following:

11 “(9) LOCALLY OR REGIONALLY PRODUCED AG-
12 RICULTURAL FOOD PRODUCTS.—

13 “(A) DEFINITIONS.—In this paragraph:

14 “(i) LOCALLY OR REGIONALLY PRO-
15 DUCED AGRICULTURAL FOOD PRODUCT.—

16 The term ‘locally or regionally produced
17 agricultural food product’ means any agri-
18 cultural food product that is raised, pro-
19 duced, and distributed in—

20 “(I) the locality or region in
21 which the final product is marketed,
22 so that the total distance that the
23 product is transported is less than
24 400 miles from the origin of the prod-
25 uct; or

1 “(II) the State in which the
2 product is produced.

3 “(ii) UNDERSERVED COMMUNITY.—
4 The term ‘underserved community’ means
5 a community (including an urban or rural
6 community and an Indian tribal commu-
7 nity) that has, as determined by the Sec-
8 retary—

9 “(I) limited access to affordable,
10 healthy foods, including fresh fruits
11 and vegetables, in grocery retail stores
12 or farmer-to-consumer direct markets;
13 and

14 “(II) a high rate of hunger or
15 food insecurity or a high poverty rate.

16 “(B) LOAN AND LOAN GUARANTEE PRO-
17 GRAM.—

18 “(i) IN GENERAL.—The Secretary
19 shall make or guarantee loans to individ-
20 uals, cooperatives, cooperative organiza-
21 tions, businesses, and other entities to es-
22 tablish and facilitate enterprises that proc-
23 ess, distribute, aggregate, store, and mar-
24 ket locally or regionally produced agricul-

1 tural food products to support community
2 development and farm and ranch income.

3 “(ii) REQUIREMENT.—The recipient
4 of a loan or loan guarantee under clause
5 (i) shall include in an appropriate agree-
6 ment with retail and institutional facilities
7 to which the recipient sells locally or re-
8 gionally produced agricultural food prod-
9 ucts a requirement to inform consumers of
10 the retail or institutional facilities that the
11 consumers are purchasing or consuming lo-
12 cally or regionally produced agricultural
13 food products.

14 “(iii) PRIORITY.—In making or guar-
15 anteeing a loan under clause (i), the Sec-
16 retary shall give priority to projects that
17 have components benefitting underserved
18 communities.

19 “(iv) REPORTS.—Not later than 2
20 years after the date of enactment of this
21 paragraph and annually thereafter, the
22 Secretary shall submit to the Committee
23 on Agriculture of the House of Representa-
24 tives and the Committee on Agriculture,
25 Nutrition, and Forestry of the Senate a re-

1 port that describes projects carried out
2 using loans or loan guarantees made under
3 clause (i), including—

4 “(I) the characteristics of the
5 communities served; and

6 “(II) resulting benefits.

7 “(v) RESERVATION OF FUNDS.—

8 “(I) IN GENERAL.—For each of
9 fiscal years 2008 through 2012, the
10 Secretary shall reserve not less than 5
11 percent of the funds made available to
12 carry out this subsection to carry out
13 this subparagraph.

14 “(II) AVAILABILITY OF FUNDS.—

15 Funds reserved under subclause (I)
16 for a fiscal year shall be reserved until
17 April 1 of the fiscal year.”.

18 **SEC. 6016. APPROPRIATE TECHNOLOGY TRANSFER FOR**
19 **RURAL AREAS.**

20 Section 310B of the Consolidated Farm and Rural
21 Development Act (7 U.S.C. 1932) is amended by adding
22 at the end the following:

23 “(i) APPROPRIATE TECHNOLOGY TRANSFER FOR
24 RURAL AREAS PROGRAM.—

1 “(1) DEFINITION OF NATIONAL NONPROFIT AG-
2 RICULTURAL ASSISTANCE INSTITUTION.—In this
3 subsection, the term ‘national nonprofit agricultural
4 assistance institution’ means an organization that—

5 “(A) is described in section 501(c)(3) of
6 the Internal Revenue Code of 1986 and exempt
7 from taxation under 501(a) of that Code;

8 “(B) has staff and offices in multiple re-
9 gions of the United States;

10 “(C) has experience and expertise in oper-
11 ating national agriculture technical assistance
12 programs;

13 “(D) expands markets for the agricultural
14 commodities produced by producers through the
15 use of practices that enhance the environment,
16 natural resource base, and quality of life; and

17 “(E) improves the economic viability of ag-
18 ricultural operations.

19 “(2) ESTABLISHMENT.—The Secretary shall es-
20 tablish a national appropriate technology transfer
21 for rural areas program to assist agricultural pro-
22 ducers that are seeking information to—

23 “(A) reduce input costs;

24 “(B) conserve energy resources;

1 “(C) diversify operations through new en-
2 ergy crops and energy generation facilities; and

3 “(D) expand markets for agricultural com-
4 modities produced by the producers by using
5 practices that enhance the environment, natural
6 resource base, and quality of life.

7 “(3) IMPLEMENTATION.—

8 “(A) IN GENERAL.—The Secretary shall
9 carry out the program under this subsection by
10 making a grant to, or offering to enter into a
11 cooperative agreement with, a national non-
12 profit agricultural assistance institution.

13 “(B) GRANT AMOUNT.—A grant made, or
14 cooperative agreement entered into, under sub-
15 paragraph (A) shall provide 100 percent of the
16 cost of providing information described in para-
17 graph (2).

18 “(4) AUTHORIZATION OF APPROPRIATIONS.—

19 There are authorized to be appropriated to carry out
20 this subsection \$5,000,000 for each of fiscal years
21 2008 through 2012.”.

22 **SEC. 6017. RURAL ECONOMIC AREA PARTNERSHIP ZONES.**

23 Section 310B of the Consolidated Farm and Rural
24 Development Act (7 U.S.C. 1932) (as amended by section
25 6016) is amended by adding at the end the following:

1 “(j) RURAL ECONOMIC AREA PARTNERSHIP
2 ZONES.—Effective beginning on the date of enactment of
3 this subsection through September 30, 2012, the Sec-
4 retary shall carry out those rural economic area partner-
5 ship zones administratively in effect on the date of enact-
6 ment of this subsection in accordance with the terms and
7 conditions contained in the memorandums of agreement
8 entered into by the Secretary for the rural economic area
9 partnership zones, except as otherwise provided in this
10 subsection.”.

11 **SEC. 6018. DEFINITIONS.**

12 (a) RURAL AREA.—Section 343(a) of the Consoli-
13 dated Farm and Rural Development Act (7 U.S.C.
14 1991(a)) is amended by striking paragraph (13) and in-
15 serting the following:

16 “(13) RURAL AND RURAL AREA.—

17 “(A) IN GENERAL.—Subject to subpara-
18 graphs (B) through (G), the terms ‘rural’ and
19 ‘rural area’ mean any area other than—

20 “(i) a city or town that has a popu-
21 lation of greater than 50,000 inhabitants;
22 and

23 “(ii) any urbanized area contiguous
24 and adjacent to a city or town described in
25 clause (i).

1 “(B) WATER AND WASTE DISPOSAL
2 GRANTS AND DIRECT AND GUARANTEED
3 LOANS.—For the purpose of water and waste
4 disposal grants and direct and guaranteed loans
5 provided under paragraphs (1), (2), and (24) of
6 section 306(a), the terms ‘rural’ and ‘rural
7 area’ mean a city, town, or unincorporated area
8 that has a population of no more than 10,000
9 inhabitants.

10 “(C) COMMUNITY FACILITY LOANS AND
11 GRANTS.—For the purpose of community facil-
12 ity direct and guaranteed loans and grants
13 under paragraphs (1), (19), (20), (21), and
14 (24) of section 306(a), the terms ‘rural’ and
15 ‘rural area’ mean any area other than a city,
16 town, or unincorporated area that has a popu-
17 lation of greater than 20,000 inhabitants.

18 “(D) AREAS RURAL IN CHARACTER.—

19 “(i) APPLICATION.—This subpara-
20 graph applies to—

21 “(I) an urbanized area described
22 in subparagraphs (A)(ii) and (F)
23 that—

1 “(aa) has 2 points on its
2 boundary that are at least 40
3 miles apart; and

4 “(bb) is not contiguous or
5 adjacent to a city or town that
6 has a population of greater than
7 150,000 inhabitants or an urban-
8 ized area of such city or town;
9 and

10 “(II) an area within an urbanized
11 area described in subparagraphs
12 (A)(ii) and (F) that is within 1/4-mile
13 of a rural area described in subpara-
14 graph (A).

15 “(ii) DETERMINATION.—Notwith-
16 standing any other provision of this para-
17 graph, on the petition of a unit of local
18 government in an area described in clause
19 (i) or on the initiative of the Under Sec-
20 retary for Rural Development, the Under
21 Secretary may determine that a part of an
22 area described in clause (i) is a rural area
23 for the purposes of this paragraph, if the
24 Under Secretary finds that the part is

1 rural in character, as determined by the
2 Under Secretary.

3 “(iii) ADMINISTRATION.—In carrying
4 out this subparagraph, the Under Sec-
5 retary for Rural Development shall—

6 “(I) not delegate the authority to
7 carry out this subparagraph;

8 “(II) consult with the applicable
9 rural development State or regional
10 director of the Department of Agri-
11 culture and the governor of the re-
12 spective State;

13 “(III) provide to the petitioner
14 an opportunity to appeal to the Under
15 Secretary a determination made under
16 this subparagraph;

17 “(IV) release to the public notice
18 of a petition filed or initiative of the
19 Under Secretary under this subpara-
20 graph not later than 30 days after re-
21 ceipt of the petition or the commence-
22 ment of the initiative, as appropriate;

23 “(V) make a determination under
24 this subparagraph not less than 15
25 days, and not more than 60 days,

1 after the release of the notice under
2 subclause (IV);

3 “(VI) submit to the Committee
4 on Agriculture of the House of Rep-
5 resentatives and the Committee on
6 Agriculture, Nutrition, and Forestry
7 of the Senate an annual report on ac-
8 tions taken to carry out this subpara-
9 graph; and

10 “(VII) terminate a determination
11 under this subparagraph that part of
12 an area is a rural area on the date
13 that data is available for the next de-
14 cennial census conducted under sec-
15 tion 141(a) of title 13, United States
16 Code.

17 “(E) EXCLUSIONS.—Notwithstanding any
18 other provision of this paragraph, in deter-
19 mining which census blocks in an urbanized
20 area are not in a rural area (as defined in this
21 paragraph), the Secretary shall exclude any
22 cluster of census blocks that would otherwise be
23 considered not in a rural area only because the
24 cluster is adjacent to not more than 2 census

1 blocks that are otherwise considered not in a
2 rural area under this paragraph.

3 “(F) URBAN AREA GROWTH.—

4 “(i) APPLICATION.—This subpara-
5 graph applies to—

6 “(I) any area that—

7 “(aa) is a collection of cen-
8 sus blocks that are contiguous to
9 each other;

10 “(bb) has a housing density
11 that the Secretary estimates is
12 greater than 200 housing units
13 per square mile; and

14 “(cc) is contiguous or adja-
15 cent to an existing boundary of a
16 rural area; and

17 “(II) any urbanized area contig-
18 uous and adjacent to a city or town
19 described in subparagraph (A)(i).

20 “(ii) ADJUSTMENTS.—The Secretary
21 may, by regulation only, consider—

22 “(I) an area described in clause
23 (i)(I) not to be a rural area for pur-
24 poses of subparagraphs (A) and (C);
25 and

1 “(II) an area described in clause
2 (i)(II) not to be a rural area for pur-
3 poses of subparagraph (C).

4 “(iii) APPEALS.—A program applicant
5 may appeal an estimate made under clause
6 (i)(I) based on appropriate data for an
7 area, as determined by the Secretary.

8 “(G) HAWAII AND PUERTO RICO.—Not-
9 withstanding any other provision of this para-
10 graph, within the areas of the County of Hono-
11 lulu, Hawaii, and the Commonwealth of Puerto
12 Rico, the Secretary may designate any part of
13 the areas as a rural area if the Secretary deter-
14 mines that the part is not urban in character,
15 other than any area included in the Honolulu
16 Census Designated Place or the San Juan Cen-
17 sus Designated Place.”.

18 (b) REPORT.—Not later than 2 years after the date
19 of enactment of this Act, the Secretary shall prepare and
20 submit to the Committee on Agriculture of the House of
21 Representatives and the Committee on Agriculture, Nutri-
22 tion, and Forestry of the Senate a report that—

23 (1) assesses the various definitions of the term
24 “rural” and “rural area” that are used with respect
25 to programs administered by the Secretary;

1 (2) describes the effects that the variations in
2 those definitions have on those programs;

3 (3) make recommendations for ways to better
4 target funds provided through rural development
5 programs; and

6 (4) determines the effect of the amendment
7 made by subsection (a) on the level of rural develop-
8 ment funding and participation in those programs in
9 each State.

10 **SEC. 6019. NATIONAL RURAL DEVELOPMENT PARTNER-**
11 **SHIP.**

12 Section 378 of the Consolidated Farm and Rural De-
13 velopment Act (7 U.S.C. 2008m) is amended—

14 (1) in subsection (g)(1), by striking “2003
15 through 2007” and inserting “2008 through 2012”;
16 and

17 (2) in subsection (h), by striking “the date that
18 is 5 years after the date of enactment of this sec-
19 tion” and inserting “September 30, 2012”.

20 **SEC. 6020. HISTORIC BARN PRESERVATION.**

21 (a) GRANT PRIORITY.—Section 379A(c) of the Con-
22 solidated Farm and Rural Development Act (7 U.S.C.
23 2008o(c)) is amended—

24 (1) in paragraph (2)—

1 (A) in subparagraphs (A) and (B), by
2 striking “a historic barn” each place it appears
3 and inserting “historic barns”; and

4 (B) in subparagraph (C), by striking “on
5 a historic barn” and inserting “on historic
6 barns (including surveys)”;

7 (2) by redesignating paragraphs (3) and (4) as
8 paragraphs (4) and (5), respectively; and

9 (3) by inserting after paragraph (2) the fol-
10 lowing:

11 “(3) PRIORITY.—In making grants under this
12 subsection, the Secretary shall give the highest pri-
13 ority to funding projects described in paragraph
14 (2)(C).”.

15 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
16 379A(c)(5) of the Consolidated Farm and Rural Develop-
17 ment Act (7 U.S.C. 2008o(c)(5)) (as redesignated by sub-
18 section (a)(2)) is amended by striking “2002 through
19 2007” and inserting “2008 through 2012”.

20 **SEC. 6021. GRANTS FOR NOAA WEATHER RADIO TRANSMIT-**
21 **TERS.**

22 Section 379B(d) of the Consolidated Farm and Rural
23 Development Act (7 U.S.C. 2008p(d)) is amended by
24 striking “2002 through 2007” and inserting “2008
25 through 2012”.

1 **SEC. 6022. RURAL MICROENTREPRENEUR ASSISTANCE**
 2 **PROGRAM.**

3 Subtitle D of the Consolidated Farm and Rural De-
 4 velopment Act (7 U.S.C. 1981 et seq.) is amended by add-
 5 ing at the end the following:

6 **“SEC. 379E. RURAL MICROENTREPRENEUR ASSISTANCE**
 7 **PROGRAM.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) INDIAN TRIBE.—The term ‘Indian tribe’
 10 has the meaning given the term in section 4 of the
 11 Indian Self-Determination and Education Assistance
 12 Act (25 U.S.C. 450b).

13 “(2) MICROENTREPRENEUR.—The term ‘micro-
 14 entrepreneur’ means an owner and operator, or pro-
 15 spective owner and operator, of a rural microenter-
 16 prise who is unable to obtain sufficient training,
 17 technical assistance, or credit other than under this
 18 section, as determined by the Secretary.

19 “(3) MICROENTERPRISE DEVELOPMENT ORGA-
 20 NIZATION.—The term ‘microenterprise development
 21 organization’ means an organization that—

22 “(A) is—

23 “(i) a nonprofit entity;

24 “(ii) an Indian tribe, the tribal gov-
 25 ernment of which certifies to the Secretary
 26 that—

1 “(I) no microenterprise develop-
2 ment organization serves the Indian
3 tribe; and

4 “(II) no rural microentrepreneur
5 assistance program exists under the
6 jurisdiction of the Indian tribe; or

7 “(iii) a public institution of higher
8 education;

9 “(B) provides training and technical assist-
10 ance to rural microentrepreneurs;

11 “(C) facilitates access to capital or another
12 service described in subsection (b) for rural
13 microenterprises; and

14 “(D) has a demonstrated record of deliv-
15 ering services to rural microentrepreneurs, or
16 an effective plan to develop a program to de-
17 liver services to rural microentrepreneurs, as
18 determined by the Secretary.

19 “(4) MICROLOAN.—The term ‘microloan’ means
20 a business loan of not more than \$50,000 that is
21 provided to a rural microenterprise.

22 “(5) PROGRAM.—The term ‘program’ means
23 the rural microentrepreneur assistance program es-
24 tablished under subsection (b).

1 “(6) RURAL MICROENTERPRISE.—The term
2 ‘rural microenterprise’ means—

3 “(A) a sole proprietorship located in a
4 rural area; or

5 “(B) a business entity with not more than
6 10 full-time-equivalent employees located in a
7 rural area.

8 “(b) RURAL MICROENTREPRENEUR ASSISTANCE
9 PROGRAM.—

10 “(1) ESTABLISHMENT.—The Secretary shall es-
11 tablish a rural microentrepreneur assistance pro-
12 gram to provide loans and grants to support micro-
13 entrepreneurs in the development and ongoing suc-
14 cess of rural microenterprises.

15 “(2) PURPOSE.—The purpose of the program is
16 to provide microentrepreneurs with—

17 “(A) the skills necessary to establish new
18 rural microenterprises; and

19 “(B) continuing technical and financial as-
20 sistance related to the successful operation of
21 rural microenterprises.

22 “(3) LOANS.—

23 “(A) IN GENERAL.—The Secretary shall
24 make loans to microenterprise development or-
25 ganizations for the purpose of providing fixed

1 interest rate microloans to microentrepreneurs
2 for startup and growing rural microenterprises.

3 “(B) LOAN TERMS.—A loan made by the
4 Secretary to a microenterprise development or-
5 ganization under this paragraph shall—

6 “(i) be for a term not to exceed 20
7 years; and

8 “(ii) bear an annual interest rate of at
9 least 1 percent.

10 “(C) LOAN LOSS RESERVE FUND.—The
11 Secretary shall require each microenterprise de-
12 velopment organization that receives a loan
13 under this paragraph to—

14 “(i) establish a loan loss reserve fund;
15 and

16 “(ii) maintain the reserve fund in an
17 amount equal to at least 5 percent of the
18 outstanding balance of such loans owed by
19 the microenterprise development organiza-
20 tion, until all obligations owed to the Sec-
21 retary under this paragraph are repaid.

22 “(D) DEFERRAL OF INTEREST AND PRIN-
23 CIPAL.—The Secretary may permit the deferral
24 of payments on principal and interest due on a
25 loan to a microenterprise development organiza-

1 tion made under this paragraph for a 2-year pe-
2 riod beginning on the date the loan is made.

3 “(4) GRANTS.—

4 “(A) GRANTS TO SUPPORT RURAL MICRO-
5 ENTERPRISE DEVELOPMENT.—

6 “(i) IN GENERAL.—The Secretary
7 shall make grants to microenterprise devel-
8 opment organizations to—

9 “(I) provide training, operational
10 support, business planning, and mar-
11 ket development assistance, and other
12 related services to rural microentre-
13 preneurs; and

14 “(II) carry out such other
15 projects and activities as the Sec-
16 retary determines appropriate to fur-
17 ther the purposes of the program.

18 “(ii) SELECTION.—In making grants
19 under clause (i), the Secretary shall—

20 “(I) place an emphasis on micro-
21 enterprise development organizations
22 that serve microentrepreneurs that
23 are located in rural areas that have
24 suffered significant outward migra-

1 tion, as determined by the Secretary;
2 and

3 “(II) ensure, to the maximum ex-
4 tent practicable, that grant recipients
5 include microenterprise development
6 organizations—

7 “(aa) of varying sizes; and

8 “(bb) that serve racially and
9 ethnically diverse populations.

10 “(B) GRANTS TO ASSIST MICROENTRE-
11 PRENEURS.—

12 “(i) IN GENERAL.—The Secretary
13 shall make grants to microenterprise devel-
14 opment organizations to provide mar-
15 keting, management, and other technical
16 assistance to microentrepreneurs that—

17 “(I) received a loan from the
18 microenterprise development organiza-
19 tion under paragraph (3); or

20 “(II) are seeking a loan from the
21 microenterprise development organiza-
22 tion under paragraph (3).

23 “(ii) MAXIMUM AMOUNT OF GRANT.—
24 A microenterprise development organiza-
25 tion shall be eligible to receive an annual

1 grant under this subparagraph in an
2 amount equal to not more than 25 percent
3 of the total outstanding balance of
4 microloans made by the microenterprise
5 development organization under paragraph
6 (3), as of the date the grant is awarded.

7 “(C) ADMINISTRATIVE EXPENSES.—Not
8 more than 10 percent of a grant received by a
9 microenterprise development organization for a
10 fiscal year under this paragraph may be used to
11 pay administrative expenses.

12 “(c) ADMINISTRATION.—

13 “(1) COST SHARE.—

14 “(A) FEDERAL SHARE.—Subject to sub-
15 paragraph (B), the Federal share of the cost of
16 a project funded under this section shall not ex-
17 ceed 75 percent.

18 “(B) MATCHING REQUIREMENT.—As a
19 condition of any grant made under this sub-
20 paragraph, the Secretary shall require the
21 microenterprise development organization to
22 match not less than 15 percent of the total
23 amount of the grant in the form of matching
24 funds, indirect costs, or in-kind goods or serv-
25 ices.

1 “(C) FORM OF NON-FEDERAL SHARE.—

2 The non-Federal share of the cost of a project
3 funded under this section may be provided—

4 “(i) in cash (including through fees,
5 grants (including community development
6 block grants), and gifts); or

7 “(ii) in the form of in-kind contribu-
8 tions.

9 “(2) OVERSIGHT.—At a minimum, not later
10 than December 1 of each fiscal year, a microenter-
11 prise development organization that receives a loan
12 or grant under this section shall provide to the Sec-
13 retary such information as the Secretary may re-
14 quire to ensure that assistance provided under this
15 section is used for the purposes for which the loan
16 or grant was made.

17 “(d) FUNDING.—

18 “(1) MANDATORY FUNDING.—Of the funds of
19 the Commodity Credit Corporation, the Secretary
20 shall use to carry out this section, to remain avail-
21 able until expended—

22 “(A) \$4,000,000 for each of fiscal years
23 2009 through 2011; and

24 “(B) \$3,000,000 for fiscal year 2012.

1 “(2) DISCRETIONARY FUNDING.—In addition to
2 amounts made available under paragraph (1), there
3 are authorized to be appropriated to carry out this
4 section \$40,000,000 for each of fiscal years 2009
5 through 2012.”.

6 **SEC. 6023. GRANTS FOR EXPANSION OF EMPLOYMENT OP-**
7 **PORTUNITIES FOR INDIVIDUALS WITH DIS-**
8 **ABILITIES IN RURAL AREAS.**

9 Subtitle D of the Consolidated Farm and Rural De-
10 velopment Act (7 U.S.C. 1981 et seq.) (as amended by
11 section 6022) is amended by adding at the end the fol-
12 lowing:

13 **“SEC. 379F. GRANTS FOR EXPANSION OF EMPLOYMENT OP-**
14 **PORTUNITIES FOR INDIVIDUALS WITH DIS-**
15 **ABILITIES IN RURAL AREAS.**

16 “(a) DEFINITIONS.—In this section:

17 “(1) INDIVIDUAL WITH A DISABILITY.—The
18 term ‘individual with a disability’ means an indi-
19 vidual with a disability (as defined in section 3 of
20 the Americans with Disabilities Act of 1990 (42
21 U.S.C. 12102)).

22 “(2) INDIVIDUALS WITH DISABILITIES.—The
23 term ‘individuals with disabilities’ means more than
24 1 individual with a disability.

1 “(b) GRANTS.—The Secretary shall make grants to
2 nonprofit organizations, or to a consortium of nonprofit
3 organizations, to expand and enhance employment oppor-
4 tunities for individuals with disabilities in rural areas.

5 “(c) ELIGIBILITY.—To be eligible to receive a grant
6 under this section, a nonprofit organization or consortium
7 of nonprofit organizations shall have—

8 “(1) a significant focus on serving the needs of
9 individuals with disabilities;

10 “(2) demonstrated knowledge and expertise
11 in—

12 “(A) employment of individuals with dis-
13 abilities; and

14 “(B) advising private entities on accessi-
15 bility issues involving individuals with disabil-
16 ities;

17 “(3) expertise in removing barriers to employ-
18 ment for individuals with disabilities, including ac-
19 cess to transportation, assistive technology, and
20 other accommodations; and

21 “(4) existing relationships with national organi-
22 zations focused primarily on the needs of rural
23 areas.

24 “(d) USES.—A grant received under this section may
25 be used only to expand or enhance—

1 “(1) employment opportunities for individuals
2 with disabilities in rural areas by developing national
3 technical assistance and education resources to as-
4 sist small businesses in a rural area to recruit, hire,
5 accommodate, and employ individuals with disabili-
6 ties; and

7 “(2) self-employment and entrepreneurship op-
8 portunities for individuals with disabilities in a rural
9 area.

10 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
11 is authorized to be appropriated to carry out this section
12 \$2,000,000 for each of fiscal years 2008 through 2012.”.

13 **SEC. 6024. HEALTH CARE SERVICES.**

14 Subtitle D of the Consolidated Farm and Rural De-
15 velopment Act (7 U.S.C. 1981 et seq.) (as amended by
16 section 6023) is amended by adding at the end the fol-
17 lowing:

18 **“SEC. 379G. HEALTH CARE SERVICES.**

19 “(a) PURPOSE.—The purpose of this section is to ad-
20 dress the continued unmet health needs in the Delta re-
21 gion through cooperation among health care professionals,
22 institutions of higher education, research institutions, and
23 other individuals and entities in the region.

24 “(b) DEFINITION OF ELIGIBLE ENTITY.—In this sec-
25 tion, the term ‘eligible entity’ means a consortium of re-

1 gional institutions of higher education, academic health
2 and research institutes, and economic development entities
3 located in the Delta region that have experience in ad-
4 dressing the health care issues in the region.

5 “(c) GRANTS.—To carry out the purpose described
6 in subsection (a), the Secretary may award a grant to an
7 eligible entity for –

8 “(1) the development of –

9 “(A) health care services;

10 “(B) health education programs; and

11 “(C) health care job training programs;

12 and

13 “(2) the development and expansion of public
14 health-related facilities in the Delta region to ad-
15 dress longstanding and unmet health needs of the
16 region.

17 “(d) USE.—As a condition of the receipt of the grant,
18 the eligible entity shall use the grant to fund projects and
19 activities described in subsection (c), based on input solie-
20 ited from local governments, public health care providers,
21 and other entities in the Delta region.

22 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
23 is authorized to be appropriated to the Secretary to carry
24 out this section, \$3,000,000 for each of fiscal years 2008
25 through 2012.”.

1 **SEC. 6025. DELTA REGIONAL AUTHORITY.**

2 (a) AUTHORIZATION OF APPROPRIATIONS.—Section
3 382M(a) of the Consolidated Farm and Rural Develop-
4 ment Act (7 U.S.C. 2009aa–12(a)) is amended by striking
5 “2001 through 2007” and inserting “2008 through
6 2012”.

7 (b) TERMINATION OF AUTHORITY.—Section 382N of
8 the Consolidated Farm and Rural Development Act (7
9 U.S.C. 2009aa–13) is amended by striking “2007” and
10 inserting “2012”.

11 (c) EXPANSION.—Section 4(2) of the Delta Develop-
12 ment Act (42 U.S.C. 3121 note; Public Law 100–460) is
13 amended—

14 (1) in subparagraph (D), by inserting “Beau-
15 regard, Bienville, Cameron, Claiborne, DeSoto, Jef-
16 ferson Davis, Red River, St. Mary, Vermillion, Web-
17 ster,” after “St. James,”; and

18 (2) in subparagraph (E)—

19 (A) by inserting “Jasper,” after
20 “Copiah,”; and

21 (B) by inserting “Smith,” after “Simp-
22 son,”.

23 **SEC. 6026. NORTHERN GREAT PLAINS REGIONAL AUTHOR-**
24 **ITY.**

25 (a) DEFINITION OF REGION.—Section 383A(4) of
26 the Consolidated Farm and Rural Development Act (7

1 U.S.C. 2009bb(4)) is amended by inserting “Missouri
2 (other than counties included in the Delta Regional Au-
3 thority),” after “Minnesota,”.

4 (b) ESTABLISHMENT.—Section 383B of the Consoli-
5 dated Farm and Rural Development Act (7 U.S.C.
6 2009bb–1) is amended—

7 (1) in subsection (a), by adding at the end the
8 following:

9 “(4) FAILURE TO CONFIRM.—

10 “(A) FEDERAL MEMBER.—Notwith-
11 standing any other provision of this section, if
12 a Federal member described in paragraph
13 (2)(A) has not been confirmed by the Senate by
14 not later than 180 days after the date of enact-
15 ment of this paragraph, the Authority may or-
16 ganize and operate without the Federal mem-
17 ber.

18 “(B) INDIAN CHAIRPERSON.—In the case
19 of the Indian Chairperson, if no Indian Chair-
20 person is confirmed by the Senate, the regional
21 authority shall consult and coordinate with the
22 leaders of Indian tribes in the region concerning
23 the activities of the Authority, as appropriate.”;

24 (2) in subsection (d)—

1 (A) in paragraph (1), by striking “to es-
2 tablish priorities and” and inserting “for
3 multistate cooperation to advance the economic
4 and social well-being of the region and to”;

5 (B) in paragraph (3), by striking “local de-
6 velopment districts,” and inserting “regional
7 and local development districts or organizations,
8 regional boards established under subtitle I,”;

9 (C) in paragraph (4), by striking “coopera-
10 tion;” and inserting “cooperation for—

11 “(i) renewable energy development
12 and transmission;

13 “(ii) transportation planning and eco-
14 nomic development;

15 “(iii) information technology;

16 “(iv) movement of freight and individ-
17 uals within the region;

18 “(v) federally-funded research at insti-
19 tutions of higher education; and

20 “(vi) conservation land manage-
21 ment;”;

22 (D) by striking paragraph (6) and insert-
23 ing the following:

24 “(6) enhance the capacity of, and provide sup-
25 port for, multistate development and research orga-

1 nizations, local development organizations and dis-
2 tricts, and resource conservation districts in the re-
3 gion;”; and

4 (E) in paragraph (7), by inserting “renew-
5 able energy,” after “commercial,”.

6 (3) in subsection (f)(2), by striking “the Fed-
7 eral cochairperson” and inserting “a cochairperson”;

8 (4) in subsection (g)(1), by striking subpara-
9 graphs (A) through (C) and inserting the following:

10 “(A) for each of fiscal years 2008 and
11 2009, 100 percent;

12 “(B) for fiscal year 2010, 75 percent; and

13 “(C) for fiscal year 2011 and each fiscal
14 year thereafter, 50 percent.”.

15 (c) INTERSTATE COOPERATION FOR ECONOMIC OP-
16 PORTUNITY AND EFFICIENCY.—

17 (1) IN GENERAL.—Subtitle G of the Consoli-
18 dated Farm and Rural Development Act is amend-
19 ed—

20 (A) by redesignating sections 383C
21 through 383N (7 U.S.C. 2009bb–2 through
22 2009bb–13) as sections 383D through 383O,
23 respectively; and

24 (B) by inserting after section 383B (7
25 U.S.C. 2009bb–1) the following:

1 **“SEC. 383C. INTERSTATE COOPERATION FOR ECONOMIC**
2 **OPPORTUNITY AND EFFICIENCY.**

3 “(a) IN GENERAL.—The Authority shall provide as-
4 sistance to States in developing regional plans to address
5 multistate economic issues, including plans—

6 “(1) to develop a regional transmission system
7 for movement of renewable energy to markets out-
8 side the region;

9 “(2) to address regional transportation con-
10 cerns, including the establishment of a Northern
11 Great Plains Regional Transportation Working
12 Group;

13 “(3) to encourage and support interstate col-
14 laboration on federally-funded research that is in the
15 national interest; and

16 “(4) to establish a Regional Working Group on
17 Agriculture Development and Transportation.

18 “(b) ECONOMIC ISSUES.—The multistate economic
19 issues referred to in subsection (a) shall include—

20 “(1) renewable energy development and trans-
21 mission;

22 “(2) transportation planning and economic de-
23 velopment;

24 “(3) information technology;

25 “(4) movement of freight and individuals within
26 the region;

1 “(5) federally-funded research at institutions of
2 higher education; and

3 “(6) conservation land management.”.

4 (2) CONFORMING AMENDMENTS.—

5 (A) Section 383B(e)(3)(B) of the Consoli-
6 dated Farm and Rural Development Act (7
7 U.S.C. 2009bb–1(e)(3)(B)) is amended by
8 striking “383I” and inserting “383J”.

9 (B) Section 383D(a) of the Consolidated
10 Farm and Rural Development Act (as redesign-
11 nated by paragraph (1)(A)) is amended by
12 striking “383I” and inserting “383J”.

13 (C) Section 383E of the Consolidated
14 Farm and Rural Development Act (as so redesi-
15 gnated) is amended—

16 (i) in subsection (b)(1), by striking
17 “383F(b)” and inserting “383G(b)”; and

18 (ii) in subsection (c)(2)(A), by strik-
19 ing “383I” and inserting “383J”.

20 (D) Section 383G of the Consolidated
21 Farm and Rural Development Act (as so redesi-
22 gnated) is amended—

23 (i) in subsection (b)—

24 (I) in paragraph (1), by striking
25 “383M” and inserting “383N”; and

1 (II) in paragraph (2), by striking
2 “383D(b)” and inserting “383E(b)”;

3 (ii) in subsection (c)(2)(A), by strik-
4 ing “383E(b)” and inserting “383F(b)”;
5 and

6 (iii) in subsection (d)—

7 (I) by striking “383M” and in-
8 serting “383N”; and

9 (II) by striking “383C(a)” and
10 inserting “383D(a)”.

11 (E) Section 383J(c)(2) of the Consolidated
12 Farm and Rural Development Act (as so reded-
13 icated) is amended by striking “383H” and
14 inserting “383I”.

15 (d) ECONOMIC AND COMMUNITY DEVELOPMENT
16 GRANTS.—Section 383D of the Consolidated Farm and
17 Rural Development Act (as redesignated by subsection
18 (c)(1)(A)) is amended—

19 (1) in subsection (a)—

20 (A) in paragraph (1), by striking “trans-
21 portation and telecommunication” and inserting
22 “transportation, renewable energy transmission,
23 and telecommunication”; and

24 (B) by redesignating paragraphs (1) and
25 (2) as paragraphs (2) and (1), respectively, and

1 moving those paragraphs so as to appear in nu-
2 merical order; and

3 (2) in subsection (b)(2), by striking “the activi-
4 ties in the following order or priority” and inserting
5 “the following activities”.

6 (e) SUPPLEMENTS TO FEDERAL GRANT PRO-
7 GRAMS.—Section 383E(a) of the Consolidated Farm and
8 Rural Development Act (as redesignated by subsection
9 (c)(1)(A)) is amended by striking “, including local devel-
10 opment districts,”.

11 (f) MULTISTATE AND LOCAL DEVELOPMENT DIS-
12 TRICTS AND ORGANIZATIONS AND NORTHERN GREAT
13 PLAINS INC.—Section 383F of the Consolidated Farm
14 and Rural Development Act (as redesignated by sub-
15 section (c)(1)(A)) is amended—

16 (1) by striking the section heading and insert-
17 ing “**MULTISTATE AND LOCAL DEVELOPMENT**
18 **DISTRICTS AND ORGANIZATIONS AND NORTH-**
19 **ERN GREAT PLAINS INC.**”; and

20 (2) by striking subsections (a) through (c) and
21 inserting the following:

22 “(a) DEFINITION OF MULTISTATE AND LOCAL DE-
23 VELOPMENT DISTRICT OR ORGANIZATION.—In this sec-
24 tion, the term ‘multistate and local development district
25 or organization’ means an entity—

1 “(1) that—

2 “(A) is a planning district in existence on
3 the date of enactment of this subtitle that is
4 recognized by the Economic Development Ad-
5 ministration of the Department of Commerce;

6 or

7 “(B) is—

8 “(i) organized and operated in a man-
9 ner that ensures broad-based community
10 participation and an effective opportunity
11 for other nonprofit groups to contribute to
12 the development and implementation of
13 programs in the region;

14 “(ii) a nonprofit incorporated body or-
15 ganized or chartered under the law of the
16 State in which the entity is located;

17 “(iii) a nonprofit agency or instru-
18 mentality of a State or local government;

19 “(iv) a public organization established
20 before the date of enactment of this sub-
21 title under State law for creation of multi-
22 jurisdictional, area-wide planning organiza-
23 tions;

24 “(v) a nonprofit agency or instrumen-
25 tality of a State that was established for

1 the purpose of assisting with multistate co-
2 operation; or

3 “(vi) a nonprofit association or com-
4 bination of bodies, agencies, and instru-
5 mentalities described in clauses (ii)
6 through (v); and

7 “(2) that has not, as certified by the Authority
8 (in consultation with the Federal cochairperson or
9 Secretary, as appropriate)—

10 “(A) inappropriately used Federal grant
11 funds from any Federal source; or

12 “(B) appointed an officer who, during the
13 period in which another entity inappropriately
14 used Federal grant funds from any Federal
15 source, was an officer of the other entity.

16 “(b) GRANTS TO MULTISTATE, LOCAL, OR REGIONAL
17 DEVELOPMENT DISTRICTS AND ORGANIZATIONS.—

18 “(1) IN GENERAL.—The Authority may make
19 grants for administrative expenses under this section
20 to multistate, local, and regional development dis-
21 tricts and organizations.

22 “(2) CONDITIONS FOR GRANTS.—

23 “(A) MAXIMUM AMOUNT.—The amount of
24 any grant awarded under paragraph (1) shall
25 not exceed 80 percent of the administrative ex-

1 penses of the multistate, local, or regional de-
2 velopment district or organization receiving the
3 grant.

4 “(B) MAXIMUM PERIOD.—No grant de-
5 scribed in paragraph (1) shall be awarded for a
6 period greater than 3 years.

7 “(3) LOCAL SHARE.—The contributions of a
8 multistate, local, or regional development district or
9 organization for administrative expenses may be in
10 cash or in kind, fairly evaluated, including space,
11 equipment, and services.

12 “(c) DUTIES.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (2), a local development district shall operate
15 as a lead organization serving multicounty areas in
16 the region at the local level.

17 “(2) DESIGNATION.—The Federal cochair-
18 person may designate an Indian tribe or multijuris-
19 dictional organization to serve as a lead organization
20 in such cases as the Federal cochairperson or Sec-
21 retary, as appropriate, determines appropriate.”.

22 (g) DISTRESSED COUNTIES AND AREAS AND NON-
23 DISTRESSED COUNTIES.—Section 383G of the Consoli-
24 dated Farm and Rural Development Act (as redesignated
25 by subsection (c)(1)(A)) is amended—

1 (1) in subsection (b)(1), by striking “75” and
2 inserting “50”;

3 (2) by striking subsection (c);

4 (3) by redesignating subsection (d) as sub-
5 section (c); and

6 (4) in subsection (c) (as so redesignated)—

7 (A) in the subsection heading, by inserting
8 “RENEWABLE ENERGY,”
9 after “TELECOMMUNICATION”; and

10 (B) by inserting “, renewable energy,”
11 after “telecommunication.”

12 (h) DEVELOPMENT PLANNING PROCESS.—Section
13 383H of the Consolidated Farm and Rural Development
14 Act (as redesignated by subsection (c)(1)(A)) is amend-
15 ed—

16 (1) in subsection (c)(1), by striking subpara-
17 graph (A) and inserting the following:

18 “(A) multistate, regional, and local devel-
19 opment districts and organizations; and”; and

20 (2) in subsection (d)(1), by striking “State and
21 local development districts” and inserting
22 “multistate, regional, and local development districts
23 and organizations”.

24 (i) PROGRAM DEVELOPMENT CRITERIA.—Section
25 383I(a)(1) of the Consolidated Farm and Rural Develop-

1 ment Act (as redesignated by subsection (e)(1)(A)) is
2 amended by inserting “multistate or” before “regional”.

3 (j) AUTHORIZATION OF APPROPRIATIONS.—Section
4 383N(a) of the Consolidated Farm and Rural Develop-
5 ment Act (as redesignated by subsection (e)(1)(A)) is
6 amended by striking “2002 through 2007” and inserting
7 “2008 through 2012”.

8 (k) TERMINATION OF AUTHORITY.—Section 383O of
9 the Consolidated Farm and Rural Development Act (as
10 redesignated by subsection (c)(1)(A)) is amended by strik-
11 ing “2007” and inserting “2012”.

12 **SEC. 6027. RURAL BUSINESS INVESTMENT PROGRAM.**

13 (a) ISSUANCE AND GUARANTEE OF TRUST CERTIFI-
14 CATES.—Section 384F(b)(3)(A) of the Consolidated Farm
15 and Rural Development Act (7 U.S.C. 2009cc–5(b)(3)(A))
16 is amended by striking “In the event” and inserting the
17 following:

18 “(i) AUTHORITY TO PREPAY.—A de-
19 benture may be prepaid at any time with-
20 out penalty.

21 “(ii) REDUCTION OF GUARANTEE.—
22 Subject to clause (i), if”.

23 (b) FEES.—Section 384G of the Consolidated Farm
24 and Rural Development Act (7 U.S.C. 2009cc–6) is
25 amended—

1 (1) in subsection (a), by striking “such fees as
2 the Secretary considers appropriate” and inserting
3 “a fee that does not exceed \$500”;

4 (2) in subsection (b), by striking “approved by
5 the Secretary” and inserting “that does not exceed
6 \$500”; and

7 (3) in subsection (c)—

8 (A) in paragraph (1), by striking “The”
9 and inserting “Except as provided in paragraph
10 (3), the”;

11 (B) in paragraph (2)—

12 (i) in subparagraph (A), by striking
13 “and” at the end;

14 (ii) in subparagraph (B), by striking
15 the period at the end and inserting “;
16 and”;

17 (iii) by adding at the end the fol-
18 lowing:

19 “(C) shall not exceed \$500 for any fee col-
20 lected under this subsection.”; and

21 (C) by adding at the end the following:

22 “(3) PROHIBITION ON COLLECTION OF CERTAIN
23 FEES.—In the case of a license described in para-
24 graph (1) that was approved before July 1, 2007,

1 the Secretary shall not collect any fees due on or
2 after the date of enactment of this paragraph.”.

3 (c) RURAL BUSINESS INVESTMENT COMPANIES.—
4 Section 384I(c) of the Consolidated Farm and Rural De-
5 velopment Act (7 U.S.C. 2009cc–8(c)) is amended—

6 (1) by redesignating paragraph (3) as para-
7 graph (4); and

8 (2) by inserting after paragraph (2) the fol-
9 lowing:

10 “(3) TIME FRAME.—Each rural business invest-
11 ment company shall have a period of 2 years to meet
12 the capital requirements of this subsection.”.

13 (d) FINANCIAL INSTITUTION INVESTMENTS.—Sec-
14 tion 384J of the Consolidated Farm and Rural Develop-
15 ment Act (7 U.S.C. 2009cc–9) is amended—

16 (1) in subsection (a)(1), by inserting “, includ-
17 ing an investment pool created entirely by such bank
18 or savings association” before the period at the end;
19 and

20 (2) in subsection (c), by striking “15” and in-
21 serting “25”.

22 (e) CONTRACTING OF FUNCTIONS.—Section 384Q of
23 the Consolidated Farm and Rural Development Act (7
24 U.S.C. 2009cc–16) is repealed.

1 (f) FUNDING.—The Consolidated Farm and Rural
2 Development Act is amended by striking section 384S (7
3 U.S.C. 2009cc–18) and inserting the following:

4 **“SEC. 384S. AUTHORIZATION OF APPROPRIATIONS.**

5 “There is authorized to be appropriated to carry out
6 this subtitle \$50,000,000 for the period of fiscal years
7 2008 through 2012.”.

8 **SEC. 6028. RURAL COLLABORATIVE INVESTMENT PRO-**
9 **GRAM.**

10 Subtitle I of the Consolidated Farm and Rural Devel-
11 opment Act (7 U.S.C. 2009dd et seq.) is amended to read
12 as follows:

13 **“Subtitle I—Rural Collaborative**
14 **Investment Program**

15 **“SEC. 385A. PURPOSE.**

16 “The purpose of this subtitle is to establish a regional
17 rural collaborative investment program—

18 “(1) to provide rural regions with a flexible in-
19 vestment vehicle, allowing for local control with Fed-
20 eral oversight, assistance, and accountability;

21 “(2) to provide rural regions with incentives
22 and resources to develop and implement comprehen-
23 sive strategies for achieving regional competitiveness,
24 innovation, and prosperity;

1 “(3) to foster multisector community and eco-
2 nomic development collaborations that will optimize
3 the asset-based competitive advantages of rural re-
4 gions with particular emphasis on innovation, entre-
5 preneurship, and the creation of quality jobs;

6 “(4) to foster collaborations necessary to pro-
7 vide the professional technical expertise, institutional
8 capacity, and economies of scale that are essential
9 for the long-term competitiveness of rural regions;
10 and

11 “(5) to better use Department of Agriculture
12 and other Federal, State, and local governmental re-
13 sources, and to leverage those resources with private,
14 nonprofit, and philanthropic investments, in order to
15 achieve measurable community and economic pros-
16 perity, growth, and sustainability.

17 **“SEC. 385B. DEFINITIONS.**

18 “In this subtitle:

19 “(1) BENCHMARK.—The term ‘benchmark’
20 means an annual set of goals and performance
21 measures established for the purpose of assessing
22 performance in meeting a regional investment strat-
23 egy of a Regional Board.

24 “(2) INDIAN TRIBE.—The term ‘Indian tribe’
25 has the meaning given the term in section 4 of the

1 Indian Self-Determination and Education Assistance
2 Act (25 U.S.C. 450b).

3 “(3) NATIONAL BOARD.—The term ‘National
4 Board’ means the National Rural Investment Board
5 established under section 385C(e).

6 “(4) NATIONAL INSTITUTE.—The term ‘Na-
7 tional Institute’ means the National Institute on Re-
8 gional Rural Competitiveness and Entrepreneurship
9 established under section 385C(b)(2).

10 “(5) REGIONAL BOARD.—The term ‘Regional
11 Board’ means a Regional Rural Investment Board
12 described in section 385D(a).

13 “(6) REGIONAL INNOVATION GRANT.—The
14 term ‘regional innovation grant’ means a grant made
15 by the Secretary to a certified Regional Board under
16 section 385F.

17 “(7) REGIONAL INVESTMENT STRATEGY
18 GRANT.—The term ‘regional investment strategy
19 grant’ means a grant made by the Secretary to a
20 certified Regional Board under section 385E.

21 “(8) RURAL HERITAGE.—

22 “(A) IN GENERAL.—The term ‘rural herit-
23 age’ means historic sites, structures, and dis-
24 tricts.

1 “(B) INCLUSIONS.—The term ‘rural herit-
2 age’ includes historic rural downtown areas and
3 main streets, neighborhoods, farmsteads, scenic
4 and historic trails, heritage areas, and historic
5 landscapes.

6 **“SEC. 385C. ESTABLISHMENT AND ADMINISTRATION OF**
7 **RURAL COLLABORATIVE INVESTMENT PRO-**
8 **GRAM.**

9 “(a) ESTABLISHMENT.—The Secretary shall estab-
10 lish a Rural Collaborative Investment Program to support
11 comprehensive regional investment strategies for achieving
12 rural competitiveness.

13 “(b) DUTIES OF SECRETARY.—In carrying out this
14 subtitle, the Secretary shall—

15 “(1) appoint and provide administrative and
16 program support to the National Board;

17 “(2) establish a national institute, to be known
18 as the ‘National Institute on Regional Rural Com-
19 petitiveness and Entrepreneurship’, to provide tech-
20 nical assistance to the Secretary and the National
21 Board regarding regional competitiveness and rural
22 entrepreneurship, including technical assistance
23 for—

24 “(A) the development of rigorous analytic
25 programs to assist Regional Boards in deter-

1 mining the challenges and opportunities that
2 need to be addressed to receive the greatest re-
3 gional competitive advantage;

4 “(B) the provision of support for best
5 practices developed by the Regional Boards;

6 “(C) the establishment of programs to sup-
7 port the development of appropriate governance
8 and leadership skills in the applicable regions;
9 and

10 “(D) the evaluation of the progress and
11 performance of the Regional Boards in achiev-
12 ing benchmarks established in a regional invest-
13 ment strategy;

14 “(3) work with the National Board to develop
15 a national rural investment plan that shall—

16 “(A) create a framework to encourage and
17 support a more collaborative and targeted rural
18 investment portfolio in the United States;

19 “(B) establish a Rural Philanthropic Ini-
20 tiative, to work with rural communities to cre-
21 ate and enhance the pool of permanent philan-
22 thropic resources committed to rural community
23 and economic development;

24 “(C) cooperate with the Regional Boards
25 and State and local governments, organizations,

1 and entities to ensure investment strategies are
2 developed that take into consideration existing
3 rural assets; and

4 “(D) encourage the organization of Re-
5 gional Boards;

6 “(4) certify the eligibility of Regional Boards to
7 receive regional investment strategy grants and re-
8 gional innovation grants;

9 “(5) provide grants for Regional Boards to de-
10 velop and implement regional investment strategies;

11 “(6) provide technical assistance to Regional
12 Boards on issues, best practices, and emerging
13 trends relating to rural development, in cooperation
14 with the National Rural Investment Board; and

15 “(7) provide analytic and programmatic support
16 for regional rural competitiveness through the Na-
17 tional Institute, including—

18 “(A) programs to assist Regional Boards
19 in determining the challenges and opportunities
20 that must be addressed to receive the greatest
21 regional competitive advantage;

22 “(B) support for best practices develop-
23 ment by the regional investment boards;

1 “(C) programs to support the development
2 of appropriate governance and leadership skills
3 in the region; and

4 “(D) a review and evaluation of the per-
5 formance of the Regional Boards (including
6 progress in achieving benchmarks established in
7 a regional investment strategy) in an annual re-
8 port submitted to—

9 “(i) the Committee on Agriculture of
10 the House of Representatives; and

11 “(ii) the Committee on Agriculture,
12 Nutrition, and Forestry of the Senate.

13 “(c) NATIONAL RURAL INVESTMENT BOARD.—The
14 Secretary shall establish within the Department of Agri-
15 culture a board to be known as the ‘National Rural Invest-
16 ment Board’.

17 “(d) DUTIES OF NATIONAL BOARD.—The National
18 Board shall—

19 “(1) not later than 180 days after the date of
20 establishment of the National Board, develop rules
21 relating to the operation of the National Board; and

22 “(2) provide advice to—

23 “(A) the Secretary and subsequently re-
24 view the design, development, and execution of
25 the National Rural Investment Plan;

1 “(B) Regional Boards on issues, best prac-
2 tices, and emerging trends relating to rural de-
3 velopment; and

4 “(C) the Secretary and the National Insti-
5 tute on the development and execution of the
6 program under this subtitle.

7 “(e) MEMBERSHIP.—

8 “(1) IN GENERAL.—The National Board shall
9 consist of 14 members appointed by the Secretary
10 not later than 180 days after the date of enactment
11 of the Food, Conservation, and Energy Act of 2008.

12 “(2) SUPERVISION.—The National Board shall
13 be subject to the general supervision and direction of
14 the Secretary.

15 “(3) SECTORS REPRESENTED.—The National
16 Board shall consist of representatives from each
17 of—

18 “(A) nationally recognized entrepreneur-
19 ship organizations;

20 “(B) regional strategy and development or-
21 ganizations;

22 “(C) community-based organizations;

23 “(D) elected members of local govern-
24 ments;

25 “(E) members of State legislatures;

1 “(F) primary, secondary, and higher edu-
2 cation, job skills training, and workforce devel-
3 opment institutions;

4 “(G) the rural philanthropic community;

5 “(H) financial, lending, venture capital,
6 entrepreneurship, and other related institutions;

7 “(I) private sector business organizations,
8 including chambers of commerce and other for-
9 profit business interests;

10 “(J) Indian tribes; and

11 “(K) cooperative organizations.

12 “(4) SELECTION OF MEMBERS.—

13 “(A) IN GENERAL.—In selecting members
14 of the National Board, the Secretary shall con-
15 sider recommendations made by—

16 “(i) the chairman and ranking mem-
17 ber of each of the Committee on Agri-
18 culture of the House of Representatives
19 and the Committee on Agriculture, Nutri-
20 tion, and Forestry of the Senate;

21 “(ii) the Majority Leader and Minor-
22 ity Leader of the Senate; and

23 “(iii) the Speaker and Minority Lead-
24 er of the House of Representatives.

1 “(B) EX-OFFICIO MEMBERS.—In consulta-
2 tion with the chairman and ranking member of
3 each of the Committee on Agriculture of the
4 House of Representatives and the Committee
5 on Agriculture, Nutrition, and Forestry of the
6 Senate, the Secretary may appoint not more
7 than 3 other officers or employees of the Execu-
8 tive Branch to serve as ex-officio, nonvoting
9 members of the National Board.

10 “(5) TERM OF OFFICE.—

11 “(A) IN GENERAL.—Subject to subpara-
12 graph (B), the term of office of a member of
13 the National Board appointed under paragraph
14 (1)(A) shall be for a period of not more than
15 4 years.

16 “(B) STAGGERED TERMS.—The members
17 of the National Board shall be appointed to
18 serve staggered terms.

19 “(6) INITIAL APPOINTMENTS.—Not later than
20 1 year after the date of enactment of the Food, Con-
21 servation, and Energy Act of 2008, the Secretary
22 shall appoint the initial members of the National
23 Board.

1 “(7) VACANCIES.—A vacancy on the National
2 Board shall be filled in the same manner as the
3 original appointment.

4 “(8) COMPENSATION.—A member of the Na-
5 tional Board shall receive no compensation for serv-
6 ice on the National Board, but shall be reimbursed
7 for related travel and other expenses incurred in car-
8 rying out the duties of the member of the National
9 Board in accordance with section 5702 and 5703 of
10 title 5, United States Code.

11 “(9) CHAIRPERSON.—The National Board shall
12 select a chairperson from among the members of the
13 National Board.

14 “(10) FEDERAL STATUS.—For purposes of
15 Federal law, a member of the National Board shall
16 be considered a special Government employee (as de-
17 fined in section 202(a) of title 18, United States
18 Code).

19 “(f) ADMINISTRATIVE SUPPORT.—The Secretary, on
20 a reimbursable basis from funds made available under sec-
21 tion 385H, may provide such administrative support to
22 the National Board as the Secretary determines is nec-
23 essary.

1 **“SEC. 385D. REGIONAL RURAL INVESTMENT BOARDS.**

2 “(a) IN GENERAL.—A Regional Rural Investment
3 Board shall be a multijurisdictional and multisectoral
4 group that—

5 “(1) represents the long-term economic, com-
6 munity, and cultural interests of a region;

7 “(2) is certified by the Secretary to establish a
8 rural investment strategy and compete for regional
9 innovation grants;

10 “(3) is composed of residents of a region that
11 are broadly representative of diverse public, non-
12 profit, and private sector interests in investment in
13 the region, including (to the maximum extent prac-
14 ticable) representatives of—

15 “(A) units of local, multijurisdictional, or
16 State government, including not more than 1
17 representative from each State in the region;

18 “(B) nonprofit community-based develop-
19 ment organizations, including community devel-
20 opment financial institutions and community
21 development corporations;

22 “(C) agricultural, natural resource, and
23 other asset-based related industries;

24 “(D) in the case of regions with federally
25 recognized Indian tribes, Indian tribes;

26 “(E) regional development organizations;

1 “(F) private business organizations, in-
2 cluding chambers of commerce;

3 “(G)(i) institutions of higher education (as
4 defined in section 101(a) of the Higher Edu-
5 cation Act of 1965 (20 U.S.C. 1001(a)));

6 “(ii) tribally controlled colleges or univer-
7 sities (as defined in section 2(a) of Tribally
8 Controlled College or University Assistance Act
9 of 1978 (25 U.S.C. 1801(a)); and

10 “(iii) tribal technical institutions;

11 “(H) workforce and job training organiza-
12 tions;

13 “(I) other entities and organizations, as
14 determined by the Regional Board;

15 “(J) cooperatives; and

16 “(K) consortia of entities and organiza-
17 tions described in subparagraphs (A) through
18 (J);

19 “(4) represents a region inhabited by—

20 “(A) more than 25,000 individuals, as de-
21 termined in the latest available decennial census
22 conducted under section 141(a) of title 13,
23 United States Code; or

24 “(B) in the case of a region with a popu-
25 lation density of less than 2 individuals per

1 square mile, at least 10,000 individuals, as de-
2 termined in that latest available decennial cen-
3 sus;

4 “(5) has a membership of which not less than
5 25 percent, nor more than 40 percent, represents—

6 “(A) units of local government and Indian
7 tribes described in subparagraphs (A) and (D)
8 of paragraph (3);

9 “(B) nonprofit community and economic
10 development organizations and institutions of
11 higher education described in subparagraphs
12 (B) and (G) of paragraph (3); or

13 “(C) private business (including chambers
14 of commerce and cooperatives) and agricultural,
15 natural resource, and other asset-based related
16 industries described in subparagraphs (C) and
17 (F) of paragraph (3);

18 “(6) has a membership that may include an of-
19 ficer or employee of a Federal agency, serving as an
20 ex-officio, nonvoting member of the Regional Board
21 to represent the agency; and

22 “(7) has organizational documents that dem-
23 onstrate that the Regional Board will—

24 “(A) create a collaborative public-private
25 strategy process;

1 “(B) develop, and submit to the Secretary
2 for approval, a regional investment strategy
3 that meets the requirements of section 385E,
4 with benchmarks—

5 “(i) to promote investment in rural
6 areas through the use of grants made
7 available under this subtitle; and

8 “(ii) to provide financial and technical
9 assistance to promote a broad-based re-
10 gional development program aimed at in-
11 creasing and diversifying economic growth,
12 improved community facilities, and im-
13 proved quality of life;

14 “(C) implement the approved regional in-
15 vestment strategy;

16 “(D) provide annual reports to the Sec-
17 retary and the National Board on progress
18 made in achieving the benchmarks of the re-
19 gional investment strategy, including an annual
20 financial statement; and

21 “(E) select a non-Federal organization
22 (such as a regional development organization)
23 in the local area served by the Regional Board
24 that has previous experience in the management

1 of Federal funds to serve as fiscal manager of
2 any funds of the Regional Board.

3 “(b) URBAN AREAS.—A resident of an urban area
4 may serve as an ex-officio member of a Regional Board.

5 “(c) DUTIES.—A Regional Board shall—

6 “(1) create a collaborative planning process for
7 public-private investment within a region;

8 “(2) develop, and submit to the Secretary for
9 approval, a regional investment strategy;

10 “(3) develop approaches that will create perma-
11 nent resources for philanthropic giving in the region,
12 to the maximum extent practicable;

13 “(4) implement an approved strategy; and

14 “(5) provide annual reports to the Secretary
15 and the National Board on progress made in achiev-
16 ing the strategy, including an annual financial state-
17 ment.

18 **“SEC. 385E. REGIONAL INVESTMENT STRATEGY GRANTS.**

19 “(a) IN GENERAL.—The Secretary shall make re-
20 gional investment strategy grants available to Regional
21 Boards for use in developing, implementing, and maintain-
22 ing regional investment strategies.

23 “(b) REGIONAL INVESTMENT STRATEGY.—A re-
24 gional investment strategy shall provide—

1 “(1) an assessment of the competitive advan-
2 tage of a region, including—

3 “(A) an analysis of the economic condi-
4 tions of the region;

5 “(B) an assessment of the current eco-
6 nomic performance of the region;

7 “(C) an overview of the population, geog-
8 raphy, workforce, transportation system, re-
9 sources, environment, and infrastructure needs
10 of the region; and

11 “(D) such other pertinent information as
12 the Secretary may request;

13 “(2) an analysis of regional economic and com-
14 munity development challenges and opportunities,
15 including—

16 “(A) incorporation of relevant material
17 from other government-sponsored or supported
18 plans and consistency with applicable State, re-
19 gional, and local workforce investment strate-
20 gies or comprehensive economic development
21 plans; and

22 “(B) an identification of past, present, and
23 projected Federal and State economic and com-
24 munity development investments in the region;

1 “(3) a section describing goals and objectives
2 necessary to solve regional competitiveness chal-
3 lenges and meet the potential of the region;

4 “(4) an overview of resources available in the
5 region for use in—

6 “(A) establishing regional goals and objec-
7 tives;

8 “(B) developing and implementing a re-
9 gional action strategy;

10 “(C) identifying investment priorities and
11 funding sources; and

12 “(D) identifying lead organizations to exe-
13 cute portions of the strategy;

14 “(5) an analysis of the current state of collabo-
15 rative public, private, and nonprofit participation
16 and investment, and of the strategic roles of public,
17 private, and nonprofit entities in the development
18 and implementation of the regional investment strat-
19 egy;

20 “(6) a section identifying and prioritizing vital
21 projects, programs, and activities for consideration
22 by the Secretary, including—

23 “(A) other potential funding sources; and

24 “(B) recommendations for leveraging past
25 and potential investments;

1 “(7) a plan of action to implement the goals
2 and objectives of the regional investment strategy;

3 “(8) a list of performance measures to be used
4 to evaluate implementation of the regional invest-
5 ment strategy, including—

6 “(A) the number and quality of jobs, in-
7 cluding self-employment, created during imple-
8 mentation of the regional rural investment
9 strategy;

10 “(B) the number and types of investments
11 made in the region;

12 “(C) the growth in public, private, and
13 nonprofit investment in the human, community,
14 and economic assets of the region;

15 “(D) changes in per capita income and the
16 rate of unemployment; and

17 “(E) other changes in the economic envi-
18 ronment of the region;

19 “(9) a section outlining the methodology for use
20 in integrating the regional investment strategy with
21 the economic priorities of the State; and

22 “(10) such other information as the Secretary
23 determines to be appropriate.

24 “(c) MAXIMUM AMOUNT OF GRANT.—A regional in-
25 vestment strategy grant shall not exceed \$150,000.

1 “(d) COST SHARING.—

2 “(1) IN GENERAL.—Subject to paragraph (2),
3 of the share of the costs of developing, maintaining,
4 evaluating, implementing, and reporting with respect
5 to a regional investment strategy funded by a grant
6 under this section—

7 “(A) not more than 40 percent may be
8 paid using funds from the grant; and

9 “(B) the remaining share shall be provided
10 by the applicable Regional Board or other eligi-
11 ble grantee.

12 “(2) FORM.—A Regional Board or other eligi-
13 ble grantee shall pay the share described in para-
14 graph (1)(B) in the form of cash, services, materials,
15 or other in-kind contributions, on the condition that
16 not more than 50 percent of that share is provided
17 in the form of services, materials, and other in-kind
18 contributions.

19 **“SEC. 385F. REGIONAL INNOVATION GRANTS PROGRAM.**

20 “(a) GRANTS.—

21 “(1) IN GENERAL.—The Secretary shall pro-
22 vide, on a competitive basis, regional innovation
23 grants to Regional Boards for use in implementing
24 projects and initiatives that are identified in a re-

1 regional rural investment strategy approved under sec-
2 tion 385E.

3 “(2) TIMING.—After October 1, 2008, the Sec-
4 retary shall provide awards under this section on a
5 quarterly funding cycle.

6 “(b) ELIGIBILITY.—To be eligible to receive a re-
7 gional innovation grant, a Regional Board shall dem-
8 onstrate to the Secretary that—

9 “(1) the regional rural investment strategy of a
10 Regional Board has been reviewed by the National
11 Board prior to approval by the Secretary;

12 “(2) the management and organizational struc-
13 ture of the Regional Board is sufficient to oversee
14 grant projects, including management of Federal
15 funds; and

16 “(3) the Regional Board has a plan to achieve,
17 to the maximum extent practicable, the perform-
18 ance-based benchmarks of the project in the regional
19 rural investment strategy.

20 “(c) LIMITATIONS.—

21 “(1) AMOUNT RECEIVED.—A Regional Board
22 may not receive more than \$6,000,000 in regional
23 innovation grants under this section during any 5-
24 year period.

1 “(2) DETERMINATION OF AMOUNT.—The Sec-
2 retary shall determine the amount of a regional in-
3 novation grant based on—

4 “(A) the needs of the region being ad-
5 dressed by the applicable regional rural invest-
6 ment strategy consistent with the purposes de-
7 scribed in subsection (f)(2); and

8 “(B) the size of the geographical area of
9 the region.

10 “(3) GEOGRAPHIC DIVERSITY.—The Secretary
11 shall ensure that not more than 10 percent of fund-
12 ing made available under this section is provided to
13 Regional Boards in any State.

14 “(d) COST-SHARING.—

15 “(1) LIMITATION.—Subject to paragraph (2),
16 the amount of a grant made under this section shall
17 not exceed 50 percent of the cost of the project.

18 “(2) WAIVER OF GRANTEE SHARE.—The Sec-
19 retary may waive the limitation in paragraph (1)
20 under special circumstances, as determined by the
21 Secretary, including—

22 “(A) a sudden or severe economic disloca-
23 tion;

24 “(B) significant chronic unemployment or
25 poverty;

1 “(C) a natural disaster; or

2 “(D) other severe economic, social, or cul-
3 tural duress.

4 “(3) OTHER FEDERAL ASSISTANCE.—For the
5 purpose of determining cost-share limitations for any
6 other Federal program, funds provided under this
7 section shall be considered to be non-Federal funds.

8 “(e) PREFERENCES.—In providing regional innova-
9 tion grants under this section, the Secretary shall give—

10 “(1) a high priority to strategies that dem-
11 onstrate significant leverage of capital and quality
12 job creation; and

13 “(2) a preference to an application proposing
14 projects and initiatives that would—

15 “(A) advance the overall regional competi-
16 tiveness of a region;

17 “(B) address the priorities of a regional
18 rural investment strategy, including priorities
19 that—

20 “(i) promote cross-sector collabora-
21 tion, public-private partnerships, or the
22 provision of interim financing or seed cap-
23 ital for program implementation;

1 “(ii) exhibit collaborative innovation
2 and entrepreneurship, particularly within a
3 public-private partnership; and

4 “(iii) represent a broad coalition of in-
5 terests described in section 385D(a);

6 “(C) include a strategy to leverage public
7 non-Federal and private funds and existing as-
8 sets, including agricultural, natural resource,
9 and public infrastructure assets, with substan-
10 tial emphasis placed on the existence of real fi-
11 nancial commitments to leverage available
12 funds;

13 “(D) create quality jobs;

14 “(E) enhance the role, relevance, and
15 leveraging potential of community and regional
16 foundations in support of regional investment
17 strategies;

18 “(F) demonstrate a history, or involve or-
19 ganizations with a history, of successful
20 leveraging of capital for economic development
21 and public purposes;

22 “(G) address gaps in existing basic serv-
23 ices, including technology, within a region;

1 “(H) address economic diversification, in-
2 cluding agricultural and non-agriculturally
3 based economies, within a regional framework;

4 “(I) improve the overall quality of life in
5 the region;

6 “(J) enhance the potential to expand eco-
7 nomic development successes across diverse
8 stakeholder groups within the region;

9 “(K) include an effective working relation-
10 ship with 1 or more institutions of higher edu-
11 cation, tribally controlled colleges or univer-
12 sities, or tribal technical institutions;

13 “(L) help to meet the other regional com-
14 petitiveness needs identified by a Regional
15 Board; or

16 “(M) protect and promote rural heritage.

17 “(f) USES.—

18 “(1) LEVERAGE.—A Regional Board shall
19 prioritize projects and initiatives carried out using
20 funds from a regional innovation grant provided
21 under this section, based in part on the degree to
22 which members of the Regional Board are able to le-
23 verage additional funds for the implementation of
24 the projects.

1 “(2) PURPOSES.—A Regional Board may use a
2 regional innovation grant—

3 “(A) to support the development of critical
4 infrastructure (including technology deployment
5 and services) necessary to facilitate the com-
6 petitiveness of a region;

7 “(B) to provide assistance to entities with-
8 in the region that provide essential public and
9 community services;

10 “(C) to enhance the value-added produc-
11 tion, marketing, and use of agricultural and
12 natural resources within the region, including
13 activities relating to renewable and alternative
14 energy production and usage;

15 “(D) to assist with entrepreneurship, job
16 training, workforce development, housing, edu-
17 cational, or other quality of life services or
18 needs, relating to the development and mainte-
19 nance of strong local and regional economies;

20 “(E) to assist in the development of unique
21 new collaborations that link public, private, and
22 philanthropic resources, including community
23 foundations;

24 “(F) to provide support for business and
25 entrepreneurial investment, strategy, expansion,

1 and development, including feasibility strate-
2 gies, technical assistance, peer networks, busi-
3 ness development funds, and other activities to
4 strengthen the economic competitiveness of the
5 region;

6 “(G) to provide matching funds to enable
7 community foundations located within the re-
8 gion to build endowments which provide perma-
9 nent philanthropic resources to implement a re-
10 gional investment strategy; and

11 “(H) to preserve and promote rural herit-
12 age.

13 “(3) AVAILABILITY OF FUNDS.—The funds
14 made available to a Regional Board or any other eli-
15 gible grantee through a regional innovation grant
16 shall remain available for the 7-year period begin-
17 ning on the date on which the award is provided, on
18 the condition that the Regional Board or other
19 grantee continues to be certified by the Secretary as
20 making adequate progress toward achieving estab-
21 lished benchmarks.

22 “(g) COST SHARING.—

23 “(1) WAIVER OF GRANTEE SHARE.—The Sec-
24 retary may waive the share of a grantee of the costs
25 of a project funded by a regional innovation grant

1 under this section if the Secretary determines that
2 such a waiver is appropriate, including with respect
3 to special circumstances within tribal regions, in the
4 event an area experiences—

5 “(A) a sudden or severe economic disloca-
6 tion;

7 “(B) significant chronic unemployment or
8 poverty;

9 “(C) a natural disaster; or

10 “(D) other severe economic, social, or cul-
11 tural duress.

12 “(2) OTHER FEDERAL PROGRAMS.—For the
13 purpose of determining cost-sharing requirements
14 for any other Federal program, funds provided as a
15 regional innovation grant under this section shall be
16 considered to be non-Federal funds.

17 “(h) NONCOMPLIANCE.—If a Regional Board or
18 other eligible grantee fails to comply with any requirement
19 relating to the use of funds provided under this section,
20 the Secretary may—

21 “(1) take such actions as are necessary to ob-
22 tain reimbursement of unused grant funds; and

23 “(2) reprogram the recaptured funds for pur-
24 poses relating to implementation of this subtitle.

1 “(i) PRIORITY TO AREAS WITH AWARDS AND AP-
2 PROVED STRATEGIES.—

3 “(1) IN GENERAL.—Subject to paragraph (3),
4 in providing rural development assistance under
5 other programs, the Secretary shall give a high pri-
6 ority to areas that receive innovation grants under
7 this section.

8 “(2) CONSULTATION.—The Secretary shall con-
9 sult with the heads of other Federal agencies to pro-
10 mote the development of priorities similar to those
11 described in paragraph (1).

12 “(3) EXCLUSION OF CERTAIN PROGRAMS.—
13 Paragraph (1) shall not apply to the provision of
14 rural development assistance under any program re-
15 lating to basic health, safety, or infrastructure, in-
16 cluding broadband deployment or minimum environ-
17 mental needs.

18 **“SEC. 385G. RURAL ENDOWMENT LOANS PROGRAM.**

19 “(a) IN GENERAL.—The Secretary may provide long-
20 term loans to eligible community foundations to assist in
21 the implementation of regional investment strategies.

22 “(b) ELIGIBLE COMMUNITY FOUNDATIONS.—To be
23 eligible to receive a loan under this section, a community
24 foundation shall—

1 “(1) be located in an area that is covered by a
2 regional investment strategy;

3 “(2) match the amount of the loan with an
4 amount that is at least 250 percent of the amount
5 of the loan; and

6 “(3) use the loan and the matching amount to
7 carry out the regional investment strategy in a man-
8 ner that is targeted to community and economic de-
9 velopment, including through the development of
10 community foundation endowments.

11 “(c) TERMS.—A loan made under this section shall—

12 “(1) have a term of not less than 10, nor more
13 than 20, years;

14 “(2) bear an interest rate of 1 percent per
15 annum; and

16 “(3) be subject to such other terms and condi-
17 tions as are determined appropriate by the Sec-
18 retary.

19 **“SEC. 385H. AUTHORIZATION OF APPROPRIATIONS.**

20 “There are authorized to be appropriated to carry out
21 this subtitle \$135,000,000 for the period of fiscal years
22 2009 through 2012.”.

1 **SEC. 6029. FUNDING OF PENDING RURAL DEVELOPMENT**
2 **LOAN AND GRANT APPLICATIONS.**

3 (a) DEFINITION OF APPLICATION.—In this section,
4 the term “application” does not include an application for
5 a loan or grant that, as of the date of enactment of this
6 Act, is in the preapplication phase of consideration under
7 regulations of the Secretary in effect on the date of enact-
8 ment of this Act.

9 (b) USE OF FUNDS.—Subject to subsection (c), the
10 Secretary shall use funds made available under subsection
11 (d) to provide funds for applications that are pending on
12 the date of enactment of this Act for—

13 (1) water or waste disposal grants or direct
14 loans under paragraph (1) or (2) of section 306(a)
15 of the Consolidated Farm and Rural Development
16 Act (7 U.S.C. 1926(a)); and

17 (2) emergency community water assistance
18 grants under section 306A of that Act (7 U.S.C.
19 1926a).

20 (c) LIMITATIONS.—

21 (1) APPROPRIATED AMOUNTS.—Funds made
22 available under this section shall be available to the
23 Secretary to provide funds for applications for loans
24 and grants described in subsection (b) that are
25 pending on the date of enactment of this Act only
26 to the extent that funds for the loans and grants ap-

1 appropriated in the annual appropriations Act for fis-
2 cal year 2007 have been exhausted.

3 (2) PROGRAM REQUIREMENTS.—The Secretary
4 may use funds made available under this section to
5 provide funds for a pending application for a loan or
6 grant described in subsection (b) only if the Sec-
7 retary processes, reviews, and approves the applica-
8 tion in accordance with regulations in effect on the
9 date of enactment of this Act.

10 (3) PRIORITY.—In providing funding under this
11 section for pending applications for loans or grants
12 described in subsection (b), the Secretary shall pro-
13 vide funding in the following order of priority (until
14 funds made available under this section are ex-
15 hausted):

16 (A) Pending applications for water sys-
17 tems.

18 (B) Pending applications for waste dis-
19 posal systems.

20 (d) FUNDING.—Notwithstanding any other provision
21 of law, of the funds of the Commodity Credit Corporation,
22 the Secretary shall use to carry out this section
23 \$120,000,000, to remain available until expended.

1 **Subtitle B—Rural Electrification**
2 **Act of 1936**

3 **SEC. 6101. ENERGY EFFICIENCY PROGRAMS.**

4 Sections 2(a) and 4 of the Rural Electrification Act
5 of 1936 (7 U.S.C. 902(a), 904) are amended by inserting
6 “efficiency and” before “conservation” each place it ap-
7 pears.

8 **SEC. 6102. REINSTATEMENT OF RURAL UTILITY SERVICES**
9 **DIRECT LENDING.**

10 (a) IN GENERAL.—Section 4 of the Rural Electrifica-
11 tion Act of 1936 (7 U.S.C. 904) is amended—

12 (1) by designating the first, second, and third
13 sentences as subsections (a), (b), and (d), respec-
14 tively; and

15 (2) by inserting after subsection (b) (as so des-
16 igned) the following:

17 “(c) DIRECT LOANS.—

18 “(1) DIRECT HARDSHIP LOANS.—Direct hard-
19 ship loans under this section shall be for the same
20 purposes and on the same terms and conditions as
21 hardship loans made under section 305(c)(1).

22 “(2) OTHER DIRECT LOANS.—All other direct
23 loans under this section shall bear interest at a rate
24 equal to the then current cost of money to the Gov-

1 ernment of the United States for loans of similar
2 maturity, plus $\frac{1}{8}$ of 1 percent.”.

3 (b) **ELIMINATION OF FEDERAL FINANCING BANK**
4 **GUARANTEED LOANS.**—Section 306 of the Rural Elec-
5 trification Act of 1936 (7 U.S.C. 936) is amended—

6 (1) in the third sentence, by striking “guar-
7 antee, accommodation, or subordination” and insert-
8 ing “accommodation or subordination”; and

9 (2) by striking the fourth sentence.

10 **SEC. 6103. DEFERMENT OF PAYMENTS TO ALLOWS LOANS**
11 **FOR IMPROVED ENERGY EFFICIENCY AND**
12 **DEMAND REDUCTION AND FOR ENERGY EFFI-**
13 **CIENCY AND USE AUDITS.**

14 Section 12 of the Rural Electrification Act of 1936
15 (7 U.S.C. 912) is amended by adding at the end the fol-
16 lowing:

17 “(c) **DEFERMENT OF PAYMENTS ON LOANS.**—

18 “(1) **IN GENERAL.**—The Secretary shall allow
19 borrowers to defer payment of principal and interest
20 on any direct loan made under this Act to enable the
21 borrower to make loans to residential, commercial,
22 and industrial consumers—

23 “(A) to conduct energy efficiency and use
24 audits; and

1 “(B) to install energy efficient measures or
2 devices that reduce the demand on electric sys-
3 tems.

4 “(2) AMOUNT.—The total amount of a
5 deferment under this subsection shall not exceed the
6 sum of the principal and interest on the loans made
7 to a customer of the borrower, as determined by the
8 Secretary.

9 “(3) TERM.—The term of a deferment under
10 this subsection shall not exceed 60 months.”.

11 **SEC. 6104. RURAL ELECTRIFICATION ASSISTANCE.**

12 Section 13 of the Rural Electrification Act of 1936
13 (7 U.S.C. 913) is amended to read as follows:

14 **“SEC. 13. DEFINITIONS.**

15 “In this Act:

16 “(1) FARM.—The term ‘farm’ means a farm, as
17 defined by the Bureau of the Census.

18 “(2) INDIAN TRIBE.—The term ‘Indian tribe’
19 has the meaning given the term in section 4 of the
20 Indian Self-Determination and Education Assistance
21 Act (25 U.S.C. 450b).

22 “(3) RURAL AREA.—Except as provided other-
23 wise in this Act, the term ‘rural area’ means the
24 farm and nonfarm population of—

1 “(A) any area described in section
2 343(a)(13)(C) of the Consolidated Farm and
3 Rural Development Act (7 U.S.C.
4 1991(a)(13)(C)); and

5 “(B) any area within a service area of a
6 borrower for which a borrower has an out-
7 standing loan made under titles I through V as
8 of the date of enactment of this paragraph.

9 “(4) TERRITORY.—The term ‘territory’ includes
10 any insular possession of the United States.

11 “(5) SECRETARY.—The term ‘Secretary’ means
12 the Secretary of Agriculture.”.

13 **SEC. 6105. SUBSTANTIALLY UNDERSERVED TRUST AREAS.**

14 The Rural Electrification Act of 1936 is amended by
15 inserting after section 306E (7 U.S.C. 936e) the following:

16 **“SEC. 306F. SUBSTANTIALLY UNDERSERVED TRUST AREAS.**

17 “(a) DEFINITIONS.—In this section:

18 “(1) ELIGIBLE PROGRAM.—The term ‘eligible
19 program’ means a program administered by the
20 Rural Utilities Service and authorized in—

21 “(A) this Act; or

22 “(B) paragraph (1), (2), (14), (22), or
23 (24) of section 306(a) or section 306A, 306C,
24 306D, or 306E of the Consolidated Farm and

1 Rural Development Act (7 U.S.C. 1926(a),
2 1926a, 1926c, 1926d, 1926e).

3 “(2) SUBSTANTIALLY UNDERSERVED TRUST
4 AREA.—The term ‘substantially underserved trust
5 area’ means a community in ‘trust land’ (as defined
6 in section 3765 of title 38, United States Code) with
7 respect to which the Secretary determines has a high
8 need for the benefits of an eligible program.

9 “(b) INITIATIVE.—The Secretary, in consultation
10 with local governments and Federal agencies, may imple-
11 ment an initiative to identify and improve the availability
12 of eligible programs in communities in substantially un-
13 derserved trust areas.

14 “(c) AUTHORITY OF SECRETARY.—In carrying out
15 subsection (b), the Secretary—

16 “(1) may make available from loan or loan
17 guarantee programs administered by the Rural Utili-
18 ties Service to qualified utilities or applicants financ-
19 ing with an interest rate as low as 2 percent, and
20 with extended repayment terms;

21 “(2) may waive nonduplication restrictions,
22 matching fund requirements, or credit support re-
23 quirements from any loan or grant program admin-
24 istered by the Rural Utilities Service to facilitate the

1 construction, acquisition, or improvement of infra-
2 structure;

3 “(3) may give the highest funding priority to
4 designated projects in substantially underserved
5 trust areas; and

6 “(4) shall only make loans or loan guarantees
7 that are found to be financially feasible and that
8 provide eligible program benefits to substantially un-
9 derserved trust areas.

10 “(d) REPORT.—Not later than 1 year after the date
11 of enactment of this section and annually thereafter, the
12 Secretary shall submit to Congress a report that de-
13 scribes—

14 “(1) the progress of the initiative implemented
15 under subsection (b); and

16 “(2) recommendations for any regulatory or
17 legislative changes that would be appropriate to im-
18 prove services to substantially underserved trust
19 areas.”.

20 **SEC. 6106. GUARANTEES FOR BONDS AND NOTES ISSUED**
21 **FOR ELECTRIFICATION OR TELEPHONE PUR-**
22 **POSES.**

23 (a) IN GENERAL.—Section 313A of the Rural Elec-
24 trification Act of 1936 (7 U.S.C. 940e–1) is amended—

25 (1) in subsection (b)—

1 (A) in paragraph (1), by striking “for elec-
2 trification” and all that follows through the end
3 and inserting “for eligible electrification or tele-
4 phone purposes consistent with this Act.”; and

5 (B) by striking paragraph (4) and insert-
6 ing the following:

7 “(4) ANNUAL AMOUNT.—The total amount of
8 guarantees provided by the Secretary under this sec-
9 tion during a fiscal year shall not exceed
10 \$1,000,000,000, subject to the availability of funds
11 under subsection (e).”;

12 (2) in subsection (c), by striking paragraphs (2)
13 and (3) and inserting the following:

14 “(2) AMOUNT.—

15 “(A) IN GENERAL.—The amount of the
16 annual fee paid for the guarantee of a bond or
17 note under this section shall be equal to 30
18 basis points of the amount of the unpaid prin-
19 cipal of the bond or note guaranteed under this
20 section.

21 “(B) PROHIBITION.—Except as otherwise
22 provided in this subsection and subsection
23 (e)(2), no other fees shall be assessed.

24 “(3) PAYMENT.—

1 “(A) IN GENERAL.—A lender shall pay the
2 fees required under this subsection on a semi-
3 annual basis.

4 “(B) STRUCTURED SCHEDULE.—The Sec-
5 retary shall, with the consent of the lender,
6 structure the schedule for payment of the fee to
7 ensure that sufficient funds are available to pay
8 the subsidy costs for note or bond guarantees
9 as provided for in subsection (e)(2).”; and
10 (3) in subsection (f), by striking “2007” and
11 inserting “2012”.

12 (b) ADMINISTRATION.—The Secretary shall continue
13 to carry out section 313A of the Rural Electrification Act
14 of 1936 (7 U.S.C. 940c–1) in the same manner as on the
15 day before the date of enactment of this Act, except with-
16 out regard to the limitations prescribed in subsection
17 (b)(1) of that section, until such time as any regulations
18 necessary to carry out the amendments made by this sec-
19 tion are fully implemented.

20 **SEC. 6107. EXPANSION OF 911 ACCESS.**

21 Section 315 of the Rural Electrification Act of 1936
22 (7 U.S.C. 940e) is amended to read as follows:

23 **“SEC. 315. EXPANSION OF 911 ACCESS.**

24 “(a) IN GENERAL.—Subject to subsection (c) and
25 such terms and conditions as the Secretary may prescribe,

1 the Secretary may make loans under this title to entities
2 eligible to borrow from the Rural Utilities Service, State
3 or local governments, Indian tribes (as defined in section
4 4 of the Indian Self-Determination and Education Assist-
5 ance Act (25 U.S.C. 450b)), or other public entities for
6 facilities and equipment to expand or improve in rural
7 areas—

8 “(1) 911 access;

9 “(2) integrated interoperable emergency com-
10 munications, including multiuse networks that pro-
11 vide commercial or transportation information serv-
12 ices in addition to emergency communications serv-
13 ices;

14 “(3) homeland security communications;

15 “(4) transportation safety communications; or

16 “(5) location technologies used outside an ur-
17 banized area.

18 “(b) LOAN SECURITY.—Government-imposed fees re-
19 lated to emergency communications (including State or
20 local 911 fees) may be considered to be security for a loan
21 under this section.

22 “(c) EMERGENCY COMMUNICATIONS EQUIPMENT
23 PROVIDERS.—The Secretary may make a loan under this
24 section to an emergency communication equipment pro-
25 vider to expand or improve 911 access or other commu-

1 nications or technologies described in subsection (a) if the
2 local government that has jurisdiction over the project is
3 not allowed to acquire the debt resulting from the loan.

4 “(d) AUTHORIZATION OF APPROPRIATIONS.—The
5 Secretary shall use to make loans under this section any
6 funds otherwise made available for telephone loans for
7 each of fiscal years 2008 through 2012.”.

8 **SEC. 6108. ELECTRIC LOANS FOR RENEWABLE ENERGY.**

9 Title III of the Rural Electrification Act of 1936 is
10 amended by inserting after section 316 (7 U.S.C. 940f)
11 the following:

12 **“SEC. 317. ELECTRIC LOANS FOR RENEWABLE ENERGY.**

13 “(a) DEFINITION OF RENEWABLE ENERGY
14 SOURCE.—In this section, the term ‘renewable energy
15 source’ means an energy conversion system fueled from
16 a solar, wind, hydropower, biomass, or geothermal source
17 of energy.

18 “(b) LOANS.—In addition to any other funds or au-
19 thorities otherwise made available under this Act, the Sec-
20 retary may make electric loans under this title for electric
21 generation from renewable energy resources for resale to
22 rural and nonrural residents.

23 “(c) RATE.—The rate of a loan under this section
24 shall be equal to the average tax-exempt municipal bond
25 rate of similar maturities.”.

1 **SEC. 6109. BONDING REQUIREMENTS.**

2 Title III of the Rural Electrification Act of 1936 is
3 amended by inserting after section 317 (as added by sec-
4 tion 6108) the following:

5 **“SEC. 318. BONDING REQUIREMENTS.**

6 “The Secretary shall review the bonding require-
7 ments for all programs administered by the Rural Utilities
8 Service under this Act to ensure that bonds are not re-
9 quired if—

10 “(1) the interests of the Secretary are ade-
11 quately protected by product warranties; or

12 “(2) the costs or conditions associated with a
13 bond exceed the benefit of the bond.”.

14 **SEC. 6110. ACCESS TO BROADBAND TELECOMMUNICATIONS**
15 **SERVICES IN RURAL AREAS.**

16 (a) IN GENERAL.—Section 601 of the Rural Elec-
17 trification Act of 1936 (7 U.S.C. 950bb) is amended to
18 read as follows:

19 **“SEC. 601. ACCESS TO BROADBAND TELECOMMUNICATIONS**
20 **SERVICES IN RURAL AREAS.**

21 “(a) PURPOSE.—The purpose of this section is to
22 provide loans and loan guarantees to provide funds for the
23 costs of the construction, improvement, and acquisition of
24 facilities and equipment for broadband service in rural
25 areas.

26 “(b) DEFINITIONS.—In this section:

1 “(1) BROADBAND SERVICE.—The term
2 ‘broadband service’ means any technology identified
3 by the Secretary as having the capacity to transmit
4 data to enable a subscriber to the service to origi-
5 nate and receive high-quality voice, data, graphics,
6 and video.

7 “(2) INCUMBENT SERVICE PROVIDER.—The
8 term ‘incumbent service provider’, with respect to an
9 application submitted under this section, means an
10 entity that, as of the date of submission of the appli-
11 cation, is providing broadband service to not less
12 than 5 percent of the households in the service terri-
13 tory proposed in the application.

14 “(3) RURAL AREA.—

15 “(A) IN GENERAL.—The term ‘rural area’
16 means any area other than—

17 “(i) an area described in clause (i) or
18 (ii) of section 343(a)(13)(A) of the Con-
19 solidated Farm and Rural Development
20 Act (7 U.S.C. 1991(a)(13)(A)); and

21 “(ii) a city, town, or incorporated area
22 that has a population of greater than
23 20,000 inhabitants.

24 “(B) URBAN AREA GROWTH.—The Sec-
25 retary may, by regulation only, consider an area

1 described in section 343(a)(13)(F)(i)(I) of that
2 Act to not be a rural area for purposes of this
3 section.

4 “(c) LOANS AND LOAN GUARANTEES.—

5 “(1) IN GENERAL.—The Secretary shall make
6 or guarantee loans to eligible entities described in
7 subsection (d) to provide funds for the construction,
8 improvement, or acquisition of facilities and equip-
9 ment for the provision of broadband service in rural
10 areas.

11 “(2) PRIORITY.—In making or guaranteeing
12 loans under paragraph (1), the Secretary shall give
13 the highest priority to applicants that offer to pro-
14 vide broadband service to the greatest proportion of
15 households that, prior to the provision of the
16 broadband service, had no incumbent service pro-
17 vider.

18 “(d) ELIGIBILITY.—

19 “(1) ELIGIBLE ENTITIES.—

20 “(A) IN GENERAL.—To be eligible to ob-
21 tain a loan or loan guarantee under this sec-
22 tion, an entity shall—

23 “(i) demonstrate the ability to fur-
24 nish, improve, or extend a broadband serv-
25 ice to a rural area;

1 “(ii) submit to the Secretary a loan
2 application at such time, in such manner,
3 and containing such information as the
4 Secretary may require; and

5 “(iii) agree to complete buildout of
6 the broadband service described in the loan
7 application by not later than 3 years after
8 the initial date on which proceeds from the
9 loan made or guaranteed under this section
10 are made available.

11 “(B) LIMITATION.—An eligible entity that
12 provides telecommunications or broadband serv-
13 ice to at least 20 percent of the households in
14 the United States may not receive an amount
15 of funds under this section for a fiscal year in
16 excess of 15 percent of the funds authorized
17 and appropriated under subsection (k) for the
18 fiscal year.

19 “(2) ELIGIBLE PROJECTS.—

20 “(A) IN GENERAL.—Except as provided in
21 subparagraphs (B) and (C), the proceeds of a
22 loan made or guaranteed under this section
23 may be used to carry out a project in a pro-
24 posed service territory only if, as of the date on

1 which the application for the loan or loan guar-
2 antee is submitted—

3 “(i) not less than 25 percent of the
4 households in the proposed service territory
5 is offered broadband service by not more
6 than 1 incumbent service provider; and

7 “(ii) broadband service is not provided
8 in any part of the proposed service terri-
9 tory by 3 or more incumbent service pro-
10 viders.

11 “(B) EXCEPTION TO 25 PERCENT RE-
12 QUIREMENT.—Subparagraph (A)(i) shall not
13 apply to the proposed service territory of a
14 project if a loan or loan guarantee has been
15 made under this section to the applicant to pro-
16 vide broadband service in the proposed service
17 territory.

18 “(C) EXCEPTION TO 3 OR MORE INCUM-
19 BENT SERVICE PROVIDER REQUIREMENT.—

20 “(i) IN GENERAL.—Except as pro-
21 vided in clause (ii), subparagraph (A)(ii)
22 shall not apply to an incumbent service
23 provider that is upgrading broadband serv-
24 ice to the existing territory of the incum-
25 bent service provider.

1 “(ii) EXCEPTION.—Clause (i) shall
2 not apply if the applicant is eligible for
3 funding under another title of this Act.

4 “(3) EQUITY AND MARKET SURVEY REQUIRE-
5 MENTS.—

6 “(A) IN GENERAL.—The Secretary may re-
7 quire an entity to provide a cost share in an
8 amount not to exceed 10 percent of the amount
9 of the loan or loan guarantee requested in the
10 application of the entity, unless the Secretary
11 determines that a higher percentage is required
12 for financial feasibility.

13 “(B) MARKET SURVEY.—

14 “(i) IN GENERAL.—The Secretary
15 may require an entity that proposes to
16 have a subscriber projection of more than
17 20 percent of the broadband service mar-
18 ket in a rural area to submit to the Sec-
19 retary a market survey.

20 “(ii) LESS THAN 20 PERCENT.—The
21 Secretary may not require an entity that
22 proposes to have a subscriber projection of
23 less than 20 percent of the broadband
24 service market in a rural area to submit to
25 the Secretary a market survey.

1 “(4) STATE AND LOCAL GOVERNMENTS AND IN-
2 DIAN TRIBES.—Subject to paragraph (1), a State or
3 local government (including any agency, subdivision,
4 or instrumentality thereof (including consortia there-
5 of)) and an Indian tribe shall be eligible for a loan
6 or loan guarantee under this section to provide
7 broadband services to a rural area.

8 “(5) NOTICE REQUIREMENT.—The Secretary
9 shall publish a notice of each application for a loan
10 or loan guarantee under this section describing the
11 application, including—

12 “(A) the identity of the applicant;

13 “(B) each area proposed to be served by
14 the applicant; and

15 “(C) the estimated number of households
16 without terrestrial-based broadband service in
17 those areas.

18 “(6) PAPERWORK REDUCTION.—The Secretary
19 shall take steps to reduce, to the maximum extent
20 practicable, the cost and paperwork associated with
21 applying for a loan or loan guarantee under this sec-
22 tion by first-time applicants (particularly first-time
23 applicants who are small and start-up broadband
24 service providers), including by providing for a new
25 application that maintains the ability of the Sec-

1 retary to make an analysis of the risk associated
2 with the loan involved.

3 “(7) PREAPPLICATION PROCESS.—The Sec-
4 retary shall establish a process under which a pro-
5 spective applicant may seek a determination of area
6 eligibility prior to preparing a loan application under
7 this section.

8 “(e) BROADBAND SERVICE.—

9 “(1) IN GENERAL.—The Secretary shall, from
10 time to time as advances in technology warrant, re-
11 view and recommend modifications of rate-of-data
12 transmission criteria for purposes of the identifica-
13 tion of broadband service technologies under sub-
14 section (b)(1).

15 “(2) PROHIBITION.—The Secretary shall not
16 establish requirements for bandwidth or speed that
17 have the effect of precluding the use of evolving
18 technologies appropriate for rural areas.

19 “(f) TECHNOLOGICAL NEUTRALITY.—For purposes
20 of determining whether to make a loan or loan guarantee
21 for a project under this section, the Secretary shall use
22 criteria that are technologically neutral.

23 “(g) TERMS AND CONDITIONS FOR LOANS AND LOAN
24 GUARANTEES.—

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of law, a loan or loan guarantee under this
3 section shall—

4 “(A) bear interest at an annual rate of, as
5 determined by the Secretary—

6 “(i) in the case of a direct loan, a rate
7 equivalent to—

8 “(I) the cost of borrowing to the
9 Department of the Treasury for obli-
10 gations of comparable maturity; or

11 “(II) 4 percent; and

12 “(ii) in the case of a guaranteed loan,
13 the current applicable market rate for a
14 loan of comparable maturity; and

15 “(B) have a term of such length, not ex-
16 ceeding 35 years, as the borrower may request,
17 if the Secretary determines that the loan is ade-
18 quately secured.

19 “(2) TERM.—In determining the term of a loan
20 or loan guarantee, the Secretary shall consider
21 whether the recipient is or would be serving an area
22 that is not receiving broadband services.

23 “(3) RECURRING REVENUE.—The Secretary
24 shall consider the existing recurring revenues of the

1 entity at the time of application in determining an
2 adequate level of credit support.

3 “(h) ADEQUACY OF SECURITY.—

4 “(1) IN GENERAL.—The Secretary shall ensure
5 that the type and amount of, and method of security
6 used to secure, any loan or loan guarantee under
7 this section is commensurate to the risk involved
8 with the loan or loan guarantee, particularly in any
9 case in which the loan or loan guarantee is issued
10 to a financially strong and stable entity, as deter-
11 mined by the Secretary.

12 “(2) DETERMINATION OF AMOUNT AND METH-
13 OD OF SECURITY.—In determining the amount of,
14 and method of security used to secure, a loan or
15 loan guarantee under this section, the Secretary
16 shall consider reducing the security in a rural area
17 that does not have broadband service.

18 “(i) USE OF LOAN PROCEEDS TO REFINANCE LOANS
19 FOR DEPLOYMENT OF BROADBAND SERVICE.—Notwith-
20 standing any other provision of this Act, the proceeds of
21 any loan made or guaranteed by the Secretary under this
22 Act may be used by the recipient of the loan for the pur-
23 pose of refinancing an outstanding obligation of the recipi-
24 ent on another telecommunications loan made under this
25 Act if the use of the proceeds for that purpose will support

1 the construction, improvement, or acquisition of facilities
2 and equipment for the provision of broadband service in
3 rural areas.

4 “(j) REPORTS.—Not later than 1 year after the date
5 of enactment of the Food, Conservation, and Energy Act
6 of 2008, and annually thereafter, the Administrator shall
7 submit to Congress a report that describes the extent of
8 participation in the loan and loan guarantee program
9 under this section for the preceding fiscal year, including
10 a description of —

11 “(1) the number of loans applied for and pro-
12 vided under this section;

13 “(2)(A) the communities proposed to be served
14 in each loan application submitted for the fiscal
15 year; and

16 “(B) the communities served by projects funded
17 by loans and loan guarantees provided under this
18 section;

19 “(3) the period of time required to approve
20 each loan application under this section;

21 “(4) any outreach activities carried out by the
22 Secretary to encourage entities in rural areas with-
23 out broadband service to submit applications under
24 this section;

1 “(5) the method by which the Secretary deter-
2 mines that a service enables a subscriber to originate
3 and receive high-quality voice, data, graphics, and
4 video for purposes of subsection (b)(1); and

5 “(6) each broadband service, including the type
6 and speed of broadband service, for which assistance
7 was sought, and each broadband service for which
8 assistance was provided, under this section.

9 “(k) FUNDING.—

10 “(1) AUTHORIZATION OF APPROPRIATIONS.—
11 There is authorized to be appropriated to the Sec-
12 retary to carry out this section \$25,000,000 for each
13 of fiscal years 2008 through 2012, to remain avail-
14 able until expended.

15 “(2) ALLOCATION OF FUNDS.—

16 “(A) IN GENERAL.—From amounts made
17 available for each fiscal year under this sub-
18 section, the Secretary shall—

19 “(i) establish a national reserve for
20 loans and loan guarantees to eligible enti-
21 ties in States under this section; and

22 “(ii) allocate amounts in the reserve
23 to each State for each fiscal year for loans
24 and loan guarantees to eligible entities in
25 the State.

1 “(B) AMOUNT.—The amount of an alloca-
2 tion made to a State for a fiscal year under
3 subparagraph (A) shall bear the same ratio to
4 the amount of allocations made for all States
5 for the fiscal year as—

6 “(i) the number of communities with
7 a population of 2,500 inhabitants or less in
8 the State; bears to

9 “(ii) the number of communities with
10 a population of 2,500 inhabitants or less in
11 all States.

12 “(C) UNOBLIGATED AMOUNTS.—Any
13 amounts in the reserve established for a State
14 for a fiscal year under subparagraph (B) that
15 are not obligated by April 1 of the fiscal year
16 shall be available to the Secretary to make
17 loans and loan guarantees under this section to
18 eligible entities in any State, as determined by
19 the Secretary.

20 “(1) TERMINATION OF AUTHORITY.—No loan or loan
21 guarantee may be made under this section after Sep-
22 tember 30, 2012.”.

23 (b) REGULATIONS.—The Secretary may implement
24 the amendment made by subsection (a) through the pro-
25 mulgation of an interim regulation.

1 (c) APPLICATION.—The amendment made by sub-
2 section (a) shall not apply to—

3 (1) an application submitted under section 601
4 of the Rural Electrification Act of 1936 (7 U.S.C.
5 950bb) (as it existed before the amendment made by
6 subsection (a)) that—

7 (A) was pending on the date that is 45
8 days prior to the date of enactment of this Act;
9 and

10 (B) is pending on the date of enactment of
11 this Act; or

12 (2) a petition for reconsideration of a decision
13 on an application described in paragraph (1).

14 **SEC. 6111. NATIONAL CENTER FOR RURAL TELECOMMUNI-**
15 **CATIONS ASSESSMENT.**

16 Title VI of the Rural Electrification Act of 1936 (7
17 U.S.C. 950bb et seq.) is amended by adding at the end
18 the following:

19 **“SEC. 602. NATIONAL CENTER FOR RURAL TELECOMMUNI-**
20 **CATIONS ASSESSMENT.**

21 “(a) DESIGNATION OF CENTER.—The Secretary
22 shall designate an entity to serve as the National Center
23 for Rural Telecommunications Assessment (referred to in
24 this section as the ‘Center’).

1 “(b) CRITERIA.—In designating the Center under
2 subsection (a), the Secretary shall take into consideration
3 the following criteria:

4 “(1) The Center shall be an entity that dem-
5 onstrates to the Secretary—

6 “(A) a focus on rural policy research; and

7 “(B) a minimum of 5 years of experience
8 relating to rural telecommunications research
9 and assessment.

10 “(2) The Center shall be capable of assessing
11 broadband services in rural areas.

12 “(3) The Center shall have significant experi-
13 ence involving other rural economic development cen-
14 ters and organizations with respect to the assess-
15 ment of rural policies and the formulation of policy
16 solutions at the Federal, State, and local levels.

17 “(c) BOARD OF DIRECTORS.—The Center shall be
18 managed by a board of directors, which shall be respon-
19 sible for the duties of the Center described in subsection
20 (d).

21 “(d) DUTIES.—The Center shall—

22 “(1) assess the effectiveness of programs car-
23 ried out under this title in increasing broadband
24 penetration and purchase in rural areas, especially
25 in rural communities identified by the Secretary as

1 having no broadband service before the provision of
2 a loan or loan guarantee under this title;

3 “(2) work with existing rural development cen-
4 ters selected by the Center to identify policies and
5 initiatives at the Federal, State, and local levels that
6 have increased broadband penetration and purchase
7 in rural areas and provide recommendations to Fed-
8 eral, State, and local policymakers on effective strat-
9 egies to bring affordable broadband services to resi-
10 dents of rural areas, particularly residents located
11 outside of the municipal boundaries of a rural city
12 or town; and

13 “(3) develop and publish reports describing the
14 activities carried out by the Center under this sec-
15 tion.

16 “(e) REPORTING REQUIREMENTS.—Not later than
17 December 1 of each applicable fiscal year, the board of
18 directors of the Center shall submit to Congress and the
19 Secretary a report describing the activities carried out by
20 the Center during the preceding fiscal year and the results
21 of any research conducted by the Center during that fiscal
22 year, including—

23 “(1) an assessment of each program carried out
24 under this title; and

1 “(2) an assessment of the effects of the policy
2 initiatives identified under subsection (d)(2).

3 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
4 is authorized to be appropriated to the Secretary to carry
5 out this section \$1,000,000 for each of fiscal years 2008
6 through 2012.”.

7 **SEC. 6112. COMPREHENSIVE RURAL BROADBAND STRAT-**
8 **EGY.**

9 (a) IN GENERAL.—Not later than 1 year after the
10 date of enactment of this Act, the Chairman of the Fed-
11 eral Communications Commission, in coordination with
12 the Secretary, shall submit to Congress a report describing
13 a comprehensive rural broadband strategy that includes—

14 (1) recommendations—

15 (A) to promote interagency coordination of
16 Federal agencies in regards to policies, proce-
17 dures, and targeted resources, and to stream-
18 line or otherwise improve and streamline the
19 policies, programs, and services;

20 (B) to coordinate existing Federal rural
21 broadband or rural initiatives;

22 (C) to address both short- and long-term
23 needs assessments and solutions for a rapid
24 build-out of rural broadband solutions and ap-
25 plication of the recommendations for Federal,

1 State, regional, and local government policy-
2 makers; and

3 (D) to identify how specific Federal agency
4 programs and resources can best respond to
5 rural broadband requirements and overcome ob-
6 stacles that currently impede rural broadband
7 deployment; and

8 (2) a description of goals and timeframes to
9 achieve the purposes of the report.

10 (b) UPDATES.—The Chairman of the Federal Com-
11 munications Commission, in coordination with the Sec-
12 retary, shall update and evaluate the report described in
13 subsection (a) during the third year after the date of en-
14 actment of this Act.

15 **SEC. 6113. STUDY ON RURAL ELECTRIC POWER GENERA-**
16 **TION.**

17 (a) IN GENERAL.—The Secretary shall conduct a
18 study on the electric power generation needs in rural areas
19 of the United States.

20 (b) COMPONENTS.—The study shall include an exam-
21 ination of—

22 (1) generation in various areas in rural areas of
23 the United States, particularly by rural electric co-
24 operatives;;

1 (2) financing available for capacity, including fi-
2 nancing available through programs authorized
3 under the Rural Electrification Act of 1936 (7
4 U.S.C. 901 et seq.);

5 (3) the impact of electricity costs on consumers
6 and local economic development;

7 (4) the ability of fuel feedstock technology to
8 meet regulatory requirements, such as carbon cap-
9 ture and sequestration; and

10 (5) any other factors that the Secretary con-
11 siders appropriate.

12 (c) REPORT.—Not later than 60 days after the date
13 of enactment of this Act, the Secretary shall submit to
14 the Committee on Agriculture of the House of Representa-
15 tives and the Committee on Agriculture, Nutrition, and
16 Forestry of the Senate a report containing the findings
17 of the study under this section.

18 **Subtitle C—Miscellaneous**

19 **SEC. 6201. DISTANCE LEARNING AND TELEMEDICINE.**

20 (a) IN GENERAL.—Section 2333(c)(1) of the Food,
21 Agriculture, Conservation and Trade Act of 1990 (7
22 U.S.C. Sec. 950aaa-2(a)(1)) is amended—

23 (1) in subparagraph (A), by striking “and” at
24 the end;

1 (2) in subparagraph (B), by striking the period
2 at the end and inserting a semicolon; and

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

4 “(C) libraries.”.

5 (b) **AUTHORIZATION OF APPROPRIATIONS.**—Section
6 2335A of the Food, Agriculture, Conservation, and Trade
7 Act of 1990 (7 U.S.C. 950aaa–5) is amended by striking
8 “2007” and inserting “2012”.

9 (c) **CONFORMING AMENDMENT.**—Section 1(b) of
10 Public Law 102–551 (7 U.S.C. 950aaa note; Public Law
11 102–551) is amended by striking “2007” and inserting
12 “2012”.

13 **SEC. 6202. VALUE-ADDED AGRICULTURAL MARKET DEVEL-**
14 **OPMENT PROGRAM GRANTS.**

15 (a) **DEFINITIONS.**—Section 231 of the Agricultural
16 Risk Protection Act of 2000 (7 U.S.C. 1621 note; Public
17 Law 106–224) is amended by striking subsection (a) and
18 inserting the following:

19 “(a) **DEFINITIONS.**—In this section:

20 “(1) **BEGINNING FARMER OR RANCHER.**—The
21 term ‘beginning farmer or rancher’ has the meaning
22 given the term in section 343(a) of the Consolidated
23 Farm and Rural Development Act (7 U.S.C.
24 1991(a)).

1 “(2) FAMILY FARM.—The term ‘family farm’
2 has the meaning given the term in section 761.2 of
3 title 7, Code of Federal Regulations (as in effect on
4 December 30, 2007).

5 “(3) MID-TIER VALUE CHAIN.—The term ‘mid-
6 tier value chain’ means local and regional supply
7 networks that link independent producers with busi-
8 nesses and cooperatives that market value-added ag-
9 ricultural products in a manner that—

10 “(A) targets and strengthens the profit-
11 ability and competitiveness of small and me-
12 dium-sized farms and ranches that are struc-
13 tured as a family farm; and

14 “(B) obtains agreement from an eligible
15 agricultural producer group, farmer or rancher
16 cooperative, or majority-controlled producer-
17 based business venture that is engaged in the
18 value chain on a marketing strategy.

19 “(4) SOCIALLY DISADVANTAGED FARMER OR
20 RANCHER.—The term ‘socially disadvantaged farmer
21 or rancher’ has the meaning given the term in sec-
22 tion 355(e) of the Consolidated Farm and Rural De-
23 velopment Act (7 U.S.C. 2003(e)).

1 “(5) VALUE-ADDED AGRICULTURAL PROD-
2 UCT.—The term ‘value-added agricultural product’
3 means any agricultural commodity or product that—

4 “(A)(i) has undergone a change in physical
5 state;

6 “(ii) was produced in a manner that en-
7 hances the value of the agricultural commodity
8 or product, as demonstrated through a business
9 plan that shows the enhanced value, as deter-
10 mined by the Secretary;

11 “(iii) is physically segregated in a manner
12 that results in the enhancement of the value of
13 the agricultural commodity or product;

14 “(iv) is a source of farm- or ranch-based
15 renewable energy, including E-85 fuel; or

16 “(v) is aggregated and marketed as a lo-
17 cally-produced agricultural food product; and

18 “(B) as a result of the change in physical state
19 or the manner in which the agricultural commodity
20 or product was produced, marketed, or segregated—

21 “(i) the customer base for the agricultural
22 commodity or product is expanded; and

23 “(ii) a greater portion of the revenue de-
24 rived from the marketing, processing, or phys-
25 ical segregation of the agricultural commodity

1 or product is available to the producer of the
2 commodity or product.”.

3 (b) GRANT PROGRAM.—Section 231(b) of the Agri-
4 cultural Risk Protection Act of 2000 (7 U.S.C. 1621 note;
5 Public Law 106–224) is amended—

6 (1) in paragraph (1), by striking “paragraph
7 (4)” and inserting “paragraph (7)”; and

8 (2) by striking paragraph (4) and inserting the
9 following:

10 “(4) TERM.—A grant under this subsection
11 shall have a term that does not exceed 3 years.

12 “(5) SIMPLIFIED APPLICATION.—The Secretary
13 shall offer a simplified application form and process
14 for project proposals requesting less than \$50,000.

15 “(6) PRIORITY.—In awarding grants under this
16 subsection, the Secretary shall give priority to
17 projects that contribute to increasing opportunities
18 for—

19 “(A) beginning farmers or ranchers;

20 “(B) socially disadvantaged farmers or
21 ranchers; and

22 “(C) operators of small- and medium-sized
23 farms and ranches that are structured as a
24 family farm.

25 “(7) FUNDING.—

1 “(A) MANDATORY FUNDING.—On October
2 1, 2008, of the funds of the Commodity Credit
3 Corporation, the Secretary shall make available
4 to carry out this subsection \$15,000,000, to re-
5 main available until expended.

6 “(B) DISCRETIONARY FUNDING.—There is
7 authorized to be appropriated to carry out this
8 subsection \$40,000,000 for each of fiscal years
9 2008 through 2012.

10 “(C) RESERVATION OF FUNDS FOR
11 PROJECTS TO BENEFIT BEGINNING FARMERS
12 OR RANCHERS, SOCIALLY DISADVANTAGED
13 FARMERS OR RANCHERS, AND MID-TIER VALUE
14 CHAINS.—

15 “(i) IN GENERAL.—The Secretary
16 shall reserve 10 percent of the amounts
17 made available for each fiscal year under
18 this paragraph to fund projects that ben-
19 efit beginning farmers or ranchers or so-
20 cially disadvantaged farmers or ranchers.

21 “(ii) MID-TIER VALUE CHAINS.—The
22 Secretary shall reserve 10 percent of the
23 amounts made available for each fiscal
24 year under this paragraph to fund applica-
25 tions of eligible entities described in para-

1 graph (1) that propose to develop mid-tier
2 value chains.

3 “(iii) UNOBLIGATED AMOUNTS.—Any
4 amounts in the reserves for a fiscal year
5 established under clauses (i) and (ii) that
6 are not obligated by June 30 of the fiscal
7 year shall be available to the Secretary to
8 make grants under this subsection to eligi-
9 ble entities in any State, as determined by
10 the Secretary.”.

11 **SEC. 6203. AGRICULTURE INNOVATION CENTER DEM-**
12 **ONSTRATION PROGRAM.**

13 Section 6402 of the Farm Security and Rural Invest-
14 ment Act of 2002 (7 U.S.C. 1621 note; Public Law 107–
15 171) is amended by striking subsection (i) and inserting
16 the following:

17 “(i) AUTHORIZATION OF APPROPRIATIONS.—There is
18 authorized to be appropriated to the Secretary to carry
19 out this section \$6,000,000 for each of fiscal years 2008
20 through 2012.”.

21 **SEC. 6204. RURAL FIREFIGHTERS AND EMERGENCY MED-**
22 **ICAL SERVICE ASSISTANCE PROGRAM.**

23 Section 6405 of the Farm Security and Rural Invest-
24 ment Act of 2002 (7 U.S.C. 2655) is amended to read
25 as follows:

1 **“SEC. 6405. RURAL FIREFIGHTERS AND EMERGENCY MED-**
2 **ICAL SERVICE ASSISTANCE PROGRAM.**

3 “(a) DEFINITION OF EMERGENCY MEDICAL SERV-
4 ICES.—In this section:

5 “(1) IN GENERAL.—The term ‘emergency med-
6 ical services’ means resources used by a public or
7 nonprofit entity to deliver medical care outside of a
8 medical facility under emergency conditions that
9 occur as a result of—

10 “(A) the condition of a patient; or

11 “(B) a natural disaster or related condi-
12 tion.

13 “(2) INCLUSION.—The term ‘emergency med-
14 ical services’ includes services (whether compensated
15 or volunteer) delivered by an emergency medical
16 services provider or other provider recognized by the
17 State involved that is licensed or certified by the
18 State as—

19 “(A) an emergency medical technician or
20 the equivalent (as determined by the State);

21 “(B) a registered nurse;

22 “(C) a physician assistant; or

23 “(D) a physician that provides services
24 similar to services provided by such an emer-
25 gency medical services provider.

1 “(b) GRANTS.—The Secretary shall award grants to
2 eligible entities—

3 “(1) to enable the entities to provide for im-
4 proved emergency medical services in rural areas;
5 and

6 “(2) to pay the cost of training firefighters and
7 emergency medical personnel in firefighting, emer-
8 gency medical practices, and responding to haz-
9 arduous materials and bioagents in rural areas.

10 “(c) ELIGIBILITY.—To be eligible to receive a grant
11 under this section, an entity shall—

12 “(1) be—

13 “(A) a State emergency medical services
14 office;

15 “(B) a State emergency medical services
16 association;

17 “(C) a State office of rural health or an
18 equivalent agency;

19 “(D) a local government entity;

20 “(E) an Indian tribe (as defined in section
21 4 of the Indian Self-Determination and Edu-
22 cation Assistance Act (25 U.S.C. 450b));

23 “(F) a State or local ambulance provider;

24 or

1 “(G) any other public or nonprofit entity
2 determined appropriate by the Secretary; and

3 “(2) prepare and submit to the Secretary an
4 application at such time, in such manner, and con-
5 taining such information as the Secretary may re-
6 quire, that includes—

7 “(A) a description of the activities to be
8 carried out under the grant; and

9 “(B) an assurance that the applicant will
10 comply with the matching requirement of sub-
11 section (f).

12 “(d) USE OF FUNDS.—An entity shall use amounts
13 received under a grant made under subsection (b) only in
14 a rural area—

15 “(1) to hire or recruit emergency medical serv-
16 ice personnel;

17 “(2) to recruit or retain volunteer emergency
18 medical service personnel;

19 “(3) to train emergency medical service per-
20 sonnel in emergency response, injury prevention,
21 safety awareness, or other topics relevant to the de-
22 livery of emergency medical services;

23 “(4) to fund training to meet State or Federal
24 certification requirements;

1 “(5) to provide training for firefighters or emer-
2 gency medical personnel for improvements to the
3 training facility, equipment, curricula, or personnel;

4 “(6) to develop new ways to educate emergency
5 health care providers through the use of technology-
6 enhanced educational methods (such as distance
7 learning);

8 “(7) to acquire emergency medical services vehi-
9 cles, including ambulances;

10 “(8) to acquire emergency medical services
11 equipment, including cardiac defibrillators;

12 “(9) to acquire personal protective equipment
13 for emergency medical services personnel as required
14 by the Occupational Safety and Health Administra-
15 tion; or

16 “(10) to educate the public concerning
17 cardiopulmonary resuscitation (CPR), first aid, in-
18 jury prevention, safety awareness, illness prevention,
19 or other related emergency preparedness topics.

20 “(e) PREFERENCE.—In awarding grants under this
21 section, the Secretary shall give preference to—

22 “(1) applications that reflect a collaborative ef-
23 fort by 2 or more of the entities described in sub-
24 paragraphs (A) through (G) of subsection (c)(1);
25 and

1 “(2) applications submitted by entities that in-
2 tend to use amounts provided under the grant to
3 fund activities described in any of paragraphs (1)
4 through (5) of subsection (d).

5 “(f) MATCHING REQUIREMENT.—The Secretary may
6 not make a grant under this section to an entity unless
7 the entity makes available (directly or through contribu-
8 tions from other public or private entities) non-Federal
9 contributions toward the activities to be carried out under
10 the grant in an amount equal to at least 5 percent of the
11 amount received under the grant.

12 “(g) AUTHORIZATION OF APPROPRIATIONS.—

13 “(1) IN GENERAL.—There is authorized to be
14 appropriated to the Secretary to carry out this sec-
15 tion not more than \$30,000,000 for each of fiscal
16 years 2008 through 2012.

17 “(2) ADMINISTRATIVE COSTS.—Not more than
18 5 percent of the amount appropriated under para-
19 graph (1) for a fiscal year may be used for adminis-
20 trative expenses incurred in carrying out this sec-
21 tion.”.

1 **SEC. 6205. INSURANCE OF LOANS FOR HOUSING AND RE-**
2 **LATED FACILITIES FOR DOMESTIC FARM**
3 **LABOR.**

4 Section 514(f)(3) of the Housing Act of 1949 (42
5 U.S.C. 1484(f)(3)) is amended by striking “or the han-
6 dling of such commodities in the unprocessed stage” and
7 inserting “, the handling of agricultural or aquacultural
8 commodities in the unprocessed stage, or the processing
9 of agricultural or aquacultural commodities”.

10 **SEC. 6206. STUDY OF RURAL TRANSPORTATION ISSUES.**

11 (a) IN GENERAL.—The Secretary of Agriculture and
12 the Secretary of Transportation shall jointly conduct a
13 study of transportation issues regarding the movement of
14 agricultural products, domestically produced renewable
15 fuels, and domestically produced resources for the produc-
16 tion of electricity for rural areas of the United States, and
17 economic development in those areas.

18 (b) INCLUSIONS.—The study shall include an exam-
19 ination of—

20 (1) the importance of freight transportation, in-
21 cluding rail, truck, and barge, to—

22 (A) the delivery of equipment, seed, fer-
23 tilizer, and other such products important to
24 the development of agricultural commodities
25 and products;

1 (B) the movement of agricultural commod-
2 ities and products to market;

3 (C) the delivery of ethanol and other re-
4 newable fuels;

5 (D) the delivery of domestically produced
6 resources for use in the generation of electricity
7 for rural areas;

8 (E) the location of grain elevators, ethanol
9 plants, and other facilities;

10 (F) the development of manufacturing fa-
11 cilities in rural areas; and

12 (G) the vitality and economic development
13 of rural communities;

14 (2) the sufficiency in rural areas of transpor-
15 tation capacity, the sufficiency of competition in the
16 transportation system, the reliability of transpor-
17 tation services, and the reasonableness of transpor-
18 tation rates;

19 (3) the sufficiency of facility investment in rural
20 areas necessary for efficient and cost-effective trans-
21 portation; and

22 (4) the accessibility to shippers in rural areas
23 of Federal processes for the resolution of grievances
24 arising within various transportation modes.

1 (c) REPORT TO CONGRESS.—Not later than 1 year
2 after the date of enactment of this Act, the Secretary and
3 the Secretary of Transportation shall submit to Congress
4 a report that contains the results of the study required
5 by subsection (a).

6 **Subtitle D—Housing Assistance**
7 **Council**

8 **SEC. 6301. SHORT TITLE.**

9 This subtitle may be cited as the “Housing Assist-
10 ance Council Authorization Act of 2008”.

11 **SEC. 6302. ASSISTANCE TO HOUSING ASSISTANCE COUNCIL.**

12 (a) USE.—The Secretary of Housing and Urban De-
13 velopment may provide financial assistance to the Housing
14 Assistance Council for use by the Council to develop the
15 ability and capacity of community-based housing develop-
16 ment organizations to undertake community development
17 and affordable housing projects and programs in rural
18 areas. Assistance provided by the Secretary under this sec-
19 tion may be used by the Housing Assistance Council for—

20 (1) technical assistance, training, support, re-
21 search, and advice to develop the business and ad-
22 ministrative capabilities of rural community-based
23 housing development organizations;

24 (2) loans, grants, or other financial assistance
25 to rural community-based housing development orga-

1 nizations to carry out community development and
2 affordable housing activities for low- and moderate-
3 income families; and

4 (3) such other activities as may be determined
5 by the Secretary of Housing and Urban Develop-
6 ment and the Housing Assistance Council.

7 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
8 authorized to be appropriated for financial assistance
9 under this section for the Housing Assistance Council
10 \$10,000,000 for each of fiscal years 2009 through 2011.

11 **SEC. 6303. AUDITS AND REPORTS.**

12 (a) AUDIT.—

13 (1) IN GENERAL.—The financial transactions
14 and activities of the Housing Assistance Council
15 shall be audited annually by an independent certified
16 public accountant or an independent licensed public
17 accountant certified or licensed by a regulatory au-
18 thority of a State or other political subdivision of the
19 United States.

20 (2) REQUIREMENTS OF AUDITS.—The Comp-
21 troller General of the United States may rely on any
22 audit completed under paragraph (1), if the audit
23 complies with—

1 (A) the annual programmatic and financial
2 examination requirements established in OMB
3 Circular A-133; and

4 (B) generally accepted government audit-
5 ing standards.

6 (3) REPORT TO CONGRESS.—The Comptroller
7 General shall submit to the Committee on Banking,
8 Housing, and Urban Affairs of the Senate and the
9 Committee on Financial Services of the House of
10 Representative a report detailing each audit com-
11 pleted under paragraph (1).

12 (b) GAO REPORT.—The Comptroller General of the
13 United States shall conduct a study and submit a report
14 to the Committee on Banking, Housing, and Urban Af-
15 fairs of the Senate and the Committee on Financial Serv-
16 ices of the House of Representative on the use of any
17 funds appropriated to the Housing Assistance Council
18 over the past 7 years.

19 **SEC. 6304. PERSONS NOT LAWFULLY PRESENT IN THE**
20 **UNITED STATES.**

21 Aliens who are not lawfully present in the United
22 States shall be ineligible for financial assistance under this
23 subtitle, as provided and defined by section 214 of the
24 Housing and Community Development Act of 1980 (42

1 U.S.C. 1436a). Nothing in this subtitle shall be construed
2 to alter the restrictions or definitions in such section 214.

3 **SEC. 6305. LIMITATION ON USE OF AUTHORIZED AMOUNTS.**

4 None of the amounts authorized by this subtitle may
5 be used to lobby or retain a lobbyist for the purpose of
6 influencing a Federal, State, or local governmental entity
7 or officer.

8 **TITLE VII—RESEARCH AND**
9 **RELATED MATTERS**

10 **Subtitle A—National Agricultural**
11 **Research, Extension, and Teach-**
12 **ing Policy Act of 1977**

13 **SEC. 7101. DEFINITIONS.**

14 (a) IN GENERAL.—Section 1404 of the National Ag-
15 ricultural Research, Extension, and Teaching Policy Act
16 of 1977 (7 U.S.C. 3103) is amended—

17 (1) in paragraph (4)—

18 (A) by redesignating subparagraphs (A)
19 through (E) as clauses (i) through (v), respec-
20 tively;

21 (B) by striking “(4) The terms” and in-
22 sserting the following:

23 “(4) COLLEGE AND UNIVERSITY.—

24 “(A) IN GENERAL.—The terms”; and

25 (C) by adding at the end the following:

1 “(B) INCLUSIONS.—The terms ‘college’
2 and ‘university’ include a research foundation
3 maintained by a college or university described
4 in subparagraph (A).”;

5 (2) by redesignating paragraphs (5) through
6 (8), (9) through (11), (12) through (14), (15), (16),
7 (17), and (18) as paragraphs (6) through (9), (11)
8 through (13), (15) through (17), (20), (5), (18), and
9 (19), respectively, and moving the paragraphs so as
10 to appear in alphabetical and numerical order;

11 (3) in paragraph (9) (as redesignated by para-
12 graph (2))—

13 (A) by striking “renewable natural re-
14 sources” and inserting “renewable energy and
15 natural resources”; and

16 (B) by striking subparagraph (F) and in-
17 serting the following:

18 “(F) Soil, water, and related resource con-
19 servation and improvement.”;

20 (4) by inserting after paragraph (9) (as so re-
21 designated) the following:

22 “(10) HISPANIC-SERVING AGRICULTURAL COL-
23 LEGES AND UNIVERSITIES.—

1 “(A) IN GENERAL.—The term ‘Hispanic-
2 serving agricultural colleges and universities’
3 means colleges or universities that—

4 “(i) qualify as Hispanic-serving insti-
5 tutions; and

6 “(ii) offer associate, bachelors, or
7 other accredited degree programs in agri-
8 culture-related fields.

9 “(B) EXCEPTION.—The term ‘Hispanic-
10 serving agricultural colleges and universities’
11 does not include 1862 institutions (as defined
12 in section 2 of the Agricultural Research, Ex-
13 tension, and Education Reform Act of 1998 (7
14 U.S.C. 7601)).”;

15 (5) by striking paragraph (11) (as so redesign-
16 ated) and inserting the following:

17 “(11) HISPANIC-SERVING INSTITUTION.—The
18 term ‘Hispanic-serving institution’ has the meaning
19 given the term in section 502 of the Higher Edu-
20 cation Act of 1965 (20 U.S.C. 1101a).”; and

21 (6) by inserting after paragraph (13) (as so re-
22 designated) the following:

23 “(14) NLGCA INSTITUTION; NON-LAND-GRANT
24 COLLEGE OF AGRICULTURE.—

1 “(A) IN GENERAL.—The terms ‘NLGCA
2 Institution’ and ‘non-land-grant college of agri-
3 culture’ mean a public college or university of-
4 fering a baccalaureate or higher degree in the
5 study of agriculture or forestry.

6 “(B) EXCLUSIONS.—The terms ‘NLGCA
7 Institution’ and ‘non-land-grant college of agri-
8 culture’ do not include—

9 “(i) Hispanic-serving agricultural col-
10 leges and universities; or

11 “(ii) any institution designated
12 under—

13 “(I) the Act of July 2, 1862
14 (commonly known as the ‘First Mor-
15 rill Act’; 7 U.S.C. 301 et seq.);

16 “(II) the Act of August 30, 1890
17 (commonly known as the ‘Second
18 Morrill Act’) (7 U.S.C. 321 et seq.);

19 “(III) the Equity in Educational
20 Land-Grant Status Act of 1994 (Pub-
21 lic Law 103–382; 7 U.S.C. 301 note);
22 or

23 “(IV) Public Law 87–788 (com-
24 monly known as the ‘McIntire-Stennis

1 Cooperative Forestry Act’) (16 U.S.C.
2 582a et seq.)”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 2(3) of the Research Facilities Act
5 (7 U.S.C. 390(3)) is amended by striking “section
6 1404(8) of the National Agricultural Research, Ex-
7 tension, and Teaching Policy Act of 1977 (7 U.S.C.
8 3103(8))” and inserting “section 1404 of the Na-
9 tional Agricultural Research, Extension, and Teach-
10 ing Policy Act of 1977 (7 U.S.C. 3103)”.

11 (2) Section 2(k) of the Competitive, Special,
12 and Facilities Research Grant Act (7 U.S.C.
13 450i(k)) is amended in the second sentence by strik-
14 ing “section 1404(17) of the National Agricultural
15 Research, Extension, and Teaching Policy Act of
16 1977 (7 U.S.C. 3103(17))” and inserting “section
17 1404 of the National Agricultural Research, Exten-
18 sion, and Teaching Policy Act of 1977 (7 U.S.C.
19 3103)”.

20 (3) Section 18(a)(3)(B) of the Food and Nutri-
21 tion Act of 2008 (7 U.S.C. 2027(a)(3)(B)) is
22 amended by striking “section 1404(5) of the Na-
23 tional Agricultural Research, Extension, and Teach-
24 ing Policy Act of 1977 (7 U.S.C. 3103(5))” and in-
25 serting “section 1404 of the National Agricultural

1 Research, Extension, and Teaching Policy Act of
2 1977 (7 U.S.C. 3103))”.

3 (4) Section 1473 of the National Agricultural
4 Research, Extension, and Teaching Policy Act of
5 1977 (7 U.S.C. 3319) is amended in the first sen-
6 tence by striking “section 1404(16) of this title”
7 and inserting “section 1404(18)”.

8 (5) Section 1619(b) of the Food, Agriculture,
9 Conservation, and Trade Act of 1990 (7 U.S.C.
10 5801(b)) is amended—

11 (A) in paragraph (1), by striking “section
12 1404(17) of the National Agricultural Re-
13 search, Extension, and Teaching Policy Act of
14 1977 (7 U.S.C. 3103(17))” and inserting “sec-
15 tion 1404 of the National Agricultural Re-
16 search, Extension, and Teaching Policy Act of
17 1977 (7 U.S.C. 3103)”;

18 (B) in paragraph (5), by striking “section
19 1404(7) of the National Agricultural Research,
20 Extension, and Teaching Policy Act of 1977 (7
21 U.S.C. 3103(7))” and inserting “section 1404
22 of the National Agricultural Research, Exten-
23 sion, and Teaching Policy Act of 1977 (7
24 U.S.C. 3103)”;

1 (C) in paragraph (8), by striking “section
2 1404(13) of the National Agricultural Re-
3 search, Extension, and Teaching Policy Act of
4 1977 (7 U.S.C. 3103(13))” and inserting “sec-
5 tion 1404 of the National Agricultural Re-
6 search, Extension, and Teaching Policy Act of
7 1977 (7 U.S.C. 3103)”.

8 (6) Section 125(c)(1)(C) of Public Law 100-
9 238 (5 U.S.C. 8432 note) is amended by striking
10 “section 1404(5) of the National Agricultural Re-
11 search, Extension, and Teaching Policy Act of 1977
12 (7 U.S.C. 3103(5))” and inserting “section 1404 of
13 the National Agricultural Research, Extension, and
14 Teaching Policy Act of 1977 (7 U.S.C. 3103)”.

15 **SEC. 7102. NATIONAL AGRICULTURAL RESEARCH, EXTEN-**
16 **SION, EDUCATION, AND ECONOMICS ADVI-**
17 **SORY BOARD.**

18 (a) IN GENERAL.—Section 1408 of the National Ag-
19 ricultural Research, Extension, and Teaching Policy Act
20 of 1977 (7 U.S.C. 3123) is amended—

21 (1) in subsection (b)—

22 (A) in paragraph (1), by striking “31” and
23 inserting “25”; and

24 (B) by striking paragraph (3) and insert-
25 ing the following:

1 “(3) MEMBERSHIP CATEGORIES.—The Advisory
2 Board shall consist of members from each of the fol-
3 lowing categories:

4 “(A) 1 member representing a national
5 farm organization.

6 “(B) 1 member representing farm coopera-
7 tives.

8 “(C) 1 member actively engaged in the
9 production of a food animal commodity, rec-
10 ommended by a coalition of national livestock
11 organizations.

12 “(D) 1 member actively engaged in the
13 production of a plant commodity, recommended
14 by a coalition of national crop organizations.

15 “(E) 1 member actively engaged in aqua-
16 culture, recommended by a coalition of national
17 aquacultural organizations.

18 “(F) 1 member representing a national
19 food animal science society.

20 “(G) 1 member representing a national
21 crop, soil, agronomy, horticulture, plant pathol-
22 ogy, or weed science society.

23 “(H) 1 member representing a national
24 food science organization.

1 “(I) 1 member representing a national
2 human health association.

3 “(J) 1 member representing a national nu-
4 tritional science society.

5 “(K) 1 member representing the land-
6 grant colleges and universities eligible to receive
7 funds under the Act of July 2, 1862 (7 U.S.C.
8 301 et seq.).

9 “(L) 1 member representing the land-
10 grant colleges and universities eligible to receive
11 funds under the Act of August 30, 1890 (7
12 U.S.C. 321 et seq.), including Tuskegee Univer-
13 sity.

14 “(M) 1 member representing the 1994 In-
15 stitutions (as defined in section 532 of the Eq-
16 uity in Educational Land-Grant Status Act of
17 1994 (7 U.S.C. 301 note; Public Law 103-
18 382)).

19 “(N) 1 member representing NLGCA In-
20 stitutions.

21 “(O) 1 member representing Hispanic-
22 serving institutions.

23 “(P) 1 member representing the American
24 Colleges of Veterinary Medicine.

1 “(Q) 1 member engaged in the transpor-
2 tation of food and agricultural products to do-
3 mestic and foreign markets.

4 “(R) 1 member representing food retailing
5 and marketing interests.

6 “(S) 1 member representing food and fiber
7 processors.

8 “(T) 1 member actively engaged in rural
9 economic development.

10 “(U) 1 member representing a national
11 consumer interest group.

12 “(V) 1 member representing a national
13 forestry group.

14 “(W) 1 member representing a national
15 conservation or natural resource group.

16 “(X) 1 member representing private sector
17 organizations involved in international develop-
18 ment.

19 “(Y) 1 member representing a national so-
20 cial science association.”;

21 (2) in subsection (g)(1), by striking “\$350,000”
22 and inserting “\$500,000”; and

23 (3) in subsection (h), by striking “2007” and
24 inserting “2012”.

1 (b) NO EFFECT ON TERMS.—Nothing in this section
2 or any amendment made by this section affects the term
3 of any member of the National Agricultural Research, Ex-
4 tension, Education, and Economics Advisory Board serv-
5 ing as of the date of enactment of this Act.

6 **SEC. 7103. SPECIALTY CROP COMMITTEE REPORT.**

7 Section 1408A(c) of the National Agricultural Re-
8 search, Extension, and Teaching Policy Act of 1977 (7
9 U.S.C. 3123a(c)) is amended by adding at the end the
10 following:

11 “(4) Analyses of changes in macroeconomic
12 conditions, technologies, and policies on specialty
13 crop production and consumption, with particular
14 focus on the effect of those changes on the financial
15 stability of producers.

16 “(5) Development of data that provide applied
17 information useful to specialty crop growers, their
18 associations, and other interested beneficiaries in
19 evaluating that industry from a regional and na-
20 tional perspective.”.

21 **SEC. 7104. RENEWABLE ENERGY COMMITTEE.**

22 The National Agricultural Research, Extension, and
23 Teaching Policy Act of 1977 is amended by inserting after
24 section 1408A (7 U.S.C. 3123a) the following:

1 **“SEC. 1408B. RENEWABLE ENERGY COMMITTEE.**

2 “(a) INITIAL MEMBERS.—Not later than 90 days
3 after the date of enactment of this section, the executive
4 committee of the Advisory Board shall establish and ap-
5 point the initial members of a permanent renewable energy
6 committee.

7 “(b) DUTIES.—The permanent renewable energy
8 committee shall study the scope and effectiveness of re-
9 search, extension, and economics programs affecting the
10 renewable energy industry.

11 “(c) NONADVISORY BOARD MEMBERS.—

12 “(1) IN GENERAL.—An individual who is not a
13 member of the Advisory Board may be appointed as
14 a member of the renewable energy committee.

15 “(2) SERVICE.—A member of the renewable en-
16 ergy committee shall serve at the discretion of the
17 executive committee.

18 “(d) REPORT BY RENEWABLE ENERGY COM-
19 MITTEE.—Not later than 180 days after the date of estab-
20 lishment of the renewable energy committee, and annually
21 thereafter, the renewable energy committee shall submit
22 to the Advisory Board a report that contains the findings
23 and any recommendations of the renewable energy com-
24 mittee with respect to the study conducted under sub-
25 section (b).

1 “(e) CONSULTATION.—In carrying out the duties de-
2 scribed in subsection (b), the renewable energy committee
3 shall consult with the Biomass Research and Development
4 Technical Advisory Committee established under section
5 9008(d) of the Biomass Research and Development Act
6 of 2000 (7 U.S.C. 8605).

7 “(f) MATTERS TO BE CONSIDERED IN BUDGET REC-
8 OMMENDATION.—In preparing the annual budget rec-
9 ommendations for the Department, the Secretary shall
10 take into consideration those findings and recommenda-
11 tions contained in the most recent report of the renewable
12 energy committee under subsection (d) that are developed
13 by the Advisory Committee.

14 “(g) REPORT BY THE SECRETARY.—In the budget
15 material submitted to Congress by the Secretary in con-
16 nection with the budget submitted pursuant to section
17 1105 of title 31, United States Code, for a fiscal year,
18 the Secretary shall include a report that describes the
19 ways in which the Secretary addressed each recommenda-
20 tion of the renewable energy committee described in sub-
21 section (f).”.

22 **SEC. 7105. VETERINARY MEDICINE LOAN REPAYMENT.**

23 (a) IN GENERAL.—Section 1415A of the National
24 Agricultural Research, Extension, and Teaching Policy
25 Act of 1977 (7 U.S.C. 3151a) is amended—

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

3 “(b) DETERMINATION OF VETERINARIAN SHORTAGE
4 SITUATIONS.—In determining ‘veterinarian shortage situ-
5 ations’, the Secretary may consider—

6 “(1) geographical areas that the Secretary de-
7 termines have a shortage of veterinarians; and

8 “(2) areas of veterinary practice that the Sec-
9 retary determines have a shortage of veterinarians,
10 such as food animal medicine, public health, epide-
11 miology, and food safety.”;

12 (2) in subsection (c), by adding at the end the
13 following:

14 “(8) PRIORITY.—In administering the program,
15 the Secretary shall give priority to agreements with
16 veterinarians for the practice of food animal medi-
17 cine in veterinarian shortage situations.”;

18 (3) by redesignating subsection (d) as sub-
19 section (f); and

20 (4) by inserting after subsection (c) the fol-
21 lowing:

22 “(d) USE OF FUNDS.—None of the funds appro-
23 priated to the Secretary under subsection (f) may be used
24 to carry out section 5379 of title 5, United States Code.

1 “(e) REGULATIONS.—Notwithstanding subchapter II
2 of chapter 5 of title 5, United States Code, not later than
3 270 days after the date of enactment of this subsection,
4 the Secretary shall promulgate regulations to carry out
5 this section.”.

6 (b) DISAPPROVAL OF TRANSFER OF FUNDS.—Con-
7 gress disapproves the transfer of funds from the Coopera-
8 tive State Research, Education, and Extension Service to
9 the Food Safety and Inspection Service described in the
10 notice of use of funds for implementation of the veterinary
11 medicine loan repayment program authorized by the Na-
12 tional Veterinary Medical Service Act (72 Fed. Reg.
13 48609 (August 24, 2007)), and such funds shall be re-
14 scinded on the date of enactment of this Act and made
15 available to the Secretary, without further appropriation
16 or fiscal year limitation, for use only in accordance with
17 section 1415A of the National Agricultural Research, Ex-
18 tension, and Teaching Policy Act of 1977 (7 U.S.C.
19 3151a) (as amended by subsection (a)).

1 **SEC. 7106. ELIGIBILITY OF UNIVERSITY OF THE DISTRICT**
2 **OF COLUMBIA FOR GRANTS AND FELLOW-**
3 **SHIPS FOR FOOD AND AGRICULTURAL**
4 **SCIENCES EDUCATION.**

5 Section 1417 of the National Agricultural Research,
6 Extension, and Teaching Policy Act of 1977 (7 U.S.C.
7 3152) is amended—

8 (1) in the matter preceding paragraph (1) of
9 subsection (b), by inserting “(including the Univer-
10 sity of the District of Columbia)” after “land-grant
11 colleges and universities”; and

12 (2) in subsection (d)(2), by inserting “(includ-
13 ing the University of the District of Columbia)”
14 after “universities”.

15 **SEC. 7107. GRANTS TO 1890 SCHOOLS TO EXPAND EXTEN-**
16 **SION CAPACITY.**

17 Section 1417(b)(4) of the National Agricultural Re-
18 search, Extension, and Teaching Policy Act of 1977 (7
19 U.S.C. 3152(b)(4)) is amended by striking “teaching and
20 research” and inserting “teaching, research, and exten-
21 sion”.

22 **SEC. 7108. EXPANSION OF FOOD AND AGRICULTURAL**
23 **SCIENCES AWARDS.**

24 Section 1417(i) of the National Agricultural Re-
25 search, Extension, and Teaching Policy Act of 1977 (7
26 U.S.C. 3152(i)) is amended—

1 (1) in the subsection heading, by striking
2 “Teaching Awards” and inserting “Teaching, Extension,
3 and Research Awards”; and

4 (2) by striking paragraph (1) and inserting the
5 following:

6 “(1) ESTABLISHMENT.—

7 “(A) IN GENERAL.—The Secretary shall
8 establish a National Food and Agricultural
9 Sciences Teaching, Extension, and Research
10 Awards program to recognize and promote ex-
11 cellence in teaching, extension, and research in
12 the food and agricultural sciences at a college
13 or university.

14 “(B) MINIMUM REQUIREMENT.—The Sec-
15 retary shall make at least 1 cash award in each
16 fiscal year to a nominee selected by the Sec-
17 retary for excellence in each of the areas of
18 teaching, extension, and research of food and
19 agricultural science at a college or university.”.

20 **SEC. 7109. GRANTS AND FELLOWSHIPS FOR FOOD AND AG-**
21 **RICULTURAL SCIENCES EDUCATION.**

22 (a) EDUCATION TEACHING PROGRAMS.—Section
23 1417(j) of the National Agricultural Research, Extension,
24 and Teaching Policy Act of 1977 (7 U.S.C. 3152(j)) is
25 amended—

1 (1) in the subsection heading, by striking “SEC-
2 ONDARY EDUCATION AND 2-YEAR POSTSECONDARY
3 EDUCATION TEACHING PROGRAMS” and inserting
4 “SECONDARY EDUCATION, 2-YEAR POSTSECONDARY
5 EDUCATION, AND AGRICULTURE IN THE K–12
6 CLASSROOM”; and

7 (2) in paragraph (3)—

8 (A) by striking “secondary schools, and in-
9 stitutions of higher education that award an as-
10 sociate’s degree” and inserting “secondary
11 schools, institutions of higher education that
12 award an associate’s degree, other institutions
13 of higher education, and nonprofit organiza-
14 tions”;

15 (B) in subparagraph (E), by striking
16 “and” at the end;

17 (C) in subparagraph (F), by striking the
18 period at the end and inserting “; and”; and

19 (D) by adding at the end the following:

20 “(G) to support current agriculture in the
21 classroom programs for grades K–12.”.

22 (b) REPORT.—Section 1417 of the National Agricul-
23 tural Research, Extension, and Teaching Policy Act of
24 1977 (7 U.S.C. 3152) is amended—

1 (b) CONFORMING AMENDMENT.—Section 1463(a) of
2 the National Agricultural Research, Extension, and
3 Teaching Policy Act of 1977 (7 U.S.C. 3311(a)) is amend-
4 ed by striking “1419,”.

5 **SEC. 7111. POLICY RESEARCH CENTERS.**

6 Section 1419A of the National Agricultural Research,
7 Extension, and Teaching Policy Act of 1977 (7 U.S.C.
8 3155) is amended—

9 (1) in subsection (a)(1), by inserting “(includ-
10 ing commodities, livestock, dairy, and specialty
11 crops)” after “agricultural sectors”;

12 (2) in subsection (b), by inserting “(including
13 the Food Agricultural Policy Research Institute, the
14 Agricultural and Food Policy Center, the Rural Pol-
15 icy Research Institute, and the National Drought
16 Mitigation Center)” after “research institutions and
17 organizations”; and

18 (3) in subsection (d), by striking “2007” and
19 inserting “2012”.

20 **SEC. 7112. EDUCATION GRANTS TO ALASKA NATIVE-SERV-**
21 **ING INSTITUTIONS AND NATIVE HAWAIIAN-**
22 **SERVING INSTITUTIONS.**

23 Section 759 of the Agriculture, Rural Development,
24 Food and Drug Administration, and Related Agencies Ap-
25 propriations Act, 2000 (7 U.S.C. 3242)—

1 (1) is amended—

2 (A) in subsection (a)(3), by striking
3 “2006” and inserting “2012”; and

4 (B) in subsection (b)—

5 (i) in paragraph (2)(A), by inserting
6 before the semicolon at the end the fol-
7 lowing: “, including permitting consortia to
8 designate fiscal agents for the members of
9 the consortia and to allocate among the
10 members funds made available under this
11 section”; and

12 (ii) in paragraph (3), by striking
13 “2006” and inserting “2012”;

14 (2) is redesignated as section 1419B of the Na-
15 tional Agricultural Research, Extension, and Teach-
16 ing Policy Act of 1977; and

17 (3) is moved so as to appear after section
18 1419A of that Act (7 U.S.C. 3155).

19 **SEC. 7113. EMPHASIS OF HUMAN NUTRITION INITIATIVE.**

20 Section 1424(b) of the National Agricultural Re-
21 search, Extension, and Teaching Policy Act of 1977 (7
22 U.S.C. 3174(b)) is amended—

23 (1) in paragraph (1), by striking “and,”;

24 (2) in paragraph (2), by striking the comma at
25 the end and inserting “; and”; and

1 (3) by adding at the end the following:

2 “(3) proposals that examine the efficacy of cur-
3 rent agriculture policies in promoting the health and
4 welfare of economically disadvantaged populations;”.

5 **SEC. 7114. HUMAN NUTRITION INTERVENTION AND**
6 **HEALTH PROMOTION RESEARCH PROGRAM.**

7 Section 1424(d) of the National Agricultural Re-
8 search, Extension, and Teaching Policy Act of 1977 (7
9 U.S.C. 3174(d)) is amended by striking “2007” and in-
10 serting “2012”.

11 **SEC. 7115. PILOT RESEARCH PROGRAM TO COMBINE MED-**
12 **ICAL AND AGRICULTURAL RESEARCH.**

13 Section 1424A(d) of the National Agricultural Re-
14 search, Extension, and Teaching Policy Act of 1977 (7
15 U.S.C. 3174a(d)) is amended by striking “2007” and in-
16 serting “2012”.

17 **SEC. 7116. NUTRITION EDUCATION PROGRAM.**

18 (a) IN GENERAL.—Section 1425 of the National Ag-
19 ricultural Research, Extension, and Teaching Policy Act
20 of 1977 (7 U.S.C. 3175) is amended—

21 (1) by redesignating subsections (a) through (c)
22 as subsections (b) through (d), respectively;

23 (2) by striking the section heading and designa-
24 tion and inserting the following:

1 **“SEC. 1425. NUTRITION EDUCATION PROGRAM.**

2 “(a) DEFINITION OF 1862 INSTITUTION AND 1890
3 INSTITUTION.—In this section, the terms ‘1862 Institu-
4 tion’ and ‘1890 Institution’ have the meaning given those
5 terms in section 2 of the Agricultural Research, Exten-
6 sion, and Education Reform Act of 1998 (7 U.S.C.
7 7601).”;

8 (3) in subsection (b) (as redesignated by para-
9 graph (1)), by striking “(b) The Secretary” and in-
10 serting the following:

11 “(b) ESTABLISHMENT.—The Secretary”;

12 (4) in subsection (c) (as so redesignated), by
13 striking “(c) In order to enable” and inserting the
14 following:

15 “(c) EMPLOYMENT AND TRAINING.—To enable”;

16 (5) in subsection (d) (as redesignated by para-
17 graph (1))—

18 (A) by striking “(d) Beginning” and in-
19 serting the following:

20 “(d) ALLOCATION OF FUNDING.—Beginning”;

21 (B) in paragraph (2), by striking subpara-
22 graph (B) and inserting the following:

23 “(B) Notwithstanding section 3(d) of the
24 Act of May 8, 1914 (7 U.S.C. 343(d)), the re-
25 mainder shall be allocated among the States as
26 follows:

1 “(i) \$100,000 shall be distributed to
2 each 1862 Institution and 1890 Institu-
3 tion.

4 “(ii) Subject to clause (iii), the re-
5 mainder shall be allocated to each State in
6 an amount that bears the same ratio to the
7 total amount to be allocated under this
8 clause as—

9 “(I) the population living at or
10 below 125 percent of the income pov-
11 erty guidelines (as prescribed by the
12 Office of Management and Budget
13 and as adjusted pursuant to section
14 673(2) of the Community Services
15 Block Grant Act (42 U.S.C. 9902(2)))
16 in the State; bears to

17 “(II) the total population living
18 at or below 125 percent of those in-
19 come poverty guidelines in all States;
20 as determined by the most recent decennial
21 census at the time at which each such ad-
22 ditional amount is first appropriated.

23 “(iii)(I) Before any allocation of funds
24 under clause (ii), for any fiscal year for
25 which the amount of funds appropriated

1 for the conduct of the expanded food and
2 nutrition education program exceeds the
3 amount of funds appropriated for the pro-
4 gram for fiscal year 2007, the following
5 percentage of such excess funds for the fis-
6 cal year shall be allocated to the 1890 In-
7 stitutions in accordance with subclause
8 (II):

9 “(aa) 10 percent for fiscal year
10 2009.

11 “(bb) 11 percent for fiscal year
12 2010.

13 “(cc) 12 percent for fiscal year
14 2011.

15 “(dd) 13 percent for fiscal year
16 2012.

17 “(ee) 14 percent for fiscal year
18 2013.

19 “(ff) 15 percent for fiscal year
20 2014 and for each fiscal year there-
21 after.

22 “(II) Funds made available under
23 subclause (I) shall be allocated to each
24 1890 Institution in an amount that bears

1 the same ratio to the total amount to be
2 allocated under this clause as—

3 “(aa) the population living at or
4 below 125 percent of the income pov-
5 erty guidelines (as prescribed by the
6 Office of Management and Budget
7 and as adjusted pursuant to section
8 673(2) of the Community Services
9 Block Grant Act (42 U.S.C. 9902(2)))
10 in the State in which the 1890 Insti-
11 tution is located; bears to

12 “(bb) the total population living
13 at or below 125 percent of those in-
14 come poverty guidelines in all States
15 in which 1890 Institutions are lo-
16 cated;

17 as determined by the most recent decennial
18 census at the time at which each such ad-
19 ditional amount is first appropriated.

20 “(iv) Nothing in this subparagraph
21 precludes the Secretary from developing
22 educational materials and programs for
23 persons in income ranges above the level
24 designated in this subparagraph.”; and

25 (C) by striking paragraph (3); and

1 (6) by adding at the end the following:

2 “(e) COMPLEMENTARY ADMINISTRATION.—The Sec-
3 retary shall ensure the complementary administration of
4 the expanded food and nutrition education program by
5 1862 Institutions and 1890 Institutions in a State.

6 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
7 is authorized to be appropriated to carry out the expanded
8 food and nutrition education program established under
9 section 3(d) of the Act of May 8, 1914 (7 U.S.C. 343(d)),
10 and this section \$90,000,000 for each of fiscal years 2009
11 through 2012.”.

12 (b) CONFORMING AMENDMENT.—Section 1588(b) of
13 the Food Security Act of 1985 (7 U.S.C. 3175e(b)) is
14 amended by striking “section 1425(c)(2)” and inserting
15 “section 1425(d)(2)”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section take effect on October 1, 2008.

18 **SEC. 7117. CONTINUING ANIMAL HEALTH AND DISEASE RE-**

19 **SEARCH PROGRAMS.**

20 Section 1433(a) of the National Agricultural Re-
21 search, Extension, and Teaching Policy Act of 1977 (7
22 U.S.C. 3195(a)) is amended in the first sentence by strik-
23 ing “2007” and inserting “2012”.

1 **SEC. 7118. COOPERATION AMONG ELIGIBLE INSTITUTIONS.**

2 Section 1433 of the National Agricultural Research,
3 Extension, and Teaching Policy Act of 1977 (7 U.S.C.
4 3195) is amended by adding at the end the following:

5 “(g) COOPERATION AMONG ELIGIBLE INSTITU-
6 TIONS.—The Secretary, to the maximum extent prac-
7 ticable, shall encourage eligible institutions to cooperate
8 in setting research priorities under this section through
9 the conduct of regular regional and national meetings.”.

10 **SEC. 7119. APPROPRIATIONS FOR RESEARCH ON NATIONAL**
11 **OR REGIONAL PROBLEMS.**

12 Section 1434(a) of the National Agricultural Re-
13 search, Extension, and Teaching Policy Act of 1977 (7
14 U.S.C. 3196(a)) is amended by striking “2007” and in-
15 serting “2012”.

16 **SEC. 7120. ANIMAL HEALTH AND DISEASE RESEARCH PRO-**
17 **GRAM.**

18 Section 1434(b) of the National Agricultural Re-
19 search, Extension, and Teaching Policy Act of 1977 (7
20 U.S.C. 3196(b)) is amended by inserting after “univer-
21 sities” the following: “(including 1890 Institutions (as de-
22 fined in section 2 of the Agricultural Research, Extension,
23 and Education Reform Act of 1998 (7 U.S.C. 7601)))”.

1 **SEC. 7121. AUTHORIZATION LEVEL FOR EXTENSION AT 1890**
2 **LAND-GRANT COLLEGES.**

3 Section 1444(a)(2) of the National Agricultural Re-
4 search, Extension, and Teaching Policy Act of 1977 (7
5 U.S.C. 3221(a)(2)) is amended by striking “15 percent”
6 and inserting “20 percent”.

7 **SEC. 7122. AUTHORIZATION LEVEL FOR AGRICULTURAL RE-**
8 **SEARCH AT 1890 LAND-GRANT COLLEGES.**

9 Section 1445(a)(2) of the National Agricultural Re-
10 search, Extension, and Teaching Policy Act of 1977 (7
11 U.S.C. 3222(a)(2)) is amended by striking “25 percent”
12 and inserting “30 percent”.

13 **SEC. 7123. GRANTS TO UPGRADE AGRICULTURAL AND**
14 **FOOD SCIENCES FACILITIES AT 1890 LAND-**
15 **GRANT COLLEGES, INCLUDING TUSKEGEE**
16 **UNIVERSITY.**

17 Section 1447(b) of the National Agricultural Re-
18 search, Extension, and Teaching Policy Act of 1977 (7
19 U.S.C. 3222b(b)) is amended by striking “2007” and in-
20 serting “2012”.

21 **SEC. 7124. GRANTS TO UPGRADE AGRICULTURE AND FOOD**
22 **SCIENCES FACILITIES AT THE DISTRICT OF**
23 **COLUMBIA LAND-GRANT UNIVERSITY.**

24 The National Agricultural Research, Extension, and
25 Teaching Policy Act of 1977 is amended by inserting after
26 section 1447 (7 U.S.C. 3222b) the following:

1 **“SEC. 1447A. GRANTS TO UPGRADE AGRICULTURE AND**
2 **FOOD SCIENCES FACILITIES AT THE DIS-**
3 **TRICT OF COLUMBIA LAND-GRANT UNIVER-**
4 **SITY.**

5 “(a) PURPOSE.—It is the intent of Congress to assist
6 the land-grant university in the District of Columbia es-
7 tablished under section 208 of the District of Columbia
8 Public Postsecondary Education Reorganization Act (Pub-
9 lic Law 93–471; 88 Stat. 1428) in efforts to acquire, alter,
10 or repair facilities or relevant equipment necessary for
11 conducting agricultural research.

12 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated to carry out this section
14 \$750,000 for each of fiscal years 2008 through 2012.”.

15 **SEC. 7125. GRANTS TO UPGRADE AGRICULTURE AND FOOD**
16 **SCIENCES FACILITIES AND EQUIPMENT AT**
17 **INSULAR AREA LAND-GRANT INSTITUTIONS.**

18 The National Agricultural Research, Extension, and
19 Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is
20 amended by inserting after section 1447A (as added by
21 section 7124) the following:

1 **“SEC. 1447B. GRANTS TO UPGRADE AGRICULTURE AND**
2 **FOOD SCIENCES FACILITIES AND EQUIP-**
3 **MENT AT INSULAR AREA LAND-GRANT INSTI-**
4 **TUTIONS.**

5 “(a) PURPOSE.—It is the intent of Congress to assist
6 the land-grant institutions in the insular areas in efforts
7 to acquire, alter, or repair facilities or relevant equipment
8 necessary for conducting agricultural research.

9 “(b) METHOD OF AWARDING GRANTS.—Grants
10 awarded pursuant to this section shall be made in such
11 amounts and under such terms and conditions as the Sec-
12 retary determines necessary to carry out the purposes of
13 this section.

14 “(c) REGULATIONS.—The Secretary may promulgate
15 such rules and regulations as the Secretary considers to
16 be necessary to carry out this section.

17 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
18 is authorized to be appropriated to carry out this section
19 \$8,000,000 for each of fiscal years 2008 through 2012.”.

20 **SEC. 7126. NATIONAL RESEARCH AND TRAINING VIRTUAL**
21 **CENTERS.**

22 Section 1448 of the National Agricultural Research,
23 Extension, and Teaching Policy Act of 1977 (7 U.S.C.
24 3222c) is amended by striking “2007” each place it ap-
25 pears in subsections (a)(1) and (f) and inserting “2012”.

1 **SEC. 7127. MATCHING FUNDS REQUIREMENT FOR RE-**
2 **SEARCH AND EXTENSION ACTIVITIES OF 1890**
3 **INSTITUTIONS.**

4 Section 1449(c) of the National Agricultural Re-
5 search, Extension, and Teaching Policy Act of 1977 (7
6 U.S.C. 3222d(c)) is amended—

7 (1) in the first sentence—

8 (A) by striking “for each of fiscal years
9 2003 through 2007,”; and

10 (B) by inserting “equal” before “match-
11 ing”; and

12 (2) by striking the second sentence and all that
13 follows through paragraph (5).

14 **SEC. 7128. HISPANIC-SERVING INSTITUTIONS.**

15 Section 1455 of the National Agricultural Research,
16 Extension, and Teaching Policy Act of 1977 (7 U.S.C.
17 3241) is amended—

18 (1) in subsection (a) by striking “(or grants
19 without regard to any requirement for competi-
20 tion)”;

21 (2) in subsection (b)(1), by striking “of con-
22 sortia”; and

23 (3) in subsection (c)—

24 (A) by striking “\$20,000,000” and insert-
25 ing “\$40,000,000”; and

1 (B) by striking “2007” and inserting
2 “2012”.

3 **SEC. 7129. HISPANIC-SERVING AGRICULTURAL COLLEGES**
4 **AND UNIVERSITIES.**

5 (a) IN GENERAL.—The National Agricultural Re-
6 search, Extension, and Teaching Policy Act of 1977 is
7 amended by inserting after section 1455 (7 U.S.C. 3241)
8 the following:

9 **“SEC. 1456. HISPANIC-SERVING AGRICULTURAL COLLEGES**
10 **AND UNIVERSITIES.**

11 “(a) DEFINITION OF ENDOWMENT FUND.—In this
12 section, the term ‘endowment fund’ means the Hispanic-
13 Serving Agricultural Colleges and Universities Fund es-
14 tablished under subsection (b).

15 “(b) ENDOWMENT.—

16 “(1) IN GENERAL.—The Secretary of the
17 Treasury shall establish in accordance with this sub-
18 section a Hispanic-Serving Agricultural Colleges and
19 Universities Fund.

20 “(2) AGREEMENTS.—The Secretary of the
21 Treasury may enter into such agreements as are
22 necessary to carry out this subsection.

23 “(3) DEPOSIT TO THE ENDOWMENT FUND.—
24 The Secretary of the Treasury shall deposit in the
25 endowment fund any—

1 “(A) amounts made available through Acts
2 of appropriations, which shall be the endow-
3 ment fund corpus; and

4 “(B) interest earned on the endowment
5 fund corpus.

6 “(4) INVESTMENTS.—The Secretary of the
7 Treasury shall invest the endowment fund corpus
8 and income in interest-bearing obligations of the
9 United States.

10 “(5) WITHDRAWALS AND EXPENDITURES.—

11 “(A) CORPUS.—The Secretary of the
12 Treasury may not make a withdrawal or ex-
13 penditure from the endowment fund corpus.

14 “(B) WITHDRAWALS.—On September 30,
15 2008, and each September 30 thereafter, the
16 Secretary of the Treasury shall withdraw the
17 amount of the income from the endowment
18 fund for the fiscal year and warrant the funds
19 to the Secretary of Agriculture who, after mak-
20 ing adjustments for the cost of administering
21 the endowment fund, shall distribute the ad-
22 justed income as follows:

23 “(i) 60 percent shall be distributed
24 among the Hispanic-serving agricultural
25 colleges and universities on a pro rata

1 basis based on the Hispanic enrollment
2 count of each institution.

3 “(ii) 40 percent shall be distributed in
4 equal shares to the Hispanic-serving agri-
5 cultural colleges and universities.

6 “(6) ENDOWMENTS.—Amounts made available
7 under this subsection shall be held and considered to
8 be granted to Hispanic-serving agricultural colleges
9 and universities to establish an endowment in ac-
10 cordance with this subsection.

11 “(7) AUTHORIZATION OF APPROPRIATIONS.—
12 There are authorized to be appropriated to the Sec-
13 retary such sums as are necessary to carry out this
14 subsection for fiscal year 2008 and each fiscal year
15 thereafter.

16 “(c) AUTHORIZATION FOR ANNUAL PAYMENTS.—

17 “(1) IN GENERAL.—For fiscal year 2008 and
18 each fiscal year thereafter, there are authorized to
19 be appropriated to the Department of Agriculture to
20 carry out this subsection an amount equal to the
21 product obtained by multiplying—

22 “(A) \$80,000; by

23 “(B) the number of Hispanic-serving agri-
24 cultural colleges and universities.

1 “(2) PAYMENTS.—For fiscal year 2008 and
2 each fiscal year thereafter, the Secretary of the
3 Treasury shall pay to the treasurer of each His-
4 panic-serving agricultural college and university an
5 amount equal to—

6 “(A) the total amount made available by
7 appropriations under paragraph (1); divided by

8 “(B) the number of Hispanic-serving agri-
9 cultural colleges and universities.

10 “(3) USE OF FUNDS.—

11 “(A) IN GENERAL.—Amounts authorized
12 to be appropriated under this subsection shall
13 be used in the same manner as is prescribed for
14 colleges under the Act of August 30, 1890
15 (commonly known as the ‘Second Morrill Act’)
16 (7 U.S.C. 321 et seq.).

17 “(B) RELATIONSHIP TO OTHER LAW.—Ex-
18 cept as otherwise provided in this subsection,
19 the requirements of that Act shall apply to His-
20 panic-serving agricultural colleges and univer-
21 sities under this section.

22 “(d) INSTITUTIONAL CAPACITY-BUILDING
23 GRANTS.—

24 “(1) IN GENERAL.—For fiscal year 2008 and
25 each fiscal year thereafter, the Secretary shall make

1 grants to assist Hispanic-serving agricultural col-
2 leges and universities in institutional capacity build-
3 ing (not including alteration, repair, renovation, or
4 construction of buildings).

5 “(2) CRITERIA FOR INSTITUTIONAL CAPACITY-
6 BUILDING GRANTS.—

7 “(A) REQUIREMENTS FOR GRANTS.—The
8 Secretary shall make grants under this sub-
9 section on the basis of a competitive application
10 process under which Hispanic-serving agricul-
11 tural colleges and universities may submit ap-
12 plications to the Secretary at such time, in such
13 manner, and containing such information as the
14 Secretary may require.

15 “(B) DEMONSTRATION OF NEED.—

16 “(i) IN GENERAL.—As part of an ap-
17 plication for a grant under this subsection,
18 the Secretary shall require the applicant to
19 demonstrate need for the grant, as deter-
20 mined by the Secretary.

21 “(ii) OTHER SOURCES OF FUNDING.—

22 The Secretary may award a grant under
23 this subsection only to an applicant that
24 demonstrates a failure to obtain funding

1 for a project after making a reasonable ef-
2 fort to otherwise obtain the funding.

3 “(C) PAYMENT OF NON-FEDERAL
4 SHARE.—A grant awarded under this sub-
5 section shall be made only if the recipient of the
6 grant pays a non-Federal share in an amount
7 that is specified by the Secretary and based on
8 assessed institutional needs.

9 “(3) AUTHORIZATION OF APPROPRIATIONS.—
10 There are authorized to be appropriated to the Sec-
11 retary such sums as are necessary to carry out this
12 subsection for fiscal year 2008 and each fiscal year
13 thereafter.

14 “(e) COMPETITIVE GRANTS PROGRAM.—

15 “(1) IN GENERAL.—The Secretary shall estab-
16 lish a competitive grants program to fund funda-
17 mental and applied research at Hispanic-serving ag-
18 ricultural colleges and universities in agriculture,
19 human nutrition, food science, bioenergy, and envi-
20 ronmental science.

21 “(2) AUTHORIZATION OF APPROPRIATIONS.—
22 There are authorized to be appropriated to the Sec-
23 retary such sums as are necessary to carry out this
24 subsection for fiscal year 2008 and each fiscal year
25 thereafter.”.

1 (b) EXTENSION.—Section 3 of the Smith-Lever Act
2 (7 U.S.C. 343) is amended—

3 (1) in subsection (b), by adding at the end the
4 following:

5 “(4) ANNUAL APPROPRIATION FOR HISPANIC-
6 SERVING AGRICULTURAL COLLEGES AND UNIVER-
7 SITIES.—

8 “(A) AUTHORIZATION OF APPROPRIA-
9 TIONS.—There are authorized to be appro-
10 priated to the Secretary for payments to His-
11 panic-serving agricultural colleges and univer-
12 sities (as defined in section 1404 of the Na-
13 tional Agricultural Research, Extension, and
14 Teaching Policy Act of 1977 (7 U.S.C. 3103))
15 such sums as are necessary to carry out this
16 paragraph for fiscal year 2008 and each fiscal
17 year thereafter, to remain available until ex-
18 pended.

19 “(B) ADDITIONAL AMOUNT.—Amounts
20 made available under this paragraph shall be in
21 addition to any other amounts made available
22 under this section to States, the Commonwealth
23 of Puerto Rico, Guam, or the United States
24 Virgin Islands.

1 “(C) ADMINISTRATION.—Amounts made
2 available under this paragraph shall be—

3 “(i) distributed on the basis of a com-
4 petitive application process to be developed
5 and implemented by the Secretary;

6 “(ii) paid by the Secretary to the
7 State institutions established in accordance
8 with the Act of July 2, 1862 (commonly
9 known as the ‘First Morrill Act’) (7 U.S.C.
10 301 et seq.); and

11 “(iii) administered by State institu-
12 tions through cooperative agreements with
13 the Hispanic-serving agricultural colleges
14 and universities in the State in accordance
15 with regulations promulgated by the Sec-
16 retary.”; and

17 (2) in subsection (f)—

18 (A) in the subsection heading, by inserting
19 “AND HISPANIC-SERVING AGRICULTURAL COL-
20 LEGES AND UNIVERSITIES” after “1994 INSTI-
21 TUTIONS”; and

22 (B) by striking “pursuant to subsection
23 (b)(3)” and inserting “or Hispanic-serving agri-
24 cultural colleges and universities in accordance
25 with paragraphs (3) and (4) of subsection (b)”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) Section 2 of the Agricultural Research, Ex-
3 tension, and Education Reform Act of 1998 (7
4 U.S.C. 7601) is amended—

5 (A) by redesignating paragraph (6) as
6 paragraph (7); and

7 (B) by inserting after paragraph (5) the
8 following:

9 “(6) HISPANIC-SERVING AGRICULTURAL COL-
10 LEGES AND UNIVERSITIES.—The term ‘Hispanic-
11 serving agricultural colleges and universities’ has the
12 meaning given the term in section 1404 of the Na-
13 tional Agricultural Research, Extension, and Teach-
14 ing Policy Act of 1977 (7 U.S.C. 3103).”.

15 (2) Section 102(c) of the Agricultural Research,
16 Extension, and Education Reform Act of 1998 (7
17 U.S.C. 7612(c)) is amended—

18 (A) in the subsection heading, by inserting
19 “AND HISPANIC-SERVING AGRICULTURAL COL-
20 LEGES AND UNIVERSITIES” after “INSTITU-
21 TIONS”; and

22 (B) in paragraph (1), by striking “ and
23 1994 Institution” and inserting “1994 Institu-
24 tion, and Hispanic-serving agricultural college
25 and university”.

1 (3) Section 103(e) of the Agricultural Research,
2 Extension, and Education Reform Act of 1998 (7
3 U.S.C. 7613(e)) is amended by adding at the end
4 the following:

5 “(3) HISPANIC-SERVING AGRICULTURAL COL-
6 LEGES AND UNIVERSITIES.—To be eligible to obtain
7 agricultural extension funds from the Secretary for
8 an activity, each Hispanic-serving agricultural col-
9 lege and university shall—

10 “(A) establish a process for merit review of
11 the activity; and

12 “(B) review the activity in accordance with
13 such process.”.

14 (4) Section 406(b) of the Agricultural Research,
15 Extension, and Education Reform Act of 1998 (7
16 U.S.C. 7626(b)) is amended by striking “and 1994
17 Institutions” and inserting “, 1994 Institutions, and
18 Hispanic-serving agricultural colleges and univer-
19 sities”.

20 **SEC. 7130. INTERNATIONAL AGRICULTURAL RESEARCH, EX-**
21 **TENSION, AND EDUCATION.**

22 Section 1458(a) of the National Agricultural Re-
23 search, Extension, and Teaching Policy Act of 1977 (7
24 U.S.C. 3291(a)) is amended—

25 (1) in paragraph (1)—

1 (A) in subparagraph (A), by striking
2 “and” after the semicolon;

3 (B) in subparagraph (B), by adding “and”
4 at the end; and

5 (C) by adding at the end the following:

6 “(C) giving priority to those institutions
7 with existing memoranda of understanding,
8 agreements, or other formal ties to United
9 States institutions, or Federal or State agen-
10 cies;”;

11 (2) by striking paragraph (3) and inserting the
12 following:

13 “(3) enter into agreements with land-grant col-
14 leges and universities, Hispanic-serving agricultural
15 colleges and universities, the Agency for Inter-
16 national Development, and international organiza-
17 tions (such as the United Nations, the World Bank,
18 regional development banks, international agricul-
19 tural research centers), or other organizations, insti-
20 tutions, or individuals with comparable goals, to pro-
21 mote and support—

22 “(A) the development of a viable and sus-
23 tainable global agricultural system;

24 “(B) antihunger and improved inter-
25 national nutrition efforts; and

1 “(C) increased quantity, quality, and avail-
2 ability of food;”;

3 (3) in paragraph (7)(A), by striking “and land-
4 grant colleges and universities” and inserting “,
5 land-grant colleges and universities, and Hispanic-
6 serving agricultural colleges and universities”;

7 (4) in paragraph (9)—

8 (A) in subparagraph (A), by striking “or
9 other colleges and universities” and inserting “,
10 Hispanic-serving agricultural colleges and uni-
11 versities, or other colleges and universities”;
12 and

13 (B) in subparagraph (D), by striking
14 “and” at the end;

15 (5) in paragraph (10), by striking the period at
16 the end and inserting “; and”; and

17 (6) by adding at the end the following:

18 “(11) establish a program for the purpose of
19 providing fellowships to United States or foreign
20 students to study at foreign agricultural colleges and
21 universities working under agreements provided for
22 under paragraph (3).”.

1 **SEC. 7131. COMPETITIVE GRANTS FOR INTERNATIONAL AG-**
2 **RICULTURAL SCIENCE AND EDUCATION PRO-**
3 **GRAMS.**

4 Section 1459A(c) of the National Agricultural Re-
5 search, Extension, and Teaching Policy Act of 1977 (7
6 U.S.C. 3292b(c)) is amended by striking “2007” and in-
7 serting “2012”.

8 **SEC. 7132. ADMINISTRATION.**

9 (a) LIMITATION ON INDIRECT COSTS FOR AGRICUL-
10 TURAL RESEARCH, EDUCATION, AND EXTENSION PRO-
11 GRAMS.—Section 1462(a) of the National Agriculture Re-
12 search, Extension, and Teaching Policy Act of 1977 (7
13 U.S.C. 3310(a)) is amended—

14 (1) by striking “a competitive” and inserting
15 “any”; and

16 (2) by striking “19 percent” and inserting “22
17 percent”.

18 (b) AUDITING, REPORTING, BOOKKEEPING, AND AD-
19 MINISTRATIVE REQUIREMENTS.—Section 1469(a)(3) of
20 the National Agricultural Research, Extension, and
21 Teaching Policy Act of 1977 (7 U.S.C. 3315(a)(3)) is
22 amended by striking “appropriated” and inserting “made
23 available”.

24 **SEC. 7133. RESEARCH EQUIPMENT GRANTS.**

25 Section 1462A(e) of the National Agricultural Re-
26 search, Extension, and Teaching Policy Act of 1977 (7

1 U.S.C. 3310a(e)) is amended by striking “2007” and in-
2 serting “2012”.

3 **SEC. 7134. UNIVERSITY RESEARCH.**

4 Section 1463 of the National Agricultural Research,
5 Extension, and Teaching Policy Act of 1977 (7 U.S.C.
6 3311) is amended by striking “2007” each place it ap-
7 pears in subsections (a) and (b) and inserting “2012”.

8 **SEC. 7135. EXTENSION SERVICE.**

9 Section 1464 of the National Agricultural Research,
10 Extension, and Teaching Policy Act of 1977 (7 U.S.C.
11 3312) is amended by striking “2007” and inserting
12 “2012”.

13 **SEC. 7136. SUPPLEMENTAL AND ALTERNATIVE CROPS.**

14 Section 1473D(a) of the National Agricultural Re-
15 search, Extension, and Teaching Policy Act of 1977 (7
16 U.S.C. 3319d(a)) is amended by striking “2007” and in-
17 serting “2012”.

18 **SEC. 7137. NEW ERA RURAL TECHNOLOGY PROGRAM.**

19 Subtitle K of the National Agricultural Research, Ex-
20 tension, and Teaching Policy Act of 1977 (7 U.S.C. 3310
21 et seq.) is amended by adding at the end the following:

22 **“SEC. 1473E. NEW ERA RURAL TECHNOLOGY PROGRAM.**

23 “(a) DEFINITION OF COMMUNITY COLLEGE.—In this
24 section, the term ‘community college’ means an institution

1 of higher education (as defined in section 101 of the High-
2 er Education Act of 1965 (20 U.S.C. 1001))—

3 “(1) that admits as regular students individuals
4 who—

5 “(A) are beyond the age of compulsory
6 school attendance in the State in which the in-
7 stitution is located; and

8 “(B) have the ability to benefit from the
9 training offered by the institution;

10 “(2) that does not provide an educational pro-
11 gram for which the institution awards a bachelor’s
12 degree or an equivalent degree; and

13 “(3) that—

14 “(A) provides an educational program of
15 not less than 2 years that is acceptable for full
16 credit toward such a degree; or

17 “(B) offers a 2-year program in engineer-
18 ing, technology, mathematics, or the physical,
19 chemical, or biological sciences, designed to pre-
20 pare a student to work as a technician or at the
21 semiprofessional level in engineering, scientific,
22 or other technological fields requiring the un-
23 derstanding and application of basic engineer-
24 ing, scientific, or mathematical principles of
25 knowledge.

1 “(b) FUNCTIONS.—

2 “(1) ESTABLISHMENT.—

3 “(A) IN GENERAL.—The Secretary shall
4 establish a program to be known as the ‘New
5 Era Rural Technology Program’, to make
6 grants available for technology development, ap-
7 plied research, and training to aid in the devel-
8 opment of an agriculture-based renewable en-
9 ergy workforce.

10 “(B) SUPPORT.—The initiative under this
11 section shall support the fields of—

12 “(i) bioenergy;

13 “(ii) pulp and paper manufacturing;

14 and

15 “(iii) agriculture-based renewable en-
16 ergy resources.

17 “(2) REQUIREMENTS FOR FUNDING.—To re-
18 ceive funding under this section, an entity shall—

19 “(A) be a community college or advanced
20 technological center, located in a rural area and
21 in existence on the date of the enactment of
22 this section, that participates in agricultural or
23 bioenergy research and applied research;

24 “(B) have a proven record of development
25 and implementation of programs to meet the

1 needs of students, educators, and business and
2 industry to supply the agriculture-based, renew-
3 able energy or pulp and paper manufacturing
4 fields with certified technicians, as determined
5 by the Secretary; and

6 “(C) have the ability to leverage existing
7 partnerships and occupational outreach and
8 training programs for secondary schools, 4-year
9 institutions, and relevant nonprofit organiza-
10 tions.

11 “(c) GRANT PRIORITY.—In providing grants under
12 this section, the Secretary shall give preference to eligible
13 entities working in partnership—

14 “(1) to improve information-sharing capacity;
15 and

16 “(2) to maximize the ability to meet the re-
17 quirements of this section.

18 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to carry out this section
20 such sums as are necessary for each of fiscal years 2008
21 through 2012.”.

22 **SEC. 7138. CAPACITY BUILDING GRANTS FOR NLGCA INSTI-**
23 **TUTIONS.**

24 Subtitle K of the National Agricultural Research, Ex-
25 tension, and Teaching Policy Act of 1977 (7 U.S.C. 3310

1 et seq.) (as amended by section 7137) is amended by add-
2 ing at the end the following:

3 **“SEC. 1473F. CAPACITY BUILDING GRANTS FOR NLGCA IN-**
4 **STITUTIONS.**

5 “(a) GRANT PROGRAM.—

6 “(1) IN GENERAL.—The Secretary shall make
7 competitive grants to NLGCA Institutions to assist
8 the NLGCA Institutions in maintaining and expand-
9 ing the capacity of the NLGCA Institutions to con-
10 duct education, research, and outreach activities re-
11 lating to—

12 “(A) agriculture;

13 “(B) renewable resources; and

14 “(C) other similar disciplines.

15 “(2) USE OF FUNDS.—An NLGCA Institution
16 that receives a grant under paragraph (1) may use
17 the funds made available through the grant to main-
18 tain and expand the capacity of the NLGCA Institu-
19 tion—

20 “(A) to successfully compete for funds
21 from Federal grants and other sources to carry
22 out educational, research, and outreach activi-
23 ties that address priority concerns of national,
24 regional, State, and local interest;

1 “(B) to disseminate information relating to
2 priority concerns to—

3 “(i) interested members of the agri-
4 culture, renewable resources, and other rel-
5 evant communities;

6 “(ii) the public; and

7 “(iii) any other interested entity;

8 “(C) to encourage members of the agri-
9 culture, renewable resources, and other relevant
10 communities to participate in priority edu-
11 cation, research, and outreach activities by pro-
12 viding matching funding to leverage grant
13 funds; and

14 “(D) through—

15 “(i) the purchase or other acquisition
16 of equipment and other infrastructure (not
17 including alteration, repair, renovation, or
18 construction of buildings);

19 “(ii) the professional growth and de-
20 velopment of the faculty of the NLGCA In-
21 stitution; and

22 “(iii) the development of graduate
23 assistantships.

24 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated to carry out this section

1 such sums as are necessary for each of fiscal years 2008
2 through 2012.”.

3 **SEC. 7139. BORLAUG INTERNATIONAL AGRICULTURAL**
4 **SCIENCE AND TECHNOLOGY FELLOWSHIP**
5 **PROGRAM.**

6 Subtitle K of the National Agricultural Research, Ex-
7 tension, and Teaching Policy Act of 1977 (7 U.S.C. 3310
8 et seq.) (as amended by section 7138) is amended by add-
9 ing at the end the following:

10 **“SEC. 1473G. BORLAUG INTERNATIONAL AGRICULTURAL**
11 **SCIENCE AND TECHNOLOGY FELLOWSHIP**
12 **PROGRAM.**

13 “(a) FELLOWSHIP PROGRAM.—

14 “(1) IN GENERAL.—The Secretary shall estab-
15 lish a fellowship program, to be known as the
16 ‘Borlaug International Agricultural Science and
17 Technology Fellowship Program,’ to provide fellow-
18 ships for scientific training and study in the United
19 States to individuals from eligible countries (as de-
20 scribed in subsection (b)) who specialize in agricul-
21 tural education, research, and extension.

22 “(2) PROGRAMS.—The Secretary shall carry
23 out the fellowship program by implementing 3 pro-
24 grams designed to assist individual fellowship recipi-
25 ents, including—

1 “(A) a graduate studies program in agri-
2 culture to assist individuals who participate in
3 graduate agricultural degree training at a
4 United States institution;

5 “(B) an individual career improvement
6 program to assist agricultural scientists from
7 developing countries in upgrading skills and un-
8 derstanding in agricultural science and tech-
9 nology; and

10 “(C) a Borlaug agricultural policy execu-
11 tive leadership course to assist senior agricul-
12 tural policy makers from eligible countries, with
13 an initial focus on individuals from sub-Saharan
14 Africa and the independent states of the former
15 Soviet Union.

16 “(b) ELIGIBLE COUNTRIES.—An eligible country is
17 a developing country, as determined by the Secretary
18 using a gross national income per capita test selected by
19 the Secretary.

20 “(c) PURPOSE OF FELLOWSHIPS.—A fellowship pro-
21 vided under this section shall—

22 “(1) promote food security and economic
23 growth in eligible countries by—

24 “(A) educating a new generation of agri-
25 cultural scientists;

1 “(B) increasing scientific knowledge and
2 collaborative research to improve agricultural
3 productivity; and

4 “(C) extending that knowledge to users
5 and intermediaries in the marketplace; and

6 “(2) shall support—

7 “(A) training and collaborative research
8 opportunities through exchanges for entry level
9 international agricultural research scientists,
10 faculty, and policymakers from eligible coun-
11 tries;

12 “(B) collaborative research to improve ag-
13 ricultural productivity;

14 “(C) the transfer of new science and agri-
15 cultural technologies to strengthen agricultural
16 practice; and

17 “(D) the reduction of barriers to tech-
18 nology adoption.

19 “(d) FELLOWSHIP RECIPIENTS.—

20 “(1) ELIGIBLE CANDIDATES.—The Secretary
21 may provide fellowships under this section to individ-
22 uals from eligible countries who specialize or have
23 experience in agricultural education, research, exten-
24 sion, or related fields, including—

1 “(A) individuals from the public and pri-
2 vate sectors; and

3 “(B) private agricultural producers.

4 “(2) CANDIDATE IDENTIFICATION.—The Sec-
5 retary shall use the expertise of United States land-
6 grant colleges and universities and similar univer-
7 sities, international organizations working in agricul-
8 tural research and outreach, and national agricul-
9 tural research organizations to help identify program
10 candidates for fellowships under this section from
11 the public and private sectors of eligible countries.

12 “(e) USE OF FELLOWSHIPS.—A fellowship provided
13 under this section shall be used—

14 “(1) to promote collaborative programs among
15 agricultural professionals of eligible countries, agri-
16 cultural professionals of the United States, the inter-
17 national agricultural research system, and, as appro-
18 priate, United States entities conducting research;
19 and

20 “(2) to support fellowship recipients through
21 programs described in subsection (a)(2).

22 “(f) PROGRAM IMPLEMENTATION.—The Secretary
23 shall provide for the management, coordination, evalua-
24 tion, and monitoring of the Borlaug International Agricul-
25 tural Science and Technology Fellowship Program and for

1 the individual programs described in subsection (a)(2), ex-
2 cept that the Secretary may contract out to 1 or more
3 collaborating universities the management of 1 or more
4 of the fellowship programs.

5 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated such sums as are nec-
7 essary to carry out this section, to remain available until
8 expended.”.

9 **SEC. 7140. AQUACULTURE ASSISTANCE PROGRAMS.**

10 Section 1477 of the National Agricultural Research,
11 Extension, and Teaching Policy Act of 1977 (7 U.S.C.
12 3324) is amended by striking “2007” and inserting
13 “2012”.

14 **SEC. 7141. RANGELAND RESEARCH GRANTS.**

15 Section 1483(a) of the National Agricultural Re-
16 search, Extension, and Teaching Policy Act of 1977 (7
17 U.S.C. 3336(a)) is amended by striking “2007” and in-
18 serting “2012”.

19 **SEC. 7142. SPECIAL AUTHORIZATION FOR BIOSECURITY**
20 **PLANNING AND RESPONSE.**

21 Section 1484(a) of the National Agricultural Re-
22 search, Extension, and Teaching Policy Act of 1977 (7
23 U.S.C. 3351(a)) is amended by striking “2007” and in-
24 serting “2012”.

1 **SEC. 7143. RESIDENT INSTRUCTION AND DISTANCE EDU-**
2 **CATION GRANTS PROGRAM FOR INSULAR**
3 **AREA INSTITUTIONS OF HIGHER EDUCATION.**

4 (a) DISTANCE EDUCATION GRANTS FOR INSULAR
5 AREAS.—Section 1490(f) of the National Agricultural Re-
6 search, Extension, and Teaching Policy Act of 1977 (7
7 U.S.C. 3362(f)) is amended by striking “2007” and in-
8 serting “2012”.

9 (b) RESIDENT INSTRUCTION GRANTS FOR INSULAR
10 AREAS.—Section 1491 of the National Agricultural Re-
11 search, Extension, and Teaching Policy Act of 1977 (7
12 U.S.C. 3363) is amended—

13 (1) by redesignating subsection (e) as sub-
14 section (c); and

15 (2) in subsection (c) (as so redesignated), by
16 striking “2007” and inserting “2012”.

17 **Subtitle B—Food, Agriculture, Con-**
18 **servation, and Trade Act of 1990**

19 **SEC. 7201. NATIONAL GENETICS RESOURCES PROGRAM.**

20 Section 1635(b) of the Food, Agriculture, Conserva-
21 tion, and Trade Act of 1990 (7 U.S.C. 5844(b)) is amend-
22 ed by striking “2007” and inserting “2012”.

23 **SEC. 7202. NATIONAL AGRICULTURAL WEATHER INFORMA-**
24 **TION SYSTEM.**

25 Section 1641(c) of the Food, Agriculture, Conserva-
26 tion, and Trade Act of 1990 (7 U.S.C. 5855(c)) is amend-

1 ed by striking “1991 through 1997” and inserting “2008
2 through 2012”.

3 **SEC. 7203. PARTNERSHIPS.**

4 Section 1672(d) of the Food, Agriculture, Conserva-
5 tion, and Trade Act of 1990 (7 U.S.C. 5925(d)) is amend-
6 ed by striking “may” and inserting “shall”.

7 **SEC. 7204. HIGH-PRIORITY RESEARCH AND EXTENSION**
8 **AREAS.**

9 (a) IN GENERAL.—Section 1672 of the Food, Agri-
10 culture, Conservation, and Trade Act of 1990 (7 U.S.C.
11 5925) is amended—

12 (1) in subsection (e)—

13 (A) in paragraph (3), by striking “and
14 controlling aflatoxin in the food and feed
15 chains.” and inserting “, improving, and even-
16 tually commercializing, alfatoxin controls in
17 corn and other affected agricultural products
18 and crops.”;

19 (B) by striking paragraphs (1), (4), (7),
20 (8), (15), (17), (21), (23), (26), (27), (32),
21 (34), (41), (42), (43), and (45);

22 (C) by redesignating paragraphs (2), (3),
23 (5), (6), (9) through (14), (16), (18) through
24 (20), (22), (24), (25), (28) through (31), (33),

1 (35) through (40), and (44) as paragraphs (1)
2 through (29), respectively; and

3 (D) by adding at the end the following:

4 “(30) AIR EMISSIONS FROM LIVESTOCK OPER-
5 ATIONS.—Research and extension grants may be
6 made under this section for the purpose of con-
7 ducting field verification tests and developing mitiga-
8 tion options for air emissions from animal feeding
9 operations.

10 “(31) SWINE GENOME PROJECT.—Research
11 grants may be made under this section to conduct
12 swine genome research, including the mapping of the
13 swine genome.

14 “(32) CATTLE FEVER TICK PROGRAM.—Re-
15 search and extension grants may be made under this
16 section to study cattle fever ticks to facilitate under-
17 standing of the role of wildlife in the persistence and
18 spread of cattle fever ticks, to develop advanced
19 methods for eradication of cattle fever ticks, and to
20 improve management of diseases relating to cattle
21 fever ticks that are associated with wildlife, live-
22 stock, and human health.

23 “(33) SYNTHETIC GYPSUM.—Research and ex-
24 tension grants may be made under this section to

1 study the uses of synthetic gypsum from electric
2 power plants to remediate soil and nutrient losses.

3 “(34) CRANBERRY RESEARCH PROGRAM.—Re-
4 search and extension grants may be made under this
5 section to study new technologies to assist cranberry
6 growers in complying with Federal and State envi-
7 ronmental regulations, increase production, develop
8 new growing techniques, establish more efficient
9 growing methodologies, and educate cranberry pro-
10 ducers about sustainable growth practices.

11 “(35) SORGHUM RESEARCH INITIATIVE.—Re-
12 search and extension grants may be made under this
13 section to study the use of sorghum as a bioenergy
14 feedstock, promote diversification in, and the envi-
15 ronmental benefits of sorghum production, and pro-
16 mote water conservation through the use of sor-
17 ghum.

18 “(36) MARINE SHRIMP FARMING PROGRAM.—
19 Research and extension grants may be made under
20 this section to establish a research program to ad-
21 vance and maintain a domestic shrimp farming in-
22 dustry in the United States.

23 “(37) TURFGRASS RESEARCH INITIATIVE.—Re-
24 search and extension grants may be made under this
25 section to study the production of turfgrass (includ-

1 ing the use of water, fertilizer, pesticides, fossil
2 fuels, and machinery for turf establishment and
3 maintenance) and environmental protection and en-
4 hancement relating to turfgrass production.

5 “(38) AGRICULTURAL WORKER SAFETY RE-
6 SEARCH INITIATIVE.—Research and extension grants
7 may be made under this section—

8 “(A) to study and demonstrate methods to
9 minimize exposure of farm and ranch owners
10 and operators, pesticide handlers, and agricul-
11 tural workers to pesticides, including research
12 addressing the unique concerns of farm workers
13 resulting from long-term exposure to pesticides;
14 and

15 “(B) to develop rapid tests for on-farm use
16 to better inform and educate farmers, ranchers,
17 and farm and ranch workers regarding safe
18 field re-entry intervals.

19 “(39) HIGH PLAINS AQUIFER REGION.—Re-
20 search and extension grants may be made under this
21 section to carry out interdisciplinary research relat-
22 ing to diminishing water levels and increased de-
23 mand for water in the High Plains aquifer region.

24 “(40) DEER INITIATIVE.—Research and exten-
25 sion grants may be made under this section to sup-

1 port collaborative research focusing on the develop-
2 ment of viable strategies for the prevention, diag-
3 nosis, and treatment of infectious, parasitic, and
4 toxic diseases of farmed deer and the mapping of the
5 deer genome.

6 “(41) PASTURE-BASED BEEF SYSTEMS RE-
7 SEARCH INITIATIVE.—Research and extension grants
8 may be made under this section to study the devel-
9 opment of forage sequences and combinations for
10 cow-calf, heifer development, stocker, and finishing
11 systems, to deliver optimal nutritive value for effi-
12 cient production of cattle for pasture finishing, to
13 optimize forage systems to improve marketability of
14 pasture-finished beef, and to assess the effect of for-
15 age quality on reproductive fitness.

16 “(42) AGRICULTURAL PRACTICES RELATING TO
17 CLIMATE CHANGE.—Research and extension grants
18 may be made under this section for field and labora-
19 tory studies that examine the ecosystem from gross
20 to minute scales and for projects that explore the re-
21 lationship of agricultural practices to climate
22 change.

23 “(43) BRUCELLOSIS CONTROL AND ERADI-
24 CATION.—Research and extension grants may be
25 made under this section to conduct research relating

1 to the development of vaccines and vaccine delivery
2 systems to effectively control and eliminate brucel-
3 losis in wildlife, and to assist with the controlling of
4 the spread of brucellosis from wildlife to domestic
5 animals.

6 “(44) BIGHORN AND DOMESTIC SHEEP DISEASE
7 MECHANISMS.—Research and extension grants may
8 be made under this section to conduct research re-
9 lating to the health status of (including the presence
10 of infectious diseases in) bighorn and domestic sheep
11 under range conditions.

12 “(45) AGRICULTURAL DEVELOPMENT IN THE
13 AMERICAN-PACIFIC REGION.—Research and exten-
14 sion grants may be made under this section to sup-
15 port food and agricultural science at a consortium of
16 land-grant institutions in the American-Pacific re-
17 gion.

18 “(46) TROPICAL AND SUBTROPICAL AGRICUL-
19 TURAL RESEARCH.—Research grants may be made
20 under this section, in equal dollar amounts to the
21 Caribbean and Pacific Basins, to support tropical
22 and subtropical agricultural research, including pest
23 and disease research, at the land-grant institutions
24 in the Caribbean and Pacific regions.

1 “(47) VIRAL HEMORRHAGIC SEPTICEMIA.—Re-
2 search and extension grants may be made under this
3 section to study—

4 “(A) the effects of viral hemorrhagic septi-
5 cemia (referred to in this paragraph as ‘VHS’)
6 on freshwater fish throughout the natural and
7 expanding range of VHS; and

8 “(B) methods for transmission and
9 human-mediated transport of VHS among
10 waterbodies.

11 “(48) FARM AND RANCH SAFETY.—Research
12 and extension grants may be made under this sec-
13 tion to carry out projects to decrease the incidence
14 of injury and death on farms and ranches, includ-
15 ing—

16 “(A) on-site farm or ranch safety reviews;

17 “(B) outreach and dissemination of farm
18 safety research and interventions to agricultural
19 employers, employees, youth, farm and ranch
20 families, seasonal workers, or other individuals;
21 and

22 “(C) agricultural safety education and
23 training.

24 “(49) WOMEN AND MINORITIES IN STEM
25 FIELDS.—Research and extension grants may be

1 made under this section to increase participation by
2 women and underrepresented minorities from rural
3 areas in the fields of science, technology, engineer-
4 ing, and mathematics, with priority given to eligible
5 institutions that carry out continuing programs
6 funded by the Secretary.

7 “(50) ALFALFA AND FORAGE RESEARCH PRO-
8 GRAM.—Research and extension grants may be made
9 under this section for the purpose of studying im-
10 provements in alfalfa and forage yields, biomass and
11 persistence, pest pressures, the bioenergy potential
12 of alfalfa and other forages, and systems to reduce
13 losses during harvest and storage.

14 “(51) FOOD SYSTEMS VETERINARY MEDI-
15 CINE.—Research grants may be made under this
16 section to address health issues that affect food-pro-
17 ducing animals, food safety, and the environment,
18 and to improve information resources, curriculum,
19 and clinical education of students with respect to
20 food animal veterinary medicine and food safety.

21 “(52) BIOCHAR RESEARCH.—Grants may be
22 made under this section for research, extension, and
23 integrated activities relating to the study of biochar
24 production and use, including considerations of agro-
25 nomic and economic impacts, synergies of coproduc-

1 tion with bioenergy, and the value of soil enhance-
2 ments and soil carbon sequestration.”;

3 (2) by redesignating subsection (h) as sub-
4 section (j);

5 (3) by inserting after subsection (g) the fol-
6 lowing:

7 “(h) POLLINATOR PROTECTION.—

8 “(1) RESEARCH AND EXTENSION.—

9 “(A) GRANTS.—Research and extension
10 grants may be made under this section—

11 “(i) to survey and collect data on bee
12 colony production and health;

13 “(ii) to investigate pollinator biology,
14 immunology, ecology, genomics, and
15 bioinformatics;

16 “(iii) to conduct research on various
17 factors that may be contributing to or as-
18 sociated with colony collapse disorder, and
19 other serious threats to the health of honey
20 bees and other pollinators, including—

21 “(I) parasites and pathogens of
22 pollinators; and

23 “(II) the sublethal effects of in-
24 secticides, herbicides, and fungicides

1 on honey bees and native and man-
2 aged pollinators;

3 “(iv) to develop mitigative and pre-
4 ventative measures to improve native and
5 managed pollinator health; and

6 “(v) to promote the health of honey
7 bees and native pollinators through habitat
8 conservation and best management prac-
9 tices.

10 “(B) AUTHORIZATION OF APPROPRIA-
11 TIONS.—There is authorized to be appropriated
12 to carry out this paragraph \$10,000,000 for
13 each of fiscal years 2008 through 2012.

14 “(2) DEPARTMENT OF AGRICULTURE CAPACITY
15 AND INFRASTRUCTURE.—

16 “(A) IN GENERAL.—The Secretary shall,
17 to the maximum extent practicable, increase the
18 capacity and infrastructure of the Depart-
19 ment—

20 “(i) to address colony collapse dis-
21 order and other long-term threats to polli-
22 nator health, including the hiring of addi-
23 tional personnel; and

1 “(ii) to conduct research on colony
2 collapse disorder and other pollinator
3 issues at the facilities of the Department.

4 “(B) AUTHORIZATION OF APPROPRIA-
5 TIONS.—There is authorized to be appropriated
6 to carry out this paragraph \$7,250,000 for each
7 of fiscal years 2008 through 2012.

8 “(3) HONEY BEE PEST AND PATHOGEN SUR-
9 VEILLANCE.—There is authorized to be appropriated
10 to conduct a nationwide honey bee pest and patho-
11 gen surveillance program \$2,750,000 for each of fis-
12 cal years 2008 through 2012.

13 “(4) ANNUAL REPORT ON RESPONSE TO HONEY
14 BEE COLONY COLLAPSE DISORDER.—The Secretary
15 shall submit to the Committee on Agriculture of the
16 House of Representatives and the Committee on Ag-
17 riculture, Nutrition, and Forestry of the Senate an
18 annual report describing the progress made by the
19 Department of Agriculture in—

20 “(A) investigating the cause or causes of
21 honey bee colony collapse; and

22 “(B) finding appropriate strategies to re-
23 duce colony loss.

24 “(i) REGIONAL CENTERS OF EXCELLENCE.—

1 “(1) ESTABLISHMENT.—The Secretary shall
2 prioritize regional centers of excellence established
3 for specific agricultural commodities for the receipt
4 of funding under this section.

5 “(2) COMPOSITION.—A regional center of excel-
6 lence shall be composed of 1 or more colleges and
7 universities (including land-grant institutions,
8 schools of forestry, schools of veterinary medicine, or
9 NLGCA Institutions (as defined in section 1404 of
10 the National Agricultural Research, Extension, and
11 Teaching Policy Act of 1977 (7 U.S.C. 3103))) that
12 provide financial support to the regional center of
13 excellence.

14 “(3) CRITERIA FOR REGIONAL CENTERS OF EX-
15 CELLENCE.—The criteria for consideration to be a
16 regional center of excellence shall include efforts—

17 “(A) to ensure coordination and cost-effec-
18 tiveness by reducing unnecessarily duplicative
19 efforts regarding research, teaching, and exten-
20 sion;

21 “(B) to leverage available resources by
22 using public/private partnerships among agri-
23 cultural industry groups, institutions of higher
24 education, and the Federal Government;

1 “(C) to implement teaching initiatives to
2 increase awareness and effectively disseminate
3 solutions to target audiences through extension
4 activities;

5 “(D) to increase the economic returns to
6 rural communities by identifying, attracting,
7 and directing funds to high-priority agricultural
8 issues; and

9 “(E) to improve teaching capacity and in-
10 frastructure at colleges and universities (includ-
11 ing land-grant institutions, schools of forestry,
12 and schools of veterinary medicine).”; and

13 (4) in subsection (j) (as redesignated by para-
14 graph (2)), by striking “2007” and inserting
15 “2012”.

16 (b) CONFORMING AMENDMENTS.—Section 1672 of
17 the Food, Agriculture, Conservation, and Trade Act of
18 1990 (7 U.S.C. 5925) is amended—

19 (1) in the first sentence of subsection (a), by
20 striking “(e), (f), and (g)” and inserting “(e)
21 through (i)”; and

22 (2) in subsection (b)—

23 (A) in paragraph (1), by striking “para-
24 graphs (1), (6), (7), and (11)” and inserting
25 “paragraphs (4), (7), (8), and (11)(B)”; and

1 (B) in paragraph (2), by striking “sub-
2 section (e)” and inserting “subsections (e)
3 through (i)”.

4 **SEC. 7205. NUTRIENT MANAGEMENT RESEARCH AND EX-**
5 **TENSION INITIATIVE.**

6 Section 1672A of the Food, Agriculture, Conserva-
7 tion, and Trade Act of 1990 (7 U.S.C. 5925a) is amend-
8 ed—

9 (1) in subsection (b), by striking paragraph (1)
10 and inserting the following:

11 “(1) IN GENERAL.—Paragraphs (4), (7), (8),
12 and (11)(B) of subsection (b) of the Competitive,
13 Special, and Facilities Research Grant Act (7 U.S.C.
14 450i) shall apply with respect to the making of
15 grants under this section.”;

16 (2) by striking subsection (d) and inserting the
17 following:

18 “(d) PRIORITY.—Following the completion of a peer
19 review process for grant proposals received under this sec-
20 tion, the Secretary shall give priority to those grant pro-
21 posals that involve—

22 “(1) the cooperation of multiple entities; and

23 “(2) States or regions with a high concentration
24 of livestock, dairy, or poultry operations.”;

25 (3) in subsection (e)—

1 (A) in paragraph (1)(B), by inserting “and
2 dairy and beef cattle waste” after “swine
3 waste”; and

4 (B) by striking paragraph (5) and insert-
5 ing the following:

6 “(5) ALTERNATIVE USES AND RENEWABLE EN-
7 ERGY.—Research and extension grants may be made
8 under this section for the purpose of finding innova-
9 tive methods and technologies to allow agricultural
10 operators to make use of animal waste, such as use
11 as fertilizer, methane digestion, composting, and
12 other useful byproducts.”;

13 (4) by redesignating subsection (g) as sub-
14 section (f); and

15 (5) in subsection (f) (as so redesignated), by
16 striking “2007” and inserting “2012”.

17 **SEC. 7206. ORGANIC AGRICULTURE RESEARCH AND EXTEN-**
18 **SION INITIATIVE.**

19 (a) IN GENERAL.—Section 1672B of the Food, Agri-
20 culture, Conservation, and Trade Act of 1990 (7 U.S.C.
21 5925b) (commonly known as the “Organic Agriculture Re-
22 search and Extension Initiative”) is amended—

23 (1) in subsection (a)—

24 (A) in paragraph (5), by striking “and”
25 after the semicolon;

1 (B) in paragraph (6), by striking the pe-
2 riod at the end and inserting a semicolon; and

3 (C) by adding at the end the following:

4 “(7) examining optimal conservation and envi-
5 ronmental outcomes relating to organically produced
6 agricultural products; and

7 “(8) developing new and improved seed vari-
8 eties that are particularly suited for organic agri-
9 culture.”; and

10 (2) by adding at the end the following:

11 “(f) FUNDING.—

12 “(1) IN GENERAL.—Of the funds of the Com-
13 modity Credit Corporation, the Secretary shall make
14 available to carry out this section—

15 “(A) \$18,000,000 for fiscal year 2009; and

16 “(B) \$20,000,000 for each of fiscal years
17 2010 through 2012.

18 “(2) ADDITIONAL FUNDING.—In addition to
19 amounts made available under paragraph (1), there
20 is authorized to be appropriated to carry out this
21 section \$25,000,000 for each of fiscal years 2009
22 through 2012.”.

23 (b) COORDINATION.—In carrying out the amendment
24 made by this section, the Secretary shall ensure that the
25 Division Chief of the applicable Research, Education, and

1 Extension Office established under section 251 of the De-
2 partment of Agriculture Reorganization Act of 1994 (7
3 U.S.C. 6971) coordinates projects and activities under this
4 section to ensure, to the maximum extent practicable, that
5 unnecessary duplication of effort is eliminated or mini-
6 mized.

7 **SEC. 7207. AGRICULTURAL BIOENERGY FEEDSTOCK AND**
8 **ENERGY EFFICIENCY RESEARCH AND EXTEN-**
9 **SION INITIATIVE.**

10 Title XVI of the Food, Agriculture, Conservation,
11 and Trade Act of 1990 (7 U.S.C. 5801 et seq.) is amended
12 by inserting after section 1672B (7 U.S.C. 5925b) the fol-
13 lowing:

14 **“SEC. 1672C. AGRICULTURAL BIOENERGY FEEDSTOCK AND**
15 **ENERGY EFFICIENCY RESEARCH AND EXTEN-**
16 **SION INITIATIVE.**

17 “(a) **ESTABLISHMENT AND PURPOSE.**—There is es-
18 tablished within the Department of Agriculture an agricul-
19 tural bioenergy feedstock and energy efficiency research
20 and extension initiative (referred to in this section as the
21 ‘Initiative’) for the purpose of enhancing the production
22 of biomass energy crops and the energy efficiency of agri-
23 cultural operations.

24 “(b) **COMPETITIVE RESEARCH AND EXTENSION**
25 **GRANTS AUTHORIZED.**—In carrying out this section, the

1 Secretary shall make competitive grants to support re-
2 search and extension activities specified in subsections (c)
3 and (d).

4 “(c) AGRICULTURAL BIOENERGY FEEDSTOCK RE-
5 SEARCH AND EXTENSION AREAS.—

6 “(1) IN GENERAL.—Agricultural bioenergy
7 feedstock research and extension activities funded
8 under the Initiative shall focus on improving agricul-
9 tural biomass production, biomass conversion in bio-
10 refineries, and biomass use by—

11 “(A) supporting on-farm research on crop
12 species, nutrient requirements, management
13 practices, environmental impacts, and econom-
14 ics;

15 “(B) supporting the development and oper-
16 ation of on-farm, integrated biomass feedstock
17 production systems;

18 “(C) leveraging the broad scientific capa-
19 bilities of the Department of Agriculture and
20 other entities in—

21 “(i) plant genetics and breeding;

22 “(ii) crop production;

23 “(iii) soil and water science;

24 “(iv) use of agricultural waste; and

1 “(v) carbohydrate, lipid, protein, and
2 lignin chemistry, enzyme development, and
3 biochemistry; and

4 “(D) supporting the dissemination of any
5 of the research conducted under this subsection
6 that will assist in achieving the goals of this
7 section.

8 “(2) SELECTION CRITERIA.—In selecting grant
9 recipients for projects under paragraph (1), the Sec-
10 retary shall consider—

11 “(A) the capabilities and experiences of the
12 applicant, including—

13 “(i) research in actual field condi-
14 tions; and

15 “(ii) engineering and research knowl-
16 edge relating to biofuels or the production
17 of inputs for biofuel production;

18 “(B) the range of species types and crop-
19 ping practices proposed for study (including
20 species types and practices studied using side-
21 by-side comparisons of those types and prac-
22 tices);

23 “(C) the need for regional diversity among
24 feedstocks;

1 “(D) the importance of developing
2 multiyear data relevant to the production of
3 biomass feedstock crops;

4 “(E) the extent to which the project in-
5 volves direct participation of agricultural pro-
6 ducers;

7 “(F) the extent to which the project pro-
8 posal includes a plan or commitment to use the
9 biomass produced as part of the project in com-
10 mercial channels; and

11 “(G) such other factors as the Secretary
12 may determine.

13 “(d) ENERGY-EFFICIENCY RESEARCH AND EXTEN-
14 SION AREAS.—On-farm energy-efficiency research and ex-
15 tension activities funded under the Initiative shall focus
16 on developing and demonstrating technologies and produc-
17 tion practices relating to—

18 “(1) improving on-farm renewable energy pro-
19 duction;

20 “(2) encouraging efficient on-farm energy use;

21 “(3) promoting on-farm energy conservation;

22 “(4) making a farm or ranch energy-neutral;

23 and

24 “(5) enhancing on-farm usage of advanced tech-
25 nologies to promote energy efficiency.

1 “(e) BEST PRACTICES DATABASE.—The Secretary
2 shall develop a best-practices database that includes infor-
3 mation, to be available to the public, on—

4 “(1) the production potential of a variety of bio-
5 mass crops; and

6 “(2) best practices for production, collection,
7 harvesting, storage, and transportation of biomass
8 crops to be used as a source of bioenergy.

9 “(f) ADMINISTRATION.—

10 “(1) IN GENERAL.—Paragraphs (4), (7), (8),
11 and (11)(B) of subsection (b) of the Competitive,
12 Special, and Facilities Research Grant Act (7 U.S.C.
13 450i(b)) shall apply with respect to making grants
14 under this section.

15 “(2) CONSULTATION AND COORDINATION.—The
16 Secretary shall—

17 “(A) make the grants in consultation with
18 the National Agricultural Research, Extension,
19 Education, and Economics Advisory Board; and

20 “(B) coordinate projects and activities car-
21 ried out under the Initiative with projects and
22 activities under section 9008 of the Farm Secu-
23 rity and Rural Investment Act of 2002 to en-
24 sure, to the maximum extent practicable, that—

1 “(i) unnecessary duplication of effort
2 is eliminated or minimized; and

3 “(ii) the respective strengths of the
4 Department of Agriculture and the De-
5 partment of Energy are appropriately
6 used.

7 “(3) GRANT PRIORITY.—The Secretary shall
8 give priority to grant applications that integrate re-
9 search and extension activities established under
10 subsections (c) and (d), respectively.

11 “(4) MATCHING FUNDS REQUIRED.—As a con-
12 dition of receiving a grant under this section, the
13 Secretary shall require the recipient of the grant to
14 provide funds or in-kind support from non-Federal
15 sources in an amount that is at least equal to the
16 amount provided by the Federal Government.

17 “(5) PARTNERSHIPS ENCOURAGED.—Following
18 the completion of a peer review process for grant
19 proposals received under this section, the Secretary
20 may provide a priority to those grant proposals
21 found as a result of the peer review process—

22 “(A) to be scientifically meritorious; and

23 “(B) that involve cooperation—

24 “(i) among multiple entities; and

25 “(ii) with agricultural producers.

1 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
2 is authorized to be appropriated to carry out this section
3 \$50,000,000 for each of fiscal years 2008 through 2012.”.

4 **SEC. 7208. FARM BUSINESS MANAGEMENT AND**
5 **BENCHMARKING.**

6 The Food, Agriculture, Conservation and Trade Act
7 of 1990 is amended by inserting after section 1672C (as
8 added by section 7207) the following:

9 **“SEC. 1672D. FARM BUSINESS MANAGEMENT.**

10 “(a) IN GENERAL.—The Secretary may make com-
11 petitive research and extension grants for the purpose of—

12 “(1) improving the farm management knowl-
13 edge and skills of agricultural producers; and

14 “(2) establishing and maintaining a national,
15 publicly available farm financial management data-
16 base to support improved farm management.

17 “(b) SELECTION CRITERIA.—In allocating funds
18 made available to carry out this section, the Secretary may
19 give priority to grants that—

20 “(1) demonstrate an ability to work directly
21 with agricultural producers;

22 “(2) collaborate with farm management and
23 producer associations;

1 **SEC. 7212. NATIONAL RURAL INFORMATION CENTER**
2 **CLEARINGHOUSE.**

3 Section 2381(e) of the Food, Agriculture, Conserva-
4 tion, and Trade Act of 1990 (7 U.S.C. 3125b(e)) is
5 amended by striking “2007” and inserting “2012”.

6 **Subtitle C—Agricultural Research,**
7 **Extension, and Education Re-**
8 **form Act of 1998**

9 **SEC. 7301. PEER AND MERIT REVIEW.**

10 Section 103(a) of the Agricultural Research, Exten-
11 sion, and Education Reform Act of 1998 (7 U.S.C.
12 7613(a)) is amended by adding at the end the following:

13 “(3) CONSIDERATION.—Peer and merit review
14 procedures established under paragraphs (1) and (2)
15 shall not take the offer or availability of matching
16 funds into consideration.”.

17 **SEC. 7302. PARTNERSHIPS FOR HIGH-VALUE AGRICUL-**
18 **TURAL PRODUCT QUALITY RESEARCH.**

19 Section 402 of the Agricultural Research, Extension,
20 and Education Reform Act of 1998 (7 U.S.C. 7622) is
21 repealed.

22 **SEC. 7303. PRECISION AGRICULTURE.**

23 Section 403 of the Agricultural Research, Extension,
24 and Education Reform Act of 1998 (7 U.S.C. 7623) is
25 repealed.

1 **SEC. 7304. BIOBASED PRODUCTS.**

2 (a) PILOT PROJECT.—Section 404(e)(2) of the Agri-
3 cultural Research, Extension, and Education Reform Act
4 of 1998 (7 U.S.C. 7624(e)(2)) is amended by striking
5 “2007” and inserting “2012”.

6 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
7 404(h) of the Agricultural Research, Extension, and Edu-
8 cation Reform Act of 1998 (7 U.S.C. 7624(h)) is amended
9 by striking “2007” and inserting “2012”.

10 **SEC. 7305. THOMAS JEFFERSON INITIATIVE FOR CROP DI-**
11 **VERSIFICATION.**

12 Section 405 of the Agricultural Research, Extension,
13 and Education Reform Act of 1998 (7 U.S.C. 7625) is
14 repealed.

15 **SEC. 7306. INTEGRATED RESEARCH, EDUCATION, AND EX-**
16 **TENSION COMPETITIVE GRANTS PROGRAM.**

17 Section 406(f) of the Agricultural Research, Exten-
18 sion, and Education Reform Act of 1998 (7 U.S.C.
19 7626(f)) is amended by striking “2007” and inserting
20 “2012”.

21 **SEC. 7307. FUSARIUM GRAMINEARUM GRANTS.**

22 Section 408 of the Agricultural Research, Extension,
23 and Education Reform Act of 1998 (7 U.S.C. 7628) is
24 amended—

25 (1) in subsection (a), in the subsection heading,
26 by striking “GRANT” and inserting “GRANTS”; and

1 (2) in subsection (e), by striking “2007” and
2 inserting “2012”.

3 **SEC. 7308. BOVINE JOHNE’S DISEASE CONTROL PROGRAM.**

4 Section 409(b) of the Agricultural Research, Extension,
5 and Education Reform Act of 1998 (7 U.S.C.
6 7629(b)) is amended by striking “2007” and inserting
7 “2012”.

8 **SEC. 7309. GRANTS FOR YOUTH ORGANIZATIONS.**

9 Section 410 of the Agricultural Research, Extension,
10 and Education Reform Act of 1998 (7 U.S.C. 7630) is
11 amended by striking subsections (b) and (c) and inserting
12 the following:

13 “(b) FLEXIBILITY.—The Secretary shall provide
14 maximum flexibility in content delivery to each organiza-
15 tion receiving funds under this section so as to ensure that
16 the unique goals of each organization, as well as the local
17 community needs, are fully met.

18 “(c) REDISTRIBUTION OF FUNDING WITHIN ORGA-
19 NIZATIONS AUTHORIZED.—Recipients of funds under this
20 section may redistribute all or part of the funds received
21 to individual councils or local chapters within the councils
22 without further need of approval from the Secretary.

23 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to carry out this section

1 such sums as are necessary for each of fiscal years 2008
2 through 2012.”.

3 **SEC. 7310. AGRICULTURAL BIOTECHNOLOGY RESEARCH**
4 **AND DEVELOPMENT FOR DEVELOPING COUN-**
5 **TRIES.**

6 Section 411(c) of the Agricultural Research, Exten-
7 sion, and Education Reform Act of 1998 (7 U.S.C.
8 7631(c)) is amended by striking “2007” and inserting
9 “2012”.

10 **SEC. 7311. SPECIALTY CROP RESEARCH INITIATIVE.**

11 (a) IN GENERAL.—Title IV of the Agricultural Re-
12 search, Extension, and Education Reform Act of 1998 (7
13 U.S.C. 7621 et seq.) is amended by adding at the end
14 the following:

15 **“SEC. 412. SPECIALTY CROP RESEARCH INITIATIVE.**

16 “(a) DEFINITIONS.—In this section:

17 “(1) INITIATIVE.—The term ‘Initiative’ means
18 the specialty crop research and extension initiative
19 established by subsection (b).

20 “(2) SPECIALTY CROP.—The term ‘specialty
21 crop’ has the meaning given that term in section 3
22 of the Specialty Crops Competitiveness Act of 2004
23 (7 U.S.C. 1621 note; Public Law 108–465).

24 “(b) ESTABLISHMENT.—There is established within
25 the Department a specialty crop research and extension

1 initiative to address the critical needs of the specialty crop
2 industry by developing and disseminating science-based
3 tools to address needs of specific crops and their regions,
4 including—

5 “(1) research in plant breeding, genetics, and
6 genomics to improve crop characteristics, such as—

7 “(A) product, taste, quality, and appear-
8 ance;

9 “(B) environmental responses and toler-
10 ances;

11 “(C) nutrient management, including plant
12 nutrient uptake efficiency;

13 “(D) pest and disease management, includ-
14 ing resistance to pests and diseases resulting in
15 reduced application management strategies; and

16 “(E) enhanced phytonutrient content;

17 “(2) efforts to identify and address threats
18 from pests and diseases, including threats to spe-
19 cialty crop pollinators;

20 “(3) efforts to improve production efficiency,
21 productivity, and profitability over the long term (in-
22 cluding specialty crop policy and marketing);

23 “(4) new innovations and technology, including
24 improved mechanization and technologies that delay
25 or inhibit ripening; and

1 “(5) methods to prevent, detect, monitor, con-
2 trol, and respond to potential food safety hazards in
3 the production and processing of specialty crops, in-
4 cluding fresh produce.

5 “(c) ELIGIBLE ENTITIES.—The Secretary may carry
6 out the Initiative through—

7 “(1) Federal agencies;

8 “(2) national laboratories;

9 “(3) colleges and universities;

10 “(4) research institutions and organizations;

11 “(5) private organizations or corporations;

12 “(6) State agricultural experiment stations;

13 “(7) individuals; or

14 “(8) groups consisting of 2 or more entities de-
15 scribed in paragraphs (1) through (7).

16 “(d) RESEARCH PROJECTS.—In carrying out this
17 section, the Secretary shall award grants on a competitive
18 basis.

19 “(e) ADMINISTRATION.—

20 “(1) IN GENERAL.—With respect to grants
21 awarded under subsection (d), the Secretary shall—

22 “(A) seek and accept proposals for grants;

23 “(B) determine the relevance and merit of
24 proposals through a system of peer and merit
25 review in accordance with section 103; and

1 “(C) award grants on the basis of merit,
2 quality, and relevance.

3 “(2) TERM.—The term of a grant under this
4 section may not exceed 10 years.

5 “(3) MATCHING FUNDS REQUIRED.—The Sec-
6 retary shall require the recipient of a grant under
7 this section to provide funds or in-kind support from
8 non-Federal sources in an amount that is at least
9 equal to the amount provided by the Federal Gov-
10 ernment.

11 “(4) OTHER CONDITIONS.—The Secretary may
12 set such other conditions on the award of a grant
13 under this section as the Secretary determines to be
14 appropriate.

15 “(f) PRIORITIES.—In making grants under this sec-
16 tion, the Secretary shall provide a higher priority to
17 projects that—

18 “(1) are multistate, multi-institutional, or mul-
19 tidisciplinary; and

20 “(2) include explicit mechanisms to commu-
21 nicate results to producers and the public.

22 “(g) BUILDINGS AND FACILITIES.—Funds made
23 available under this section shall not be used for the con-
24 struction of a new building or facility or the acquisition,
25 expansion, remodeling, or alteration of an existing build-

1 ing or facility (including site grading and improvement,
2 and architect fees).

3 “(h) FUNDING.—

4 “(1) IN GENERAL.—Of the funds of the Com-
5 modity Credit Corporation, the Secretary shall make
6 available to carry out this section \$30,000,000 for
7 fiscal year 2008 and \$50,000,000 for each of fiscal
8 years 2009 through 2012, from which activities
9 under each of paragraphs (1) through (5) of sub-
10 section (b) shall be allocated not less than 10 per-
11 cent.

12 “(2) AUTHORIZATION OF APPROPRIATIONS.—In
13 addition to funds made available under paragraph
14 (1), there is authorized to be appropriated to carry
15 out this section \$100,000,000 for each of fiscal
16 years 2008 through 2012.

17 “(3) TRANSFER.—Of the funds made available
18 to the Secretary under paragraph (1) for fiscal year
19 2008 and authorized for use for payment of admin-
20 istrative expenses under section 1469(a)(3) of the
21 National Agricultural Research, Extension, and
22 Teaching Policy Act of 1977 (7 U.S.C. 3315(a)(3)),
23 the Secretary shall transfer, upon the date of enact-
24 ment of this section, \$200,000 to the Office of Pre-
25 vention, Pesticides, and Toxic Substances of the En-

1 **SEC. 7313. OFFICE OF PEST MANAGEMENT POLICY.**

2 Section 614(f) of the Agricultural Research, Extension,
3 sion, and Education Reform Act of 1998 (7 U.S.C.
4 7653(f)) is amended by striking “2007” and inserting
5 “2012”.

6 **Subtitle D—Other Laws**

7 **SEC. 7401. CRITICAL AGRICULTURAL MATERIALS ACT.**

8 Section 16(a) of the Critical Agricultural Materials
9 Act (7 U.S.C. 178n(a)) is amended by striking “2007”
10 and inserting “2012”.

11 **SEC. 7402. EQUITY IN EDUCATIONAL LAND-GRANT STATUS**

12 **ACT OF 1994.**

13 (a) DEFINITION OF 1994 INSTITUTIONS.—Section
14 532 of the Equity in Educational Land-Grant Status Act
15 of 1994 (7 U.S.C. 301 note; Public Law 103–382) is
16 amended by adding at the end the following:

17 “(34) Ilisagvik College.”.

18 (b) ENDOWMENT FOR 1994 INSTITUTIONS.—Section
19 533 of the Equity in Educational Land-Grant Status Act
20 of 1994 (7 U.S.C. 301 note; Public Law 103–382) is
21 amended—

22 (1) in subsection (a)(3), in the matter pre-
23 ceding subparagraph (A), by inserting “this section
24 and” before “sections 534,”; and

25 (2) in the first sentence of subsection (b), by
26 striking “2007” and inserting “2012”.

1 (c) REDISTRIBUTION.—Section 534(a)(3) of the Eq-
2 uity in Educational Land-Grant Status Act of 1994 (7
3 U.S.C. 301 note; Public Law 103–382) is amended—

4 (1) by striking “The amounts” and inserting
5 the following:

6 “(A) IN GENERAL.—Except as provided in
7 subparagraph (B), the amounts”; and

8 (2) by adding at the end the following:

9 “(B) REDISTRIBUTION.—Funds that
10 would be paid to a 1994 Institution under para-
11 graph (2) shall be withheld from that 1994 In-
12 stitution and redistributed among the other
13 1994 Institutions if that 1994 Institution—

14 “(i) declines to accept funds under
15 paragraph (2); or

16 “(ii) fails to meet the accreditation re-
17 quirements under section 533(a)(3).”.

18 (d) INSTITUTIONAL CAPACITY BUILDING GRANTS.—
19 Section 535 of the Equity in Educational Land-Grant Sta-
20 tus Act of 1994 (7 U.S.C. 301 note; Public Law 103–
21 382) is amended by striking “2007” each place it appears
22 and inserting “2012”.

23 (e) RESEARCH GRANTS.—Section 536(c) of the Eq-
24 uity in Educational Land-Grant Status Act of 1994 (7

1 U.S.C. 301 note; Public Law 103–382) is amended in the
2 first sentence by striking “2007” and inserting “2012”.

3 (f) EFFECTIVE DATE.—The amendment made by
4 subsection (a) takes effect on October 1, 2008.

5 **SEC. 7403. SMITH-LEVER ACT.**

6 (a) PROGRAM.—Section 3(d) of the Smith-Lever Act
7 (7 U.S.C. 343(d)) is amended in the second sentence by
8 striking “apply for and receive” and all that follows
9 through paragraph (2) and inserting “compete for and re-
10 ceive funds directly from the Secretary of Agriculture.”.

11 (b) ELIMINATION OF THE GOVERNOR’S REPORT RE-
12 QUIREMENT FOR EXTENSION ACTIVITIES.—Section 5 of
13 the Smith-Lever Act (7 U.S.C. 345) is amended by strik-
14 ing the third sentence.

15 (c) CONFORMING AMENDMENT.—Section 1444(a)(2)
16 of the National Agricultural Research, Extension, and
17 Teaching Policy Act of 1977 (7 U.S.C. 3221(a)(2)) is
18 amended by striking “after September 30, 1995, under
19 section 3(d) of that Act (7 U.S.C. 343(d))” and all that
20 follows through the end of the sentence and inserting
21 “under section 3(d) of that Act (7 U.S.C. 343(d)).”.

22 **SEC. 7404. HATCH ACT OF 1887.**

23 (a) DISTRICT OF COLUMBIA.—Section 3(d)(4) of the
24 Hatch Act of 1887 (7 U.S.C. 361c(d)(4)) is amended—

1 (1) in the paragraph heading, by inserting
2 “AND THE DISTRICT OF COLUMBIA” after “AREAS”;

3 (2) in subparagraph (A)—

4 (A) by inserting “and the District of Co-
5 lumbia” after “United States”; and

6 (B) by inserting “and the District of Co-
7 lumbia” after “respectively,”; and

8 (3) in subparagraph (B), by inserting “or the
9 District of Columbia” after “area”.

10 (b) ELIMINATION OF PENALTY MAIL AUTHORI-
11 TIES.—

12 (1) IN GENERAL.—Section 6 of the Hatch Act
13 of 1887 (7 U.S.C. 361f) is amended in the first sen-
14 tence by striking “under penalty indicia:” and all
15 that follows through the end of the sentence and in-
16 serting a period.

17 (2) CONFORMING AMENDMENTS IN OTHER
18 LAWS.—

19 (A) NATIONAL AGRICULTURAL RESEARCH,
20 EXTENSION, AND TEACHING POLICY ACT OF
21 1977.—

22 (i) Section 1444(f) of the National
23 Agricultural Research, Extension, and
24 Teaching Policy Act of 1977 (7 U.S.C.
25 3221(f)) is amended by striking “under

1 penalty indicia:” and all that follows
2 through the end of the sentence and insert-
3 ing a period.

4 (ii) Section 1445(e) of the National
5 Agricultural Research, Extension, and
6 Teaching Policy Act of 1977 (7 U.S.C.
7 3222(e)) is amended by striking “under
8 penalty indicia:” and all that follows
9 through the end of the sentence and insert-
10 ing a period.

11 (B) OTHER PROVISIONS.—Section 3202(a)
12 of title 39, United States Code, is amended—

13 (i) in paragraph (1)—

14 (I) in subparagraph (D), by add-
15 ing “and” at the end;

16 (II) in subparagraph (E), by
17 striking “sections; and” and inserting
18 “sections.”; and

19 (III) by striking subparagraph
20 (F);

21 (ii) in paragraph (2), by adding “and”
22 at the end;

23 (iii) in paragraph (3) by striking
24 “thereof; and” and inserting “thereof.”;
25 and

1 (iv) by striking paragraph (4).

2 **SEC. 7405. AGRICULTURAL EXPERIMENT STATION RE-**
3 **SEARCH FACILITIES ACT.**

4 Section 6(a) of the Research Facilities Act (7 U.S.C.
5 390d(a)) is amended by striking “2007” and inserting
6 “2012”.

7 **SEC. 7406. AGRICULTURE AND FOOD RESEARCH INITIA-**
8 **TIVE.**

9 (a) IN GENERAL.—Subsection (b) of the Competitive,
10 Special, and Facilities Research Grant Act (7 U.S.C.
11 450i(b)) is amended to read as follows:

12 “(b) AGRICULTURE AND FOOD RESEARCH INITIA-
13 TIVE.—

14 “(1) ESTABLISHMENT.—There is established in
15 the Department of Agriculture an Agriculture and
16 Food Research Initiative under which the Secretary
17 of Agriculture (referred to in this subsection as ‘the
18 Secretary’) may make competitive grants for funda-
19 mental and applied research, extension, and edu-
20 cation to address food and agricultural sciences (as
21 defined under section 1404 of the National Agricul-
22 tural Research, Extension, and Teaching Policy Act
23 of 1977 (7 U.S.C. 3103)).

1 “(2) PRIORITY AREAS.—The competitive grants
2 program established under this subsection shall ad-
3 dress the following areas:

4 “(A) PLANT HEALTH AND PRODUCTION
5 AND PLANT PRODUCTS.—Plant systems, includ-
6 ing—

7 “(i) plant genome structure and func-
8 tion;

9 “(ii) molecular and cellular genetics
10 and plant biotechnology;

11 “(iii) conventional breeding, including
12 cultivar and breed development, selection
13 theory, applied quantitative genetics,
14 breeding for improved food quality, breed-
15 ing for improved local adaptation to biotic
16 stress and abiotic stress, and participatory
17 breeding;

18 “(iv) plant-pest interactions and bio-
19 control systems;

20 “(v) crop plant response to environ-
21 mental stresses;

22 “(vi) unproved nutrient qualities of
23 plant products; and

24 “(vii) new food and industrial uses of
25 plant products.

1 “(B) ANIMAL HEALTH AND PRODUCTION
2 AND ANIMAL PRODUCTS.—Animal systems, in-
3 cluding—
4 “ (i) aquaculture;
5 “ (ii) cellular and molecular basis of
6 animal reproduction, growth, disease, and
7 health;
8 “ (iii) animal biotechnology;
9 “ (iv) conventional breeding, including
10 breed development, selection theory, ap-
11 plied quantitative genetics, breeding for
12 improved food quality, breeding for im-
13 proved local adaptation to biotic stress and
14 abiotic stress, and participatory breeding;
15 “ (v) identification of genes responsible
16 for improved production traits and resist-
17 ance to disease;
18 “ (vi) improved nutritional perform-
19 ance of animals;
20 “ (vii) improved nutrient qualities of
21 animal products and uses; and
22 “ (viii) the development of new and im-
23 proved animal husbandry and production
24 systems that take into account production

1 efficiency, animal well-being, and animal
2 systems applicable to aquaculture.

3 “(C) FOOD SAFETY, NUTRITION, AND
4 HEALTH.—Nutrition, food safety and quality,
5 and health, including—

6 “(i) microbial contaminants and pes-
7 ticides residue relating to human health;

8 “(ii) links between diet and health;

9 “(iii) bioavailability of nutrients;

10 “(iv) postharvest physiology and prac-
11 tices; and

12 “(v) improved processing technologies.

13 “(D) RENEWABLE ENERGY, NATURAL RE-
14 SOURCES, AND ENVIRONMENT.—Natural re-
15 sources and the environment, including—

16 “(i) fundamental structures and func-
17 tions of ecosystems;

18 “(ii) biological and physical bases of
19 sustainable production systems;

20 “(iii) minimizing soil and water losses
21 and sustaining surface water and ground
22 water quality;

23 “(iv) global climate effects on agri-
24 culture;

25 “(v) forestry; and

1 “(vi) biological diversity.

2 “(E) AGRICULTURE SYSTEMS AND TECH-
3 NOLOGY.—Engineering, products, and proc-
4 esses, including—

5 “(i) new uses and new products from
6 traditional and nontraditional crops, ani-
7 mals, byproducts, and natural resources;

8 “(ii) robotics, energy efficiency, com-
9 puting, and expert systems;

10 “(iii) new hazard and risk assessment
11 and mitigation measures; and

12 “(iv) water quality and management.

13 “(F) AGRICULTURE ECONOMICS AND
14 RURAL COMMUNITIES.—Markets, trade, and
15 policy, including—

16 “(i) strategies for entering into and
17 being competitive in domestic and overseas
18 markets;

19 “(ii) farm efficiency and profitability,
20 including the viability and competitiveness
21 of small and medium-sized dairy, livestock,
22 crop and other commodity operations;

23 “(iii) new decision tools for farm and
24 market systems;

1 “(iv) choices and applications of tech-
2 nology;

3 “(v) technology assessment; and

4 “(vi) new approaches to rural develop-
5 ment, including rural entrepreneurship.

6 “(3) TERM.—The term of a competitive grant
7 made under this subsection may not exceed 10
8 years.

9 “(4) GENERAL ADMINISTRATION.—In making
10 grants under this subsection, the Secretary shall—

11 “(A) seek and accept proposals for grants;

12 “(B) determine the relevance and merit of
13 proposals through a system of peer and merit
14 review in accordance with section 103 of the
15 Agricultural Research, Extension, and Edu-
16 cation Reform Act of 1998 (7 U.S.C. 7613);

17 “(C) award grants on the basis of merit,
18 quality, and relevance;

19 “(D) solicit and consider input from per-
20 sons who conduct or use agricultural research,
21 extension, or education in accordance with sec-
22 tion 102(b) of the Agricultural Research, Ex-
23 tension, and Education Reform Act of 1998 (7
24 U.S.C. 7612(b)); and

1 “(E) in seeking proposals for grants under
2 this subsection and in performing peer review
3 evaluations of such proposals, seek the widest
4 participation of qualified individuals in the Fed-
5 eral Government, colleges and universities,
6 State agricultural experiment stations, and the
7 private sector.

8 “(5) ALLOCATION OF FUNDS.—In making
9 grants under this subsection, the Secretary shall al-
10 locate funds to the Agriculture and Food Research
11 Initiative to ensure that, of funds allocated for re-
12 search activities—

13 “(A) not less than 60 percent is made
14 available to make grants for fundamental re-
15 search (as defined in subsection (f)(1) of sec-
16 tion 251 of the Department of Agriculture Re-
17 organization Act of 1994 (7 U.S.C. 6971)), of
18 which—

19 “(i) not less than 30 percent is made
20 available to make grants for research to be
21 conducted by multidisciplinary teams; and

22 “(ii) not more than 2 percent is used
23 for equipment grants under paragraph
24 (6)(A); and

1 “(B) not less than 40 percent is made
2 available to make grants for applied research
3 (as defined in subsection (f)(1) of section 251
4 of the Department of Agriculture Reorganiza-
5 tion Act of 1994 (7 U.S.C. 6971)).

6 “(6) SPECIAL CONSIDERATIONS.—In making
7 grants under this subsection, the Secretary may as-
8 sist in the development of capabilities in the agricul-
9 tural, food, and environmental sciences by providing
10 grants—

11 “(A) to an institution to allow for the im-
12 provement of the research, development, tech-
13 nology transfer, and education capacity of the
14 institution through the acquisition of special re-
15 search equipment and the improvement of agri-
16 cultural education and teaching, except that the
17 Secretary shall use not less than 25 percent of
18 the funds made available for grants under this
19 subparagraph to provide fellowships to out-
20 standing pre- and post-doctoral students for re-
21 search in the agricultural sciences;

22 “(B) to a single investigator or coinvestiga-
23 tors who are beginning research careers and do
24 not have an extensive research publication
25 record, except that, to be eligible for a grant

1 under this subparagraph, an individual shall be
2 within 5 years of the beginning of the initial ca-
3 reer track position of the individual;

4 “(C) to ensure that the faculty of small,
5 mid-sized, and minority-serving institutions who
6 have not previously been successful in obtaining
7 competitive grants under this subsection receive
8 a portion of the grants; and

9 “(D) to improve research, extension, and
10 education capabilities in States (as defined in
11 section 1404 of the National Agricultural Re-
12 search, Extension, and Teaching Policy Act of
13 1977 (7 U.S.C. 3103)) in which institutions
14 have been less successful in receiving funding
15 under this subsection, based on a 3-year rolling
16 average of funding levels.

17 “(7) ELIGIBLE ENTITIES.—The Secretary may
18 make grants to carry out research, extension, and
19 education under this subsection to—

20 “(A) State agricultural experiment sta-
21 tions;

22 “(B) colleges and universities;

23 “(C) university research foundations;

24 “(D) other research institutions and orga-
25 nizations;

- 1 “(E) Federal agencies;
- 2 “(F) national laboratories;
- 3 “(G) private organizations or corporations;
- 4 “(H) individuals; or
- 5 “(I) any group consisting of 2 or more of
- 6 the entities described in subparagraphs (A)
- 7 through (H).

8 “(8) CONSTRUCTION PROHIBITED.—Funds

9 made available for grants under this subsection shall

10 not be used for the construction of a new building

11 or facility or the acquisition, expansion, remodeling,

12 or alteration of an existing building or facility (in-

13 cluding site grading and improvement, and architect

14 fees).

15 “(9) MATCHING FUNDS.—

16 “(A) EQUIPMENT GRANTS.—

17 “(i) IN GENERAL.—Except as pro-

18 vided in clause (ii), in the case of a grant

19 made under paragraph (6)(A), the amount

20 provided under this subsection may not ex-

21 ceed 50 percent of the cost of the special

22 research equipment or other equipment ac-

23 quired using funds from the grant.

24 “(ii) WAIVER.—The Secretary may

25 waive all or part of the matching require-

1 ment under clause (i) in the case of a col-
2 lege, university, or research foundation
3 maintained by a college or university that
4 ranks in the lowest $\frac{1}{3}$ of such colleges,
5 universities, and research foundations on
6 the basis of Federal research funds re-
7 ceived, if the equipment to be acquired
8 using funds from the grant costs not more
9 than \$25,000 and has multiple uses within
10 a single research project or is usable in
11 more than 1 research project.

12 “(B) APPLIED RESEARCH.—As a condition
13 of making a grant under paragraph (5)(B), the
14 Secretary shall require the funding of the grant
15 to be matched with equal matching funds from
16 a non-Federal source if the grant is for applied
17 research that is—

18 “(i) commodity-specific; and

19 “(ii) not of national scope.

20 “(10) PROGRAM ADMINISTRATION.—To the
21 maximum extent practicable, the Director of the Na-
22 tional Institute of Food and Agriculture, in coordi-
23 nation with the Under Secretary for Research, Edu-
24 cation, and Economics, shall allocate grants under
25 this subsection to high-priority research, taking into

1 consideration, when available, the determinations
2 made by the National Agricultural Research, Extension,
3 sion, Education, and Economics Advisory Board (as
4 established under section 1408 of the National Agricultural
5 Research, Extension, and Teaching Policy
6 Act of 1977 (7 U.S.C. 3123)).

7 “(11) AUTHORIZATION OF APPROPRIATIONS.—

8 “(A) IN GENERAL.—There is authorized to
9 be appropriated to carry out this subsection
10 \$700,000,000 for each of fiscal years 2008
11 through 2012, of which—

12 “(i) not less than 30 percent shall be
13 made available for integrated research pur-
14 suant to section 406 of the Agricultural
15 Research, Extension, and Education Re-
16 form Act of 1998 (7 U.S.C. 7626); and

17 “(ii) not more than 4 percent may be
18 retained by the Secretary to pay adminis-
19 trative costs incurred by the Secretary in
20 carrying out this subsection.

21 “(B) AVAILABILITY.—Funds made avail-
22 able under this paragraph shall—

23 “(i) be available for obligation for a 2-
24 year period beginning on October 1 of the

1 fiscal year for which the funds are first
2 made available; and

3 “(ii) remain available until expended
4 to pay for obligations incurred during that
5 2-year period.”.

6 (b) REPEALS.—

7 (1) Section 401 of the Agricultural Research,
8 Extension, and Education Reform Act of 1998 (7
9 U.S.C. 7621) is repealed.

10 (2) Subsection (d) of the Competitive, Special,
11 and Facilities Research Grant Act (7 U.S.C.
12 450i(d)) is repealed.

13 (c) EFFECT ON CURRENT SOLICITATIONS.—The
14 amendments made by this section shall not apply to any
15 solicitation for grant applications issued by the Coopera-
16 tive State Research, Education, and Extension Service be-
17 fore the date of enactment of this Act.

18 (d) CONFORMING AMENDMENTS.—

19 (1) Section 1473 of the National Agricultural
20 Research, Extension, and Teaching Policy Act of
21 1977 (7 U.S.C. 3319) is amended in the first sen-
22 tence by striking “and subsection (d)”.

23 (2) Section 1671(d) of the Food, Agriculture,
24 Conservation, and Trade Act of 1990 (7 U.S.C.
25 5924(d)) is amended by striking “Paragraphs (1),

1 (6), (7), and (11)” and inserting “Paragraphs (4),
2 (7), (8), and (11)(B)”.

3 (3) Section 1672B(b) of the Food, Agriculture,
4 Conservation, and Trade Act of 1990 (7 U.S.C.
5 5925b(b)) is amended by striking “Paragraphs (1),
6 (6), (7), and (11)” and inserting “Paragraphs (4),
7 (7), (8), and (11)(B)”.

8 **SEC. 7407. AGRICULTURAL RISK PROTECTION ACT OF 2000.**

9 Section 221 of the Agricultural Risk Protection Act
10 of 2000 (7 U.S.C. 6711(g)) is amended by striking sub-
11 section (g) and inserting the following:

12 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
13 is authorized to be appropriated to carry out this section
14 \$15,000,000 for each of fiscal years 2007 through 2012.”.

15 **SEC. 7408. EXCHANGE OR SALE AUTHORITY.**

16 Title III of the Department of Agriculture Reorga-
17 nization Act of 1994 (Public Law 103–354; 108 Stat.
18 3238) is amended by adding at the end the following:

19 **“SEC. 307. EXCHANGE OR SALE AUTHORITY.**

20 “(a) DEFINITION OF QUALIFIED ITEM OF PERSONAL
21 PROPERTY.—In this section, the term ‘qualified item of
22 personal property’ means—

23 “(1) an animal;

24 “(2) an animal product;

25 “(3) a plant; or

1 “(4) a plant product.

2 “(b) GENERAL AUTHORITY.—Except as provided in
3 subsection (c), notwithstanding chapter 5 of subtitle I of
4 title 40, United States Code, the Secretary, acting through
5 the Under Secretary for Research, Education, and Eco-
6 nomics, in managing personal property for the purpose of
7 carrying out the research functions of the Department,
8 may exchange, sell, or otherwise dispose of any qualified
9 item of personal property, including by way of public auc-
10 tion, and may retain and apply the sale or other proceeds,
11 without further appropriation and without fiscal year limi-
12 tation, in whole or in partial payment—

13 “(1) to acquire any qualified item of personal
14 property; or

15 “(2) to offset costs related to the maintenance,
16 care, or feeding of any qualified item of personal
17 property.

18 “(c) EXCEPTION.—Subsection (b) does not apply to
19 the free dissemination of new varieties of seeds and
20 germplasm in accordance with section 520 of the Revised
21 Statutes (commonly known as the ‘Department of Agri-
22 culture Organic Act’) (7 U.S.C. 2201).”.

1 **SEC. 7409. ENHANCED USE LEASE AUTHORITY PILOT PRO-**
2 **GRAM.**

3 Title III of the Department of Agriculture Reorga-
4 nization Act of 1994 (Public Law 103–354; 108 Stat.
5 3238) (as amended by section 7408) is amended by adding
6 at the end the following:

7 **“SEC. 308. ENHANCED USE LEASE AUTHORITY PILOT PRO-**
8 **GRAM.**

9 “(a) ESTABLISHMENT.—To enhance the use of real
10 property administered by agencies of the Department, the
11 Secretary may establish a pilot program, in accordance
12 with this section, at the Beltsville Agricultural Research
13 Center of the Agricultural Research Service and the Na-
14 tional Agricultural Library to lease nonexcess property of
15 the Center or the Library to any individual or entity, in-
16 cluding agencies or instrumentalities of State or local gov-
17 ernments.

18 “(b) REQUIREMENTS.—

19 “(1) IN GENERAL.—Notwithstanding chapter 5
20 of subtitle I of title 40, United States Code, the Sec-
21 retary may lease real property at the Beltsville Agri-
22 cultural Research Center or the National Agricul-
23 tural Library in accordance with such terms and
24 conditions as the Secretary may prescribe, if the
25 Secretary determines that the lease—

1 “(A) is consistent with, and will not ad-
2 versely affect, the mission of the Department
3 agency administering the property;

4 “(B) will enhance the use of the property;

5 “(C) will not permit any portion of Depart-
6 ment agency property or any facility of the De-
7 partment to be used for the public retail or
8 wholesale sale of merchandise or residential de-
9 velopment;

10 “(D) will not permit the construction or
11 modification of facilities financed by non-Fed-
12 eral sources to be used by an agency, except for
13 incidental use; and

14 “(E) will not include any property or facil-
15 ity required for any Department agency pur-
16 pose without prior consideration of the needs of
17 the agency.

18 “(2) TERM.—The term of a lease under this
19 section shall not exceed 30 years.

20 “(3) CONSIDERATION.—

21 “(A) IN GENERAL.—Consideration pro-
22 vided for a lease under this section shall be—

23 “(i) in an amount equal to fair mar-
24 ket value, as determined by the Secretary;
25 and

1 “(ii) in the form of cash.

2 “(B) USE OF FUNDS.—

3 “(i) IN GENERAL.—Consideration pro-
4 vided for a lease under this section shall
5 be—

6 “(I) deposited in a capital asset
7 account to be established by the Sec-
8 retary; and

9 “(II) available until expended,
10 without further appropriation, for
11 maintenance, capital revitalization,
12 and improvements of the Department
13 properties and facilities at the Belts-
14 ville Agricultural Research Center and
15 National Agricultural Library.

16 “(ii) BUDGETARY TREATMENT.—For
17 purposes of the budget, the amounts de-
18 scribed in clause (i) shall not be treated as
19 a receipt of any Department agency or any
20 other agency leasing property under this
21 section.

22 “(4) COSTS.—The lessee shall cover all costs
23 associated with a lease under this section, including
24 the cost of—

1 “(A) the project to be carried out on prop-
2 erty or at a facility covered by the lease;

3 “(B) provision and administration of the
4 lease;

5 “(C) construction of any needed facilities;

6 “(D) provision of applicable utilities; and

7 “(E) any other facility cost normally asso-
8 ciated with the operation of a leased facility.

9 “(5) PROHIBITION OF USE OF APPROPRIA-
10 TIONS.—The Secretary shall not use any funds made
11 available to the Secretary in an appropriations Act
12 for the construction or operating costs of any space
13 covered by a lease under this section.

14 “(6) TERMINATION OF AUTHORITY.—This sec-
15 tion and the authority provided by this section ter-
16 minate—

17 “(A) on the date that is 5 years after the
18 date of enactment of this section; or

19 “(B) with respect to any particular leased
20 property, on the date of termination of the
21 lease.

22 “(c) EFFECT OF OTHER LAWS.—

23 “(1) UTILIZATION.—Property that is leased
24 pursuant to this section shall not be considered to
25 be unutilized or underutilized for purposes of section

1 501 of the Stewart B. McKinney Homeless Assist-
2 ance Act (42 U.S.C. 11411).

3 “(2) DISPOSAL.—Property at the Beltsville Ag-
4 ricultural Research Center or the National Agricul-
5 tural Library that is leased pursuant to this section
6 shall not be considered to be disposed of by sale,
7 lease, rental, excessing, or surplusing for purposes of
8 section 523 of Public Law 100–202 (101 Stat.
9 1329-417).

10 “(d) ADMINISTRATION.—

11 “(1) IN GENERAL.—Not later than 90 days
12 after the date of enactment of this section, the Sec-
13 retary shall submit to the Committee on Agriculture
14 of the House of Representatives and the Committee
15 on Agriculture, Nutrition, and Forestry of the Sen-
16 ate a report that describes detailed management ob-
17 jectives and performance measurements by which
18 the Secretary intends to evaluate the success of the
19 program under this section.

20 “(2) REPORTS.—Not later than 1, 3, and 5
21 years after the date of enactment of this section, the
22 Secretary shall submit to the Committee on Agri-
23 culture of the House of Representatives and the
24 Committee on Agriculture, Nutrition, and Forestry

1 of the Senate a report describing the implementation
2 of the program under this section, including—

3 “(A) a copy of each lease entered into pur-
4 suant to this section; and

5 “(B) an assessment by the Secretary of the
6 success of the program using the management
7 objectives and performance measurements de-
8 veloped by the Secretary.”.

9 **SEC. 7410. BEGINNING FARMER AND RANCHER DEVELOP-**
10 **MENT PROGRAM.**

11 (a) GRANTS.—Section 7405(c) of the Farm Security
12 and Rural Investment Act of 2002 (7 U.S.C. 3319f(e))
13 is amended—

14 (1) by striking paragraph (3) and inserting the
15 following:

16 “(3) MAXIMUM TERM AND SIZE OF GRANT.—

17 “(A) IN GENERAL.—A grant under this
18 subsection shall—

19 “(i) have a term that is not more than
20 3 years; and

21 “(ii) be in an amount that is not more
22 than \$250,000 for each year.

23 “(B) CONSECUTIVE GRANTS.—An eligible
24 recipient may receive consecutive grants under
25 this subsection.”;

1 (2) by redesignating paragraphs (5) through
2 (7) as paragraphs (8) through (10), respectively;

3 (3) by inserting after paragraph (4) the fol-
4 lowing:

5 “(5) EVALUATION CRITERIA.—In making
6 grants under this subsection, the Secretary shall
7 evaluate—

8 “(A) relevancy;

9 “(B) technical merit;

10 “(C) achievability;

11 “(D) the expertise and track record of 1 or
12 more applicants;

13 “(E) the adequacy of plans for the
14 participatory evaluation process, outcome-based
15 reporting, and the communication of findings
16 and results beyond the immediate target audi-
17 ence; and

18 “(F) other appropriate factors, as deter-
19 mined by the Secretary.

20 “(6) REGIONAL BALANCE.—In making grants
21 under this subsection, the Secretary shall, to the
22 maximum extent practicable, ensure geographical di-
23 versity.

24 “(7) PRIORITY.—In making grants under this
25 subsection, the Secretary shall give priority to part-

1 nerships and collaborations that are led by or in-
2 clude nongovernmental and community-based organi-
3 zations with expertise in new agricultural producer
4 training and outreach.”.

5 (b) FUNDING.—Section 7405 of the Farm Security
6 and Rural Investment Act of 2002 (7 U.S.C. 3319f) is
7 amended by striking subsection (h) and inserting the fol-
8 lowing:

9 “(h) FUNDING.—

10 “(1) IN GENERAL.—Of the funds of the Com-
11 modity Credit Corporation, the Secretary shall make
12 available to carry out this section—

13 “(A) \$18,000,000 for fiscal year 2009; and

14 “(B) \$19,000,000 for each of fiscal years
15 2010 through 2012.

16 “(2) AUTHORIZATION OF APPROPRIATIONS.—In
17 addition to funds provided under paragraph (1),
18 there is authorized to be appropriated to carry out
19 this section \$30,000,000 for each of fiscal years
20 2008 through 2012.”.

21 **SEC. 7411. PUBLIC EDUCATION REGARDING USE OF BIO-**
22 **TECHNOLOGY IN PRODUCING FOOD FOR**
23 **HUMAN CONSUMPTION.**

24 Section 10802 of the Farm Security and Rural In-
25 vestment Act of 2002 (7 U.S.C. 5921a) is repealed.

1 **SEC. 7412. MCINTIRE-STENNIS COOPERATIVE FORESTRY**
2 **ACT.**

3 (a) IN GENERAL.—Section 2 of Public Law 87–788
4 (commonly known as the “McIntire-Stennis Cooperative
5 Forestry Act”) (16 U.S.C. 582a–1) is amended by insert-
6 ing “and 1890 Institutions (as defined in section 2 of the
7 Agricultural Research, Extension, and Education Reform
8 Act of 1998 (7 U.S.C. 7601)),” before “and (b)”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) takes effect on October 1, 2008.

11 **SEC. 7413. RENEWABLE RESOURCES EXTENSION ACT OF**
12 **1978.**

13 (a) AUTHORIZATION OF APPROPRIATIONS.—Section
14 6 of the Renewable Resources Extension Act of 1978 (16
15 U.S.C. 1675) is amended in the first sentence by striking
16 “2007” and inserting “2012”.

17 (b) TERMINATION DATE.—Section 8 of the Renew-
18 able Resources Extension Act of 1978 (16 U.S.C. 1671
19 note; Public Law 95–306) is amended by striking “2007”
20 and inserting “2012”.

21 **SEC. 7414. NATIONAL AQUACULTURE ACT OF 1980.**

22 Section 10 of the National Aquaculture Act of 1980
23 (16 U.S.C. 2809) is amended by striking “2007” each
24 place it appears and inserting “2012”.

1 **SEC. 7415. CONSTRUCTION OF CHINESE GARDEN AT THE**
2 **NATIONAL ARBORETUM.**

3 The Act of March 4, 1927 (20 U.S.C. 191 et seq.),
4 is amended by adding at the end the following:

5 **“SEC. 7. CONSTRUCTION OF CHINESE GARDEN AT THE NA-**
6 **TIONAL ARBORETUM.**

7 “A Chinese Garden may be constructed at the Na-
8 tional Arboretum established under this Act with—

9 “(1) funds accepted under section 5;

10 “(2) authorities provided to the Secretary of
11 Agriculture under section 6; and

12 “(3) appropriations provided for this purpose.”.

13 **SEC. 7416. NATIONAL AGRICULTURAL RESEARCH, EXTEN-**
14 **SION, AND TEACHING POLICY ACT AMEND-**
15 **MENTS OF 1985.**

16 Section 1431 of the National Agricultural Research,
17 Extension, and Teaching Policy Act Amendments of 1985
18 (Public Law 99–198; 99 Stat. 1556) is amended by strik-
19 ing “2007” and inserting “2012”.

20 **SEC. 7417. ELIGIBILITY OF UNIVERSITY OF THE DISTRICT**
21 **OF COLUMBIA FOR CERTAIN LAND-GRANT**
22 **UNIVERSITY ASSISTANCE.**

23 (a) IN GENERAL.—Section 208 of the District of Co-
24 lumbia Public Postsecondary Education Reorganization
25 Act (Public Law 93–471; 88 Stat. 1428) is amended—

1 (1) in subsection (b)(2), by striking “, except”
2 and all that follows through the period and inserting
3 a period; and

4 (2) in subsection (c)—

5 (A) by striking “section 3” each place it
6 appears and inserting “section 3(c)”; and

7 (B) by striking “Such sums may be used
8 to pay” and all that follows through “work.”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 this section take effect on October 1, 2008.

11 **Subtitle E—Miscellaneous**

12 **PART I—GENERAL PROVISIONS**

13 **SEC. 7501. DEFINITIONS.**

14 Except as otherwise provided in this subtitle, in this
15 subtitle:

16 (1) CAPACITY AND INFRASTRUCTURE PRO-
17 GRAM.—The term “capacity and infrastructure pro-
18 gram” has the meaning given the term in subsection
19 (f)(1) of section 251 of the Department of Agri-
20 culture Reorganization Act of 1994 (7 U.S.C. 6971)
21 (as added by section 7511(a)(4)).

22 (2) CAPACITY AND INFRASTRUCTURE PROGRAM
23 CRITICAL BASE FUNDING.—The term “capacity and
24 infrastructure program critical base funding” means
25 the aggregate amount of Federal funds made avail-

1 able for capacity and infrastructure programs for
2 fiscal year 2006, as appropriate.

3 (3) COMPETITIVE PROGRAM.—The term “com-
4 petitive program” has the meaning given the term in
5 subsection (f)(1) of section 251 of the Department
6 of Agriculture Reorganization Act of 1994 (7 U.S.C.
7 6971) (as added by section 7511(a)(4)).

8 (4) COMPETITIVE PROGRAM CRITICAL BASE
9 FUNDING.—The term “competitive program critical
10 base funding” means the aggregate amount of Fed-
11 eral funds made available for competitive programs
12 for fiscal year 2006, as appropriate.

13 (5) HISPANIC-SERVING AGRICULTURAL COL-
14 LEGES AND UNIVERSITIES.—The term “Hispanic-
15 serving agricultural colleges and universities” has
16 the meaning given the term in section 1404 of the
17 National Agricultural Research, Extension, and
18 Teaching Policy Act of 1977 (7 U.S.C. 3103).

19 (6) NLGCA INSTITUTION.—The term “NLGCA
20 Institution” has the meaning given the term in sec-
21 tion 1404 of the National Agricultural Research,
22 Extension, and Teaching Policy Act of 1977 (7
23 U.S.C. 3103).

24 (7) 1862 INSTITUTION; 1890 INSTITUTION; 1994
25 INSTITUTION.—The terms “1862 Institution”,

1 “1890 Institution”, and “1994 Institution” have the
2 meanings given the terms in section 2 of the Agri-
3 cultural Research, Extension, and Education Reform
4 Act of 1998 (7 U.S.C. 7601).

5 **SEC. 7502. GRAZINGLANDS RESEARCH LABORATORY.**

6 Except as otherwise specifically authorized by law
7 and notwithstanding any other provision of law, the Fed-
8 eral land and facilities at El Reno, Oklahoma, adminis-
9 tered by the Secretary (as of the date of enactment of this
10 Act) as the Grazinglands Research Laboratory, shall not
11 at any time, in whole or in part, be declared to be excess
12 or surplus Federal property under chapter 5 of subtitle
13 I of title 40, United States Code, or otherwise be conveyed
14 or transferred in whole or in part, for the 5-year period
15 beginning on the date of enactment of this Act.

16 **SEC. 7503. FORT RENO SCIENCE PARK RESEARCH FACIL-**
17 **ITY.**

18 The Secretary may lease land to the University of
19 Oklahoma at the Grazinglands Research Laboratory at El
20 Reno, Oklahoma, on such terms and conditions as the
21 University and the Secretary may agree in furtherance of
22 cooperative research and existing easement arrangements.

23 **SEC. 7504. ROADMAP.**

24 (a) IN GENERAL.—Not later than 90 days after the
25 date of enactment of this Act, the Secretary, acting

1 through the Under Secretary of Research, Education, and
2 Economics (referred to in this section as the “Under Sec-
3 retary”), shall commence preparation of a roadmap for ag-
4 ricultural research, education, and extension that—

5 (1) identifies current trends and constraints;

6 (2) identifies major opportunities and gaps that
7 no single entity within the Department of Agri-
8 culture would be able to address individually;

9 (3) involves—

10 (A) interested parties from the Federal
11 Government and nongovernmental entities; and

12 (B) the National Agricultural Research,
13 Extension, Education, and Economics Advisory
14 Board established under section 1408 of the
15 National Agricultural Research, Extension, and
16 Teaching Policy Act of 1977 (7 U.S.C. 3123);

17 (4) incorporates roadmaps for agricultural re-
18 search, education, and extension made publicly avail-
19 able by other Federal entities, agencies, or offices;
20 and

21 (5) describes recommended funding levels for
22 areas of agricultural research, education, and exten-
23 sion, including—

24 (A) competitive programs;

1 (B) capacity and infrastructure programs,
2 with attention to the future growth needs of—

3 (i) small 1862 Institutions, 1890 In-
4 stitutions, and 1994 Institutions;

5 (ii) Hispanic-serving agricultural col-
6 leges and universities;

7 (iii) NLGCA Institutions; and

8 (iv) colleges of veterinary medicine;

9 and

10 (C) intramural programs at agencies with-
11 in the research, education, and economics mis-
12 sion area; and

13 (6) describes how organizational changes en-
14 acted by this Act have impacted agricultural re-
15 search, extension, and education across the Depart-
16 ment of Agriculture, including minimization of un-
17 necessary programmatic and administrative duplica-
18 tion.

19 (b) REVIEWABILITY.—The roadmap described in this
20 section shall not be subject to review by any officer or em-
21 ployee of the Federal Government other than the Sec-
22 retary (or a designee of the Secretary).

23 (c) ROADMAP IMPLEMENTATION AND REPORT.—Not
24 later than 1 year after the date on which the Secretary

1 commences preparation of the roadmap under this section,
2 the Secretary shall—

3 (1) implement and use the roadmap to set the
4 research, education, and extension agenda of the De-
5 partment of Agriculture; and

6 (2) make the roadmap available to the public.

7 **SEC. 7505. REVIEW OF PLAN OF WORK REQUIREMENTS.**

8 (a) **REVIEW.**—The Secretary shall work with univer-
9 sity partners in extension and research to review and iden-
10 tify measures to streamline the submission, reporting
11 under, and implementation of plan of work requirements,
12 including those requirements under—

13 (1) sections 1444(d) and 1445(c) of the Na-
14 tional Agricultural Research, Extension, and Teach-
15 ing Policy Act of 1977 (7 U.S.C. 3221(d) and
16 3222(e), respectively);

17 (2) section 7 of the Hatch Act of 1887 (7
18 U.S.C. 361g); and

19 (3) section 4 of the Smith-Lever Act (7 U.S.C.
20 344).

21 (b) **CONSULTATION.**—In carrying out the review and
22 formulating and compiling the recommendations, the Sec-
23 retary shall consult with the land-grant institutions.

1 **SEC. 7506. BUDGET SUBMISSION AND FUNDING.**

2 (a) DEFINITION OF COMPETITIVE PROGRAMS.—In
3 this section, the term “competitive programs” includes
4 only competitive programs for which annual appropria-
5 tions are requested in the annual budget submission of
6 the President.

7 (b) BUDGET REQUEST.—The President shall submit
8 to Congress, together with the annual budget submission
9 of the President, a single budget line item reflecting the
10 total amount requested by the President for funding for
11 research, education, and extension activities of the Re-
12 search, Education, and Economics mission area of the De-
13 partment for that fiscal year and for the preceding 5 fiscal
14 years.

15 (c) CAPACITY AND INFRASTRUCTURE PROGRAM RE-
16 QUEST.—Of the funds requested for capacity and infra-
17 structure programs in excess of the capacity and infra-
18 structure program critical base funding level, budgetary
19 emphasis should be placed on enhancing funding for—

- 20 (1) 1890 Institutions;
21 (2) 1994 Institutions;
22 (3) NLGCA Institutions;
23 (4) Hispanic-serving agricultural colleges and
24 universities; and
25 (5) small 1862 Institutions.

1 (d) COMPETITIVE PROGRAM REQUEST.—Of the
2 funds requested for competitive programs in excess of the
3 competitive program critical base funding level, budgetary
4 emphasis should be placed on—

5 (1) enhancing funding for emerging problems;

6 and

7 (2) finding solutions for those problems.

8 **PART II—RESEARCH, EDUCATION, AND**
9 **ECONOMICS**

10 **SEC. 7511. RESEARCH, EDUCATION, AND ECONOMICS.**

11 (a) IN GENERAL.—Section 251 of the Department of
12 Agriculture Reorganization Act of 1994 (7 U.S.C. 6971)
13 is amended—

14 (1) in subsection (a), by inserting “(referred to
15 in this section as the ‘Under Secretary’)” before the
16 period at the end;

17 (2) by striking subsections (b) through (d);

18 (3) by redesignating subsection (e) as sub-
19 section (g); and

20 (4) by inserting after subsection (a) the fol-
21 lowing:

22 “(b) CONFIRMATION REQUIRED.—The Under Sec-
23 retary shall be appointed by the President, by and with
24 the advice and consent of the Senate, from among distin-
25 guished scientists with specialized training or significant

1 experience in agricultural research, education, and eco-
2 nomics.

3 “(c) CHIEF SCIENTIST.—The Under Secretary
4 shall—

5 “(1) hold the title of Chief Scientist of the De-
6 partment; and

7 “(2) be responsible for the coordination of the
8 research, education, and extension activities of the
9 Department.

10 “(d) FUNCTIONS OF UNDER SECRETARY.—

11 “(1) PRINCIPAL FUNCTION.—The Secretary
12 shall delegate to the Under Secretary those func-
13 tions and duties under the jurisdiction of the De-
14 partment that relate to research, education, and eco-
15 nomics.

16 “(2) SPECIFIC FUNCTIONS AND DUTIES.—The
17 Under Secretary shall—

18 “(A) identify, address, and prioritize cur-
19 rent and emerging agricultural research, edu-
20 cation, and extension needs (including funding);

21 “(B) ensure that agricultural research,
22 education, and extension programs are effec-
23 tively coordinated and integrated—

24 “(i) across disciplines, agencies, and
25 institutions; and

1 “(ii) among applicable participants,
2 grantees, and beneficiaries;

3 “(C) promote the collaborative use of all
4 agricultural research, education, and extension
5 resources from the local, State, tribal, regional,
6 national, and international levels to address pri-
7 ority needs; and

8 “(D) foster communication among agricul-
9 tural research, education, and extension bene-
10 ficiaries, including the public, to ensure the de-
11 livery of agricultural research, education, and
12 extension knowledge.

13 “(3) **ADDITIONAL FUNCTIONS.**—The Under
14 Secretary shall perform such other functions and du-
15 ties as may be required by law or prescribed by the
16 Secretary.

17 “(e) **RESEARCH, EDUCATION, AND EXTENSION OF-**
18 **FICE.**—

19 “(1) **ESTABLISHMENT.**—The Under Secretary
20 shall organize within the office of the Under Sec-
21 retary 6 Divisions, to be known collectively as the
22 ‘Research, Education, and Extension Office’, which
23 shall coordinate the research programs and activities
24 of the Department.

1 “(2) DIVISION DESIGNATIONS.—The Divisions
2 within the Research, Education, and Extension Of-
3 fice shall be as follows:

4 “(A) Renewable energy, natural resources,
5 and environment.

6 “(B) Food safety, nutrition, and health.

7 “(C) Plant health and production and
8 plant products.

9 “(D) Animal health and production and
10 animal products.

11 “(E) Agricultural systems and technology.

12 “(F) Agricultural economics and rural
13 communities.

14 “(3) DIVISION CHIEFS.—

15 “(A) SELECTION.—The Under Secretary
16 shall select a Division Chief for each Division
17 using available personnel authority under title
18 5, United States Code, including—

19 “(i) by term, temporary, or other ap-
20 pointment, without regard to—

21 “(I) the provisions of title 5,
22 United States Code, governing ap-
23 pointments in the competitive service;

24 “(II) the provisions of subchapter
25 I of chapter 35 of title 5, United

1 States Code, relating to retention
2 preference; and

3 “(III) the provisions of chapter
4 51 and subchapter III of chapter 53
5 of title 5, United States Code, relating
6 to classification and General Schedule
7 pay rates;

8 “(ii) by detail, notwithstanding any
9 Act making appropriations for the Depart-
10 ment of Agriculture, whether enacted be-
11 fore, on, or after the date of enactment of
12 this paragraph, requiring reimbursement
13 for those details unless the appropriation
14 Act specifically refers to this subsection
15 and specifically includes these details;

16 “(iii) by reassignment or transfer
17 from any other civil service position; and

18 “(iv) by an assignment under sub-
19 chapter VI of chapter 33 of title 5, United
20 States Code.

21 “(B) SELECTION GUIDELINES.—To the
22 maximum extent practicable, the Under Sec-
23 retary shall select Division Chiefs under sub-
24 paragraph (A) in a manner that—

1 “(i) promotes leadership and profes-
2 sional development;

3 “(ii) enables personnel to interact
4 with other agencies of the Department;
5 and

6 “(iii) maximizes the ability of the
7 Under Secretary to allow for rotations of
8 Department personnel into the position of
9 Division Chief.

10 “(C) TERM OF SERVICE.—Notwithstanding
11 title 5, United States Code, the maximum
12 length of service for an individual selected as a
13 Division Chief under subparagraph (A) shall
14 not exceed 4 years.

15 “(D) QUALIFICATIONS.—To be eligible for
16 selection as a Division Chief, an individual shall
17 have—

18 “(i) conducted exemplary research,
19 education, or extension in the field of agri-
20 culture or forestry; and

21 “(ii) earned an advanced degree at an
22 institution of higher education (as defined
23 in section 101 of the Higher Education
24 Act of 1965 (20 U.S.C. 1001)).

1 “(E) DUTIES OF DIVISION CHIEFS.—Ex-
2 cept as otherwise provided in this Act, each Di-
3 vision Chief shall—

4 “(i) assist the Under Secretary in
5 identifying and addressing emerging agri-
6 cultural research, education, and extension
7 needs;

8 “(ii) assist the Under Secretary in
9 identifying and prioritizing Department-
10 wide agricultural research, education, and
11 extension needs, including funding;

12 “(iii) assess the strategic workforce
13 needs of the research, education, and ex-
14 tension functions of the Department, and
15 develop strategic workforce plans to ensure
16 that existing and future workforce needs
17 are met;

18 “(iv) communicate with research, edu-
19 cation, and extension beneficiaries, includ-
20 ing the public, and representatives of the
21 research, education, and extension system,
22 including the National Agricultural Re-
23 search, Extension, Education, and Eco-
24 nomics Advisory Board, to promote the

1 benefits of agricultural research, education,
2 and extension;

3 “(v) assist the Under Secretary in
4 preparing and implementing the roadmap
5 for agricultural research, education, and
6 extension, as described in section 7504 of
7 the Food, Conservation, and Energy Act of
8 2008; and

9 “(vi) perform such other duties as the
10 Under Secretary may determine.

11 “(4) GENERAL ADMINISTRATION.—

12 “(A) FUNDING.—Notwithstanding any Act
13 making appropriations for the Department of
14 Agriculture, whether enacted before, on, or
15 after the date of enactment of this paragraph
16 unless the appropriation Act specifically refers
17 to this subsection and specifically includes the
18 administration of funds under this section, the
19 Secretary may transfer funds made available to
20 an agency in the research, education, and eco-
21 nomics mission area to fund the costs of Divi-
22 sion personnel.

23 “(B) LIMITATION.—To the maximum ex-
24 tent practicable—

1 “(i) the Under Secretary shall mini-
2 mize the number of full-time equivalent po-
3 sitions in the Divisions; and

4 “(ii) at no time shall the aggregate
5 number of staff for all Divisions exceed 30
6 full-time equivalent positions.

7 “(C) ROTATION OF PERSONNEL.—To the
8 maximum extent practicable, and using the au-
9 thority described in paragraph (3)(A), the
10 Under Secretary shall rotate personnel among
11 the Divisions, and between the Divisions and
12 agencies of the Department, in a manner
13 that—

14 “(i) promotes leadership and profes-
15 sional development; and

16 “(ii) enables personnel to interact
17 with other agencies of the Department.

18 “(5) ORGANIZATION.—The Under Secretary
19 shall integrate leadership functions of the national
20 program staff of the research agencies into the Re-
21 search, Education and Extension Office in such form
22 as is required to ensure that administrative duplica-
23 tion does not occur.

24 “(f) NATIONAL INSTITUTE OF FOOD AND AGRI-
25 CULTURE.—

1 “(1) DEFINITIONS.—In this subsection:

2 “(A) ADVISORY BOARD.—The term ‘Advi-
3 sory Board’ means the National Agricultural
4 Research, Extension, Education, and Econom-
5 ics Advisory Board established under section
6 1408 of the National Agricultural Research,
7 Extension, and Teaching Policy Act of 1977 (7
8 U.S.C. 3123).

9 “(B) APPLIED RESEARCH.—The term ‘ap-
10 plied research’ means research that includes ex-
11 pansion of the findings of fundamental research
12 to uncover practical ways in which new knowl-
13 edge can be advanced to benefit individuals and
14 society.

15 “(C) CAPACITY AND INFRASTRUCTURE
16 PROGRAM.—The term ‘capacity and infrastruc-
17 ture program’ means each of the following agri-
18 cultural research, extension, education, and re-
19 lated programs for which the Secretary has ad-
20 ministrative or other authority as of the day be-
21 fore the date of enactment of the Food, Con-
22 servation, and Energy Act of 2008:

23 “(i) Each program providing funding
24 to any of the 1994 Institutions under sec-
25 tions 533, 534(a), and 535 of the Equity

1 in Educational Land-Grant Status Act of
2 1994 (7 U.S.C. 301 note; Public Law 103–
3 382).

4 “(ii) The program established under
5 section 536 of the Equity in Educational
6 Land-Grant Status Act of 1994 (7 U.S.C.
7 301 note; Public Law 103–382) providing
8 research grants for 1994 Institutions.

9 “(iii) Each program established under
10 subsections (b) and (c) of section 3 of the
11 Smith-Lever Act (7 U.S.C. 343).

12 “(iv) Each program established under
13 the Hatch Act of 1887 (7 U.S.C. 361a et
14 seq.).

15 “(v) Each program established under
16 section 1417(b) of the National Agricul-
17 tural Research, Extension, and Teaching
18 Policy Act of 1977 (7 U.S.C. 3152(b)).

19 “(vi) The animal health and disease
20 research program established under sub-
21 title E of the National Agricultural Re-
22 search, Extension, and Teaching Policy
23 Act of 1977 (7 U.S.C. 3191 et seq.).

24 “(vii) Each extension program avail-
25 able to 1890 Institutions established under

1 section 1444 of the National Agricultural
2 Research, Extension, and Teaching Policy
3 Act of 1977 (7 U.S.C. 3221).

4 “(viii) The program established under
5 section 1445 of the National Agricultural
6 Research, Extension, and Teaching Policy
7 Act of 1977 (7 U.S.C. 3222).

8 “(ix) The program providing grants to
9 upgrade agricultural and food sciences fa-
10 cilities at 1890 Institutions established
11 under section 1447 of the National Agri-
12 cultural Research, Extension, and Teach-
13 ing Policy Act of 1977 (7 U.S.C. 3222b).

14 “(x) The program providing distance
15 education grants for insular areas estab-
16 lished under section 1490 of the National
17 Agricultural Research, Extension, and
18 Teaching Policy Act of 1977 (7 U.S.C.
19 3362).

20 “(xi) The program providing resident
21 instruction grants for insular areas estab-
22 lished under section 1491 of the National
23 Agricultural Research, Extension, and
24 Teaching Policy Act of 1977 (7 U.S.C.
25 3363).

1 “(xii) Each research and development
2 and related program established under
3 Public Law 87–788 (commonly known as
4 the ‘McIntire-Stennis Cooperative Forestry
5 Act’) (16 U.S.C. 582a et seq.).

6 “(xiii) Each program established
7 under the Renewable Resources Extension
8 Act of 1978 (16 U.S.C. 1671 et seq.).

9 “(xiv) Each program providing fund-
10 ing to Hispanic-serving agricultural col-
11 leges and universities under section 1456
12 of the National Agricultural Research, Ex-
13 tension, and Teaching Policy Act of 1977.

14 “(xv) The program providing capacity
15 grants to NLGCA Institutions under sec-
16 tion 1473F of the National Agricultural
17 Research, Extension, and Teaching Policy
18 Act of 1977.

19 “(xvi) Other programs that are capac-
20 ity and infrastructure programs, as deter-
21 mined by the Secretary.

22 “(D) COMPETITIVE PROGRAM.—The term
23 ‘competitive program’ means each of the fol-
24 lowing agricultural research, extension, edu-
25 cation, and related programs for which the Sec-

1 retary has administrative or other authority as
2 of the day before the date of enactment of the
3 Food, Conservation, and Energy Act of 2008:

4 “(i) The Agriculture and Food Re-
5 search Initiative established under section
6 2(b) of the Competitive, Special, and Fa-
7 cilities Research Grant Act (7 U.S.C.
8 450i(b)).

9 “(ii) The program providing competi-
10 tive grants for risk management education
11 established under section 524(a)(3) of the
12 Federal Crop Insurance Act (7 U.S.C.
13 1524(a)(3)).

14 “(iii) The program providing commu-
15 nity food project competitive grants estab-
16 lished under section 25 of the Food and
17 Nutrition Act of 2008 (7 U.S.C. 2034).

18 “(iv) The program providing grants
19 for beginning farmer and rancher develop-
20 ment established under section 7405 of the
21 Farm Security and Rural Investment Act
22 of 2002 (7 U.S.C. 3319f).

23 “(v) The program providing grants
24 under section 1417(j) of the National Agri-

1 cultural Research, Extension, and Teach-
2 ing Policy Act of 1977 (7 U.S.C. 3152(j)).

3 “(vi) The program providing grants
4 for Hispanic-serving institutions estab-
5 lished under section 1455 of the National
6 Agricultural Research, Extension, and
7 Teaching Policy Act of 1977 (7 U.S.C.
8 3241).

9 “(vii) The program providing competi-
10 tive grants for international agricultural
11 science and education programs under sec-
12 tion 1459A of the National Agricultural
13 Research, Extension, and Teaching Policy
14 Act of 1977 (7 U.S.C. 3292b).

15 “(viii) The research and extension
16 projects carried out under section 1621 of
17 the Food, Agriculture, Conservation, and
18 Trade Act of 1990 (7 U.S.C. 5811).

19 “(ix) The organic agriculture research
20 and extension initiative established under
21 section 1672B of the Food, Agriculture,
22 Conservation, and Trade Act of 1990 (7
23 U.S.C. 5925b).

24 “(x) The specialty crop research ini-
25 tiative under section 412 of the Agricul-

1 tural Research, Extension, and Education
2 Reform Act of 1998.

3 “(xi) The administration and manage-
4 ment of the Agricultural Bioenergy Feed-
5 stock and Energy Efficiency Research and
6 Extension Initiative carried out under sec-
7 tion 1672C of the Food, Agriculture, Con-
8 servation, and Trade Act of 1990.

9 “(xii) The research, extension, and
10 education programs authorized by section
11 407 of the Agricultural Research, Exten-
12 sion, and Education Reform Act of 1998
13 (7 U.S.C. 7627) relating to the competi-
14 tiveness, viability and sustainability of
15 small- and medium-sized dairy, livestock,
16 and poultry operations.

17 “(xiii) Other programs that are com-
18 petitive programs, as determined by the
19 Secretary.

20 “(E) DIRECTOR.—The term ‘Director’
21 means the Director of the Institute.

22 “(F) FUNDAMENTAL RESEARCH.—The
23 term ‘fundamental research’ means research
24 that—

1 “(i) increases knowledge or under-
2 standing of the fundamental aspects of
3 phenomena and has the potential for broad
4 application; and

5 “(ii) has an effect on agriculture,
6 food, nutrition, or the environment.

7 “(G) INSTITUTE.—The term ‘Institute’
8 means the National Institute of Food and Agri-
9 culture established by paragraph (2)(A).

10 “(2) ESTABLISHMENT OF NATIONAL INSTITUTE
11 OF FOOD AND AGRICULTURE.—

12 “(A) ESTABLISHMENT.—The Secretary
13 shall establish within the Department an agency
14 to be known as the ‘National Institute of Food
15 and Agriculture’.

16 “(B) TRANSFER OF AUTHORITIES.—The
17 Secretary shall transfer to the Institute, effec-
18 tive not later than October 1, 2009, the au-
19 thorities (including all budget authorities, avail-
20 able appropriations, and personnel), duties, ob-
21 ligations, and related legal and administrative
22 functions prescribed by law or otherwise grant-
23 ed to the Secretary, the Department, or any
24 other agency or official of the Department
25 under—

1 “(i) the capacity and infrastructure
2 programs;

3 “(ii) the competitive programs;

4 “(iii) the research, education, eco-
5 nomic, cooperative State research pro-
6 grams, cooperative extension and education
7 programs, international programs, and
8 other functions and authorities delegated
9 by the Under Secretary to the Adminis-
10 trator of the Cooperative State Research,
11 Education, and Extension Service pursuant
12 to section 2.66 of title 7, Code of Federal
13 Regulations (or successor regulations); and

14 “(iv) any and all other authorities ad-
15 ministered by the Administrator of the Co-
16 operative State Research, Education, and
17 Extension Service.

18 “(3) DIRECTOR.—

19 “(A) IN GENERAL.—The Institute shall be
20 headed by a Director, who shall be an indi-
21 vidual who is—

22 “(i) a distinguished scientist; and

23 “(ii) appointed by the President.

1 “(B) SUPERVISION.—The Director shall
2 report directly to the Secretary, or the designee
3 of the Secretary.

4 “(C) FUNCTIONS OF THE DIRECTOR.—The
5 Director shall—

6 “(i) serve for a 6-year term, subject to
7 reappointment for an additional 6-year
8 term;

9 “(ii) periodically report to the Sec-
10 retary, or the designee of the Secretary,
11 with respect to activities carried out by the
12 Institute; and

13 “(iii) consult regularly with the Sec-
14 retary, or the designee of the Secretary, to
15 ensure, to the maximum extent practicable,
16 that—

17 “(I) research of the Institute is
18 relevant to agriculture in the United
19 States and otherwise serves the na-
20 tional interest; and

21 “(II) the research of the Institute
22 supplements and enhances, and does
23 not supplant, research conducted or
24 funded by other Federal agencies.

1 “(D) COMPENSATION.—The Director shall
2 receive basic pay at a rate not to exceed the
3 maximum amount of compensation payable to a
4 member of the Senior Executive Service under
5 subsection (b) of section 5382 of title 5, United
6 States Code, except that the certification re-
7 quirement in that subsection shall not apply to
8 the compensation of the Director.

9 “(E) AUTHORITY AND RESPONSIBILITIES
10 OF DIRECTOR.—Except as otherwise specifically
11 provided in this subsection, the Director shall—

12 “(i) exercise all of the authority pro-
13 vided to the Institute by this subsection;

14 “(ii) formulate and administer pro-
15 grams in accordance with policies adopted
16 by the Institute, in coordination with the
17 Under Secretary;

18 “(iii) establish offices within the Insti-
19 tute;

20 “(iv) establish procedures for the pro-
21 vision and administration of grants by the
22 Institute; and

23 “(v) consult regularly with the Advi-
24 sory Board.

1 “(4) REGULATIONS.—The Institute shall have
2 such authority as is necessary to carry out this sub-
3 section, including the authority to promulgate such
4 regulations as the Institute considers to be necessary
5 for governance of operations, organization, and per-
6 sonnel.

7 “(5) ADMINISTRATION.—

8 “(A) IN GENERAL.—The Director shall or-
9 ganize offices and functions within the Institute
10 to administer fundamental and applied research
11 and extension and education programs.

12 “(B) RESEARCH PRIORITIES.—The Direc-
13 tor shall ensure the research priorities estab-
14 lished by the Under Secretary through the Re-
15 search, Education and Extension Office are car-
16 ried out by the offices and functions of the In-
17 stitute, where applicable.

18 “(C) FUNDAMENTAL AND APPLIED RE-
19 SEARCH.—The Director shall—

20 “(i) determine an appropriate balance
21 between fundamental and applied research
22 programs and functions to ensure future
23 research needs are met; and

24 “(ii) designate staff, as appropriate,
25 to assist in carrying out this subparagraph.

1 “(D) COMPETITIVELY FUNDED AWARDS.—

2 The Director shall—

3 “(i) promote the use and growth of
4 grants awarded through a competitive
5 process; and

6 “(ii) designate staff, as appropriate,
7 to assist in carrying out this subparagraph.

8 “(E) COORDINATION.—The Director shall
9 ensure that the offices and functions established
10 under subparagraph (A) are effectively coordi-
11 nated for maximum efficiency.

12 “(6) FUNDING.—

13 “(A) IN GENERAL.—In addition to funds
14 otherwise appropriated to carry out each pro-
15 gram administered by the Institute, there are
16 authorized to be appropriated such sums as are
17 necessary to carry out this subsection for each
18 fiscal year.

19 “(B) ALLOCATION.—Funding made avail-
20 able under subparagraph (A) shall be allocated
21 according to recommendations contained in the
22 roadmap described in section 7504 of the Food,
23 Conservation, and Energy Act of 2008.”.

1 (b) FUNCTIONS.—Section 296(b) of the Department
2 of Agriculture Reorganization Act of 1994 (7 U.S.C.
3 7014(b)) is amended—

4 (1) in paragraph (4), by striking “or” at the
5 end;

6 (2) in paragraph (5), by striking the period at
7 the end and inserting “; or”; and

8 (3) by adding at the end the following:

9 “(6) the authority of the Secretary to establish
10 in the Department, under section 251—

11 “(A) the position of Under Secretary of
12 Agriculture for Research, Education, and Eco-
13 nomics;

14 “(B) the Research, Education, and Exten-
15 sion Office; and

16 “(C) the National Institute of Food and
17 Agriculture.”.

18 (c) CONFORMING AMENDMENTS.—The following con-
19 forming amendments shall take effect on October 1, 2009:

20 (1) Section 522(d)(2) of the Federal Crop In-
21 surance Act (7 U.S.C. 1522(d)(2)) is amended by
22 striking “the Cooperative State Research, Edu-
23 cation, and Extension Service” and inserting “the
24 National Institute of Food and Agriculture”.

1 (2) Section 524(a) of the Federal Crop Insur-
2 ance Act (7 U.S.C. 1524(a)) is amended in each of
3 paragraphs (1)(B) and (3)(A) by striking “the Co-
4 operative State Research, Education, and Extension
5 Service” each place it appears and inserting “the
6 National Institute of Food and Agriculture”.

7 (3) Section 306(a)(11)(C) of the Consolidated
8 Farm and Rural Development Act (7 U.S.C.
9 1926(a)(11)(C)) is amended by striking “the Coop-
10 erative State Research, Education, and Extension
11 Service” and inserting “the National Institute of
12 Food and Agriculture”.

13 (4) Section 5(b)(2)(E) of the Agricultural Cred-
14 it Improvement Act of 1992 (7 U.S.C. 1929 note;
15 Public Law 102–554) is amended by striking “Coop-
16 erative Extension Service” and inserting “National
17 Institute of Food and Agriculture”.

18 (5) Section 11(f)(1) of the Food and Nutrition
19 Act of 2008 (7 U.S.C. 2020(f)(1)) is amended by
20 striking “Cooperative Extension Service” and insert-
21 ing “National Institute of Food and Agriculture”.

22 (6) Section 502(h) of the Rural Development
23 Act of 1972 (7 U.S.C. 2662(h)) is amended—

1 (A) in paragraph (1), by striking “Extension
2 Service” and inserting “National Institute
3 of Food and Agriculture”; and

4 (B) in paragraph (4), by striking “Extension
5 Service staff” and inserting “National In-
6 stitute of Food and Agriculture staff”.

7 (7) Section 7404(b)(1)(B) of the Farm Security
8 and Rural Investment Act of 2002 (7 U.S.C. 3101
9 note; Public Law 107–171) is amended by striking
10 clause (vi) and inserting the following:

11 “(vi) the National Institute of Food
12 and Agriculture.”.

13 (8) Section 1408(b)(4) of the National Agricul-
14 tural Research, Extension, and Teaching Policy Act
15 of 1977 (7 U.S.C. 3123(b)(4)) is amended by strik-
16 ing “the Administrator of the Cooperative State Re-
17 search, Education, and Extension Service” and in-
18 serting “the Director of the National Institute of
19 Food and Agriculture”.

20 (9) Section 2381(a) of the Food, Agriculture,
21 Conservation, and Trade Act of 1990 (7 U.S.C.
22 3125b(a)) is amended by striking “Extension Serv-
23 ice” and inserting “National Institute of Food and
24 Agriculture”.

1 (10) The National Agricultural Research, Ex-
2 tension, and Teaching Policy Act of 1977 is amend-
3 ed—

4 (A) in section 1424A(b) (7 U.S.C.
5 3174a(b)), by striking “the Cooperative State
6 Research, Education, and Extension Service”
7 and inserting “the National Institute of Food
8 and Agriculture”; and

9 (B) in section 1458(a)(10) (7 U.S.C.
10 3291(a)(10)), by striking “the Cooperative
11 State Research, Education, and Extension Serv-
12 ice” and inserting “the National Institute of
13 Food and Agriculture”.

14 (11) Section 1587(a) of the Food Security Act
15 of 1985 (7 U.S.C. 3175d(a)) is amended by striking
16 “Extension Service” each place it appears and in-
17 serting “National Institute of Food and Agri-
18 culture”.

19 (12) Section 1444(b)(2)(A) of the National Ag-
20 ricultural Research, Extension, and Teaching Policy
21 Act of 1977 (7 U.S.C. 3221(b)(2)(A)) is amended
22 by striking “Extension Service” and inserting “Na-
23 tional Institute of Food and Agriculture”.

24 (13) Section 1473D(d) of the National Agricul-
25 tural Research, Extension, and Teaching Policy Act

1 of 1977 (7 U.S.C. 3319d(d)) is amended by striking
2 “the Cooperative State Research Service, the Extension
3 Service” and inserting “the National Institute
4 of Food and Agriculture”.

5 (14) Section 1499(c) of the Food, Agriculture,
6 Conservation, and Trade Act of 1990 (7 U.S.C.
7 5506(e)) is amended by striking “the Cooperative
8 State Research Service” and all that follows through
9 “extension services;” and inserting “the National In-
10 stitute of Food and Agriculture, in conjunction with
11 the system of State agricultural experiment stations
12 and State and county cooperative extension services;
13 the Economic Research Service;”.

14 (15) Section 1622 of the Food, Agriculture,
15 Conservation, and Trade Act of 1990 (7 U.S.C.
16 5812) is amended—

17 (A) in subsection (a)(1), by striking “the
18 Cooperative State Research Service in close co-
19 operation with the Extension Service” and in-
20 serting “the National Institute of Food and Ag-
21 riculture”;

22 (B) in subsection (b)(1)—

23 (i) by striking subparagraphs (B) and

24 (C) and inserting the following:

1 “(B) the National Institute of Food and
2 Agriculture;”; and

3 (ii) by redesignating subparagraphs
4 (D) through (L) as subparagraphs (C)
5 through (K), respectively.

6 (16) Section 1627(d) of the Food, Agriculture,
7 Conservation, and Trade Act of 1990 (7 U.S.C.
8 5821(d)) is amended by striking “Extension Serv-
9 ice” and inserting “National Institute of Food and
10 Agriculture”.

11 (17) Section 1629 of the Food, Agriculture,
12 Conservation, and Trade Act of 1990 (7 U.S.C.
13 5832) is amended—

14 (A) in subsection (b), in the first sentence,
15 by striking “the Extension Service” and insert-
16 ing “the National Institute of Food and Agri-
17 culture”; and

18 (B) in subsection (h), by striking “Exten-
19 sion Service” and inserting “National Institute
20 of Food and Agriculture”.

21 (18) Section 1638(b) of the Food, Agriculture,
22 Conservation, and Trade Act of 1990 (7 U.S.C.
23 5852(b)) is amended—

24 (A) in paragraph (3), by striking “Cooper-
25 ative State Research Service” and inserting

1 “National Institute of Food and Agriculture”;
2 and

3 (B) in paragraph (5), by striking “Cooper-
4 ative State Research Service” and inserting
5 “National Institute of Food and Agriculture”.

6 (19) Section 1640(a)(2) of the Food, Agri-
7 culture, Conservation, and Trade Act of 1990 (7
8 U.S.C. 5854(a)(2)) is amended by striking “the Ad-
9 ministrator of the Extension Service, the Adminis-
10 trator of the Cooperative State Research Service”
11 and inserting “the Director of the National Institute
12 of Food and Agriculture”.

13 (20) Section 1641(a) of the Food, Agriculture,
14 Conservation, and Trade Act of 1990 (7 U.S.C.
15 5855(a)) is amended—

16 (A) in paragraph (2), by striking “Cooper-
17 ative State Research Service” and inserting
18 “National Institute of Food and Agriculture”;
19 and

20 (B) in paragraph (4,) by striking “Exten-
21 sion Service” and inserting “National Institute
22 of Food and Agriculture”.

23 (21) Section 1668(b) of the Food, Agriculture,
24 Conservation, and Trade Act of 1990 (7 U.S.C.
25 5921(b)) is amended by striking “Cooperative State

1 Research, Education, and Extension Service” and
2 inserting “National Institute of Food and Agri-
3 culture”.

4 (22) Section 1670(a)(4) of the Food, Agri-
5 culture, Conservation, and Trade Act of 1990 (7
6 U.S.C. 5923(a)(4)) is amended by striking “the Ad-
7 ministrator of the Cooperative State Research, Edu-
8 cation, and Extension Service” and inserting “the
9 Director of the National Institute of Food and Agri-
10 culture”.

11 (23) Section 1677(a) of the Food, Agriculture,
12 Conservation, and Trade Act of 1990 (7 U.S.C.
13 5930(a)) is amended by striking “Extension Serv-
14 ice” and inserting “National Institute of Food and
15 Agriculture”.

16 (24) Section 2122(b)(1) of the Food, Agri-
17 culture, Conservation, and Trade Act of 1990 (7
18 U.S.C. 6521(b)(1)) is amended by striking “Exten-
19 sion Service” and inserting “National Institute of
20 Food and Agriculture”.

21 (25) Section 2371 of the Food, Agriculture,
22 Conservation, and Trade Act of 1990 (7 U.S.C.
23 6601) is amended—

1 (A) in subsection (a), by striking “Extension
2 Service” and inserting “National Institute
3 of Food and Agriculture”; and

4 (B) in subsection (c)(3), by striking “Service”
5 and inserting “System”.

6 (26) Section 2377(a) of the Food, Agriculture,
7 Conservation, and Trade Act of 1990 (7 U.S.C.
8 6615(a)) is amended by striking “Extension Service”
9 and inserting “National Institute of Food and
10 Agriculture”.

11 (27) Section 212(a)(2)(A) of the Department of
12 Agriculture Reorganization Act of 1994 (7 U.S.C.
13 6912(a)(2)(A)) is amended by striking “251(d),”
14 and inserting “251(f),”.

15 (28) Section 537 of the Federal Agriculture Improvement
16 and Reform Act of 1996 (7 U.S.C. 7446)
17 is amended in each of subsections (a)(2) and
18 (b)(3)(B)(i) by striking “Cooperative State Research,
19 Education, and Extension Service” and inserting
20 “cooperative extension”.

21 (29) Section 101(b)(2) of the Agricultural Research,
22 Extension, and Education Reform Act of
23 1998 (7 U.S.C. 7611(b)(2)) is amended by striking
24 “Cooperative State Research, Education, and Extension

1 sion Service” and inserting “National Institute of
2 Food and Agriculture”.

3 (30) Section 103(a) of the Agricultural Re-
4 search, Extension, and Education Reform Act of
5 1998 (7 U.S.C. 7613(a)) is amended—

6 (A) in the subsection heading, by striking
7 “Cooperative State Research, Education, and
8 Extension Service” and inserting “National In-
9 stitute of Food and Agriculture”; and

10 (B) in each of paragraphs (1) and (2)(A),
11 by striking “the Cooperative State Research,
12 Education, and Extension Service” and insert-
13 ing “the National Institute of Food and Agri-
14 culture”.

15 (31) Section 407(c) of the Agricultural Re-
16 search, Extension, and Education Reform Act of
17 1998 (7 U.S.C. 7627(c)) is amended by striking
18 “the Cooperative State Research, Education, and
19 Extension Service” and inserting “the National In-
20 stitute of Food and Agriculture”.

21 (32) Section 410(a) of the Agricultural Re-
22 search, Extension, and Education Reform Act of
23 1998 (7 U.S.C. 7630(a)) is amended by striking
24 “the Administrator of the Cooperative State Re-
25 search, Education, and Extension Service” and in-

1 serting “the Director of the National Institute of
2 Food and Agriculture”.

3 (33) Section 307(g)(5) of the Agricultural Risk
4 Protection Act of 2000 (7 U.S.C. 8606(g)(5)) is
5 amended by striking “Administrator of the Coopera-
6 tive State Research, Education, and Extension Serv-
7 ice” and inserting “Director of the National Insti-
8 tute of Food and Agriculture”.

9 (34) Section 5(a) of the Renewable Resources
10 Extension Act of 1978 (16 U.S.C. 1674a(a)) is
11 amended by striking “Extension Service” and insert-
12 ing “National Institute of Food and Agriculture”.

13 (35) Section 6(b) of the Cooperative Forestry
14 Assistance Act of 1978 (16 U.S.C. 2103b(b)) is
15 amended by striking “the Cooperative State Re-
16 search, Education, and Extension Service, may pro-
17 vide technical, financial, and related assistance to
18 State foresters, equivalent State officials, or Cooper-
19 ative Extension officials” and inserting “the Na-
20 tional Institute of Food and Agriculture, may pro-
21 vide technical, financial, and related assistance to
22 State foresters, equivalent State officials, or coopera-
23 tive extension officials”.

24 (36) Section 9(g)(2)(A)(viii) of the Cooperative
25 Forestry Assistance Act of 1978 (16 U.S.C.

1 2105(g)(2)(A)(viii)) is amended by striking “Extension
2 sion Service” and inserting “National Institute of
3 Food and Agriculture”.

4 (37) Section 19(b)(1)(B)(i) of the Cooperative
5 Forestry Assistance Act of 1978 (16 U.S.C.
6 2113(b)(1)(B)(i)) is amended by striking “Extension
7 Service” and inserting “National Institute of Food
8 and Agriculture”.

9 (38) Section 1261(c)(4) of the Food Security
10 Act of 1985 (16 U.S.C. 3861(c)(4)) is amended by
11 striking “Extension Service” and inserting “Na-
12 tional Institute of Food and Agriculture”.

13 (39) Section 105(a) of the Africa: Seeds of
14 Hope Act of 1998 (22 U.S.C. 2293 note; Public Law
15 105–385) is amended by striking “the Cooperative
16 State, Research, Education, and Extension Service
17 (CSREES)” and inserting “the National Institute of
18 Food and Agriculture”.

19 (40) Section 307(a)(4) of the National Aero-
20 nautic and Space Administration Authorization Act
21 of 2005 (42 U.S.C. 16657(a)(4)) is amended by
22 striking subparagraph (B) and inserting the fol-
23 lowing:

24 “(B) the program and structure of, peer
25 review process of, management of conflicts of

1 interest by, compensation of reviewers of, and
2 the effects of compensation on reviewer effi-
3 ciency and quality within, the National Institute
4 of Food and Agriculture of the Department of
5 Agriculture;”.

6 **PART III—NEW GRANT AND RESEARCH**

7 **PROGRAMS**

8 **SEC. 7521. RESEARCH AND EDUCATION GRANTS FOR THE**
9 **STUDY OF ANTIBIOTIC-RESISTANT BACTERIA.**

10 (a) IN GENERAL.—The Secretary shall provide re-
11 search and education grants, on a competitive basis—

12 (1) to study the development of antibiotic-re-
13 sistant bacteria, including—

14 (A) movement of antibiotic-resistant bac-
15 teria into groundwater and surface water; and

16 (B) the effect on antibiotic resistance from
17 various drug use regimens; and

18 (2) to study and ensure the judicious use of
19 antibiotics in veterinary and human medicine, in-
20 cluding—

21 (A) methods and practices of animal hus-
22 bandry;

23 (B) safe and effective alternatives to anti-
24 biotics;

1 (C) the development of better veterinary
2 diagnostics to improve decisionmaking; and

3 (D) the identification of conditions or fac-
4 tors that affect antibiotic use on farms.

5 (b) ADMINISTRATION.—Paragraphs (4), (7), (8), and
6 (11)(B) of subsection (b) of the Competitive, Special, and
7 Facilities Research Grant Act (7 U.S.C. 450i) shall apply
8 with respect to the making of grants under this section.

9 (c) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated such sums as are nec-
11 essary to carry out this section for each of fiscal years
12 2008 through 2012.

13 **SEC. 7522. FARM AND RANCH STRESS ASSISTANCE NET-**
14 **WORK.**

15 (a) IN GENERAL.—The Secretary, in coordination
16 with the Secretary of Health and Human Services, shall
17 make competitive grants to support cooperative programs
18 between State cooperative extension services and nonprofit
19 organizations to establish a Farm and Ranch Stress As-
20 sistance Network that provides stress assistance programs
21 to individuals who are engaged in farming, ranching, and
22 other agriculture-related occupations.

23 (b) ELIGIBLE PROGRAMS.—Grants awarded under
24 subsection (a) may be used to initiate, expand, or sustain
25 programs that provide professional agricultural behavioral

1 health counseling and referral for other forms of assist-
2 ance as necessary through—

- 3 (1) farm telephone helplines and websites;
- 4 (2) community education;
- 5 (3) support groups;
- 6 (4) outreach services and activities; and
- 7 (5) home delivery of assistance, in a case in
8 which a farm resident is homebound.

9 (c) **EXTENSION SERVICES.**—Grants shall be awarded
10 under this subsection directly to State cooperative exten-
11 sion services to enable the State cooperative extension
12 services to enter into contracts, on a multiyear basis, with
13 nonprofit, community-based, direct-service organizations
14 to initiate, expand, or sustain cooperative programs de-
15 scribed in subsections (a) and (b).

16 (d) **AUTHORIZATION OF APPROPRIATIONS.**—There
17 are authorized to be appropriated such sums as are nec-
18 essary to carry out this section for each of fiscal years
19 2008 through 2012.

20 **SEC. 7523. SEED DISTRIBUTION.**

21 (a) **IN GENERAL.**—The Secretary shall make com-
22 petitive grants to eligible entities to carry out a seed dis-
23 tribution program to administer and maintain the dis-
24 tribution of vegetable seeds donated by commercial seed
25 companies.

1 (b) PURPOSES.—The purposes of this program in-
2 clude—

3 (1) the distribution of seeds donated by com-
4 mercial seed companies free-of-charge to appro-
5 priate—

6 (A) individuals;

7 (B) groups;

8 (C) institutions;

9 (D) governmental and nongovernmental or-
10 ganizations; and

11 (E) such other entities as the Secretary
12 may designate;

13 (2) distribution of seeds to underserved commu-
14 nities, such as communities that experience—

15 (A) limited access to affordable fresh vege-
16 tables;

17 (B) a high rate of hunger or food insecu-
18 rity; or

19 (C) severe or persistent poverty.

20 (c) ADMINISTRATION.—Paragraphs (4), (7), (8), and
21 (11)(B) of subsection (b) of the Competitive, Special, and
22 Facilities Research Grant Act (7 U.S.C. 450i) shall apply
23 with respect to the making of grants under this section.

24 (d) SELECTION.—An eligible entity selected to receive
25 a grant under subsection (a) shall have—

1 (1) expertise regarding the distribution of vege-
2 table seeds donated by commercial seed companies;
3 and

4 (2) the ability to achieve the purpose of the
5 seed distribution program.

6 (e) **AUTHORIZATION OF APPROPRIATIONS.**—There
7 are authorized to be appropriated such sums as are nec-
8 essary to carry out this section for each of fiscal years
9 2008 through 2012.

10 **SEC. 7524. LIVE VIRUS FOOT AND MOUTH DISEASE RE-**
11 **SEARCH.**

12 (a) **IN GENERAL.**—The Secretary shall issue a permit
13 required under section 12 of the Act of May 29, 1884 (21
14 U.S.C. 113a) to the Secretary of Homeland Security for
15 work on the live virus of foot and mouth disease at any
16 facility that is a successor to the Plum Island Animal Dis-
17 ease Center and charged with researching high-con-
18 sequence biological threats involving zoonotic and foreign
19 animal diseases (referred to in this section as the “suc-
20 cessor facility”).

21 (b) **LIMITATION TO SINGLE FACILITY.**—Not more
22 than 1 facility shall be issued a permit under subsection
23 (a).

24 (c) **LIMITATION ON VALIDITY.**—The permit issued
25 under this section shall be valid unless the Secretary deter-

1 mines that the study of live foot and mouth disease virus
2 at the successor facility is not being carried out in accord-
3 ance with the regulations promulgated by the Secretary
4 pursuant to the Agricultural Bioterrorism Protection Act
5 of 2002 (7 U.S.C. 8401 et seq.).

6 (d) **AUTHORITY.**—The suspension, revocation, or
7 other impairment of the permit issued under this sec-
8 tion—

9 (1) shall be made by the Secretary; and

10 (2) is a nondelegable function.

11 **SEC. 7525. NATURAL PRODUCTS RESEARCH PROGRAM.**

12 (a) **IN GENERAL.**—The Secretary shall establish
13 within the Department a natural products research pro-
14 gram.

15 (b) **DUTIES.**—In carrying out the program estab-
16 lished under subsection (a), the Secretary shall coordinate
17 research relating to natural products, including—

18 (1) research to improve human health and agri-
19 cultural productivity through the discovery, develop-
20 ment, and commercialization of products and
21 agrichemicals from bioactive natural products, in-
22 cluding products from plant, marine, and microbial
23 sources;

1 (2) research to characterize the botanical
2 sources, production, chemistry, and biological prop-
3 erties of plant-derived natural products; and

4 (3) other research priorities identified by the
5 Secretary.

6 (c) PEER AND MERIT REVIEW.—The Secretary
7 shall—

8 (1) determine the relevance and merit of re-
9 search under this section through a system of peer
10 review established by the Secretary pursuant to sec-
11 tion 103 of the Agricultural Research, Extension,
12 and Education Reform Act of 1998 (7 U.S.C. 7613);
13 and

14 (2) approve funding for research on the basis of
15 merit, quality, and relevance to advancing the pur-
16 poses of this section.

17 (d) BUILDINGS AND FACILITIES.—Funds made avail-
18 able under this section shall not be used for the construc-
19 tion of a new building or facility or the acquisition, expan-
20 sion, remodeling, or alteration of an existing building or
21 facility (including site grading and improvement and ar-
22 chitect fees).

23 (e) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to carry out this section

1 such sums as are necessary for each of fiscal years 2008
2 through 2012.

3 **SEC. 7526. SUN GRANT PROGRAM.**

4 (a) ESTABLISHMENT.—The Secretary shall establish
5 and carry out a program to provide grants to the sun
6 grant centers and subcenter specified in subsection (b)—

7 (1) to enhance national energy security through
8 the development, distribution, and implementation of
9 biobased energy technologies;

10 (2) to promote diversification in, and the envi-
11 ronmental sustainability of, agricultural production
12 in the United States through biobased energy and
13 product technologies;

14 (3) to promote economic diversification in rural
15 areas of the United States through biobased energy
16 and product technologies; and

17 (4) to enhance the efficiency of bioenergy and
18 biomass research and development programs
19 through improved coordination and collaboration
20 among—

21 (A) the Department of Agriculture;

22 (B) the Department of Energy; and

23 (C) land-grant colleges and universities.

24 (b) GRANTS.—

1 (1) IN GENERAL.—The Secretary shall use
2 amounts made available under subsection (g) to pro-
3 vide grants to each of the following:

4 (A) NORTH-CENTRAL CENTER.—A north-
5 central sun grant center at South Dakota State
6 University for the region composed of the
7 States of Illinois, Indiana, Iowa, Minnesota,
8 Montana, Nebraska, North Dakota, South Da-
9 kota, Wisconsin, and Wyoming.

10 (B) SOUTHEASTERN CENTER.—A south-
11 eastern sun grant center at the University of
12 Tennessee at Knoxville for the region composed
13 of—

14 (i) the States of Alabama, Florida,
15 Georgia, Kentucky, Mississippi, North
16 Carolina, South Carolina, Tennessee, and
17 Virginia;

18 (ii) the Commonwealth of Puerto
19 Rico; and

20 (iii) the United States Virgin Islands.

21 (C) SOUTH-CENTRAL CENTER.—A south-
22 central sun grant center at Oklahoma State
23 University for the region composed of the
24 States of Arkansas, Colorado, Kansas, Lou-

1 isiana, Missouri, New Mexico, Oklahoma, and
2 Texas.

3 (D) WESTERN CENTER.—A western sun
4 grant center at Oregon State University for the
5 region composed of—

6 (i) the States of Alaska, Arizona,
7 California, Hawaii, Idaho, Nevada, Oregon,
8 Utah, and Washington; and

9 (ii) insular areas (as defined in sec-
10 tion 1404 of the National Agricultural Re-
11 search, Extension, and Teaching Policy
12 Act of 1977 (7 U.S.C. 3103 (other than
13 the insular areas referred to in clauses (ii)
14 and (iii) of subparagraph (B))).

15 (E) NORTHEASTERN CENTER.—A north-
16 eastern sun grant center at Cornell University
17 for the region composed of the States of Con-
18 necticut, Delaware, Massachusetts, Maryland,
19 Maine, Michigan, New Hampshire, New Jersey,
20 New York, Ohio, Pennsylvania, Rhode Island,
21 Vermont, and West Virginia.

22 (F) WESTERN INSULAR PACIFIC SUB-
23 CENTER.—A western insular Pacific sun grant
24 subcenter at the University of Hawaii for the
25 region of Alaska, Hawaii, Guam, American

1 Samoa, the Commonwealth of the Northern
2 Mariana Islands, the Federated States of Mi-
3 cronesia, the Republic of the Marshall Islands,
4 and the Republic of Palau.

5 (2) MANNER OF DISTRIBUTION.—

6 (A) CENTERS.—In providing any funds
7 made available under subsection (g), the Sec-
8 retary shall distribute the grants in equal
9 amounts to the sun grant centers described in
10 subparagraphs (A) through (E) of paragraph
11 (1).

12 (B) SUBCENTER.—The sun grant center
13 described in paragraph (1)(D) shall allocate a
14 portion of the funds received under paragraph
15 (1) to the subcenter described in paragraph
16 (1)(F) pursuant to guidance issued by the Sec-
17 retary.

18 (3) FAILURE TO COMPLY WITH REQUIRE-
19 MENTS.—If the Secretary finds on the basis of a re-
20 view of the annual report required under subsection
21 (f) or on the basis of an audit of a sun grant center
22 or subcenter conducted by the Secretary that the
23 center or subcenter has not complied with the re-
24 quirements of this section, the sun grant center or
25 subcenter shall be ineligible to receive further grants

1 under this section for such period of time as may be
2 prescribed by the Secretary.

3 (c) USE OF FUNDS.—

4 (1) COMPETITIVE GRANTS.—

5 (A) IN GENERAL.—A sun grant center or
6 subcenter shall use 75 percent of the funds de-
7 scribed in subsection (b) to provide competitive
8 grants to entities that are—

9 (i) eligible to receive grants under
10 subsection (b)(7) of the Competitive, Spe-
11 cial, and Facilities Research Grant Act (7
12 U.S.C. 450i(b)(7)); and

13 (ii) located in the region covered by
14 the sun grant center or subcenter.

15 (B) ACTIVITIES.—Grants described in sub-
16 paragraph (A) shall be used by the grant recipi-
17 ent to conduct, in a manner consistent with the
18 purposes described in subsection (a), multi-in-
19 stitutional and multistate—

20 (i) research, extension, and education
21 programs on technology development; and

22 (ii) integrated research, extension,
23 and education programs on technology im-
24 plementation.

1 (C) FUNDING ALLOCATION.—Of the
2 amount of funds that is used to provide grants
3 under subparagraph (A), the sun grant center
4 or subcenter shall use—

5 (i) not less than 30 percent of the
6 funds to carry out the programs described
7 in subparagraph (B)(i); and

8 (ii) not less than 30 percent of the
9 funds to carry out the programs described
10 in subparagraph (B)(ii).

11 (D) ADMINISTRATION.—

12 (i) PEER AND MERIT REVIEW.—In
13 making grants under this paragraph, a sun
14 grant center or subcenter shall—

15 (I) seek and accept proposals for
16 grants;

17 (II) determine the relevance and
18 merit of proposals through a system
19 of peer review similar to that estab-
20 lished by the Secretary pursuant to
21 section 103 of the Agricultural Re-
22 search, Extension, and Education Re-
23 form Act of 1998 (7 U.S.C. 7613);
24 and

1 (III) award grants on the basis
2 of merit, quality, and relevance to ad-
3 vancing the purposes of this section.

4 (ii) PRIORITY.—A sun grant center or
5 subcenter shall give a higher priority to
6 programs that are consistent with the plan
7 approved by the Secretary under sub-
8 section (d).

9 (iii) TERM.—A grant awarded by a
10 sun grant center or subcenter shall have a
11 term that does not exceed 5 years.

12 (iv) MATCHING FUNDS REQUIRED.—

13 (I) IN GENERAL.—Except as pro-
14 vided in subclauses (II) and (III), as
15 a condition of receiving a grant under
16 this paragraph, the sun grant center
17 or subcenter shall require that not
18 less than 20 percent of the cost of an
19 activity described in subparagraph (B)
20 be matched with funds, including in-
21 kind contributions, from a non-Fed-
22 eral source.

23 (II) EXCLUSION.—Subclause (I)
24 shall not apply to fundamental re-
25 search (as defined in subsection (f)(1))

1 of section 251 of the Department of
2 Agriculture Reorganization Act of
3 1994 (7 U.S.C. 6971) (as added by
4 section 7511(a)(4)).

5 (III) REDUCTION.—The sun
6 grant center or subcenter may reduce
7 or eliminate the requirement for non-
8 Federal funds under subclause (I) for
9 applied research (as defined in sub-
10 section (f)(1) of section 251 of the
11 Department of Agriculture Reorga-
12 nization Act of 1994 (7 U.S.C. 6971)
13 (as added by section 7511(a)(4)) if
14 the sun grant center or subcenter de-
15 termines that the reduction is nec-
16 essary and appropriate pursuant to
17 guidance issued by the Secretary.

18 (v) BUILDINGS AND FACILITIES.—
19 Funds made available for grants shall not
20 be used for the construction of a new
21 building or facility or the acquisition, ex-
22 pansion, remodeling, or alteration of an ex-
23 isting building or facility (including site
24 grading and improvement and architect
25 fees).

1 (vi) LIMITATION ON INDIRECT
2 COSTS.—A sun grant center or subcenter
3 may not recover the indirect costs of mak-
4 ing grants under subparagraph (A).

5 (2) ADMINISTRATIVE EXPENSES.—A sun grant
6 center or subcenter may use up to 4 percent of the
7 funds described in subsection (b) to pay administra-
8 tive expenses incurred in carrying out paragraph (1).

9 (3) RESEARCH, EXTENSION AND EDUCATIONAL
10 ACTIVITIES.—The sun grant centers and subcenter
11 shall use the remainder of the funds described in
12 subsection (b) to conduct, in a manner consistent
13 with the purposes described in subsection (a), multi-
14 institutional and multistate—

15 (A) research, extension, and educational
16 programs on technology development; and

17 (B) integrated research, extension, and
18 educational programs on technology implemen-
19 tation.

20 (d) PLAN FOR RESEARCH ACTIVITIES TO BE FUND-
21 ED.—

22 (1) IN GENERAL.—Subject to the availability of
23 funds under subsection (g), and in cooperation with
24 land-grant colleges and universities and private in-
25 dustry in accordance with paragraph (2), the sun

1 grant centers and subcenter shall jointly develop and
2 submit to the Secretary for approval a plan for ad-
3 dressing the bioenergy, biomass, and gasification re-
4 search priorities of the Department of Agriculture
5 and the Department of Energy at the State and re-
6 gional levels.

7 (2) GASIFICATION COORDINATION.—With re-
8 spect to gasification research activity, the sun grant
9 centers and subcenter shall coordinate planning with
10 land-grant colleges and universities in their respec-
11 tive regions that have ongoing research activities in
12 that area.

13 (3) FUNDING.—Funds described in subsection
14 (c)(2) shall be available to carry out planning coordi-
15 nation under paragraph (1).

16 (4) USE OF PLAN.—The sun grant centers and
17 subcenter shall use the plan described in paragraph
18 (1) in making grants under subsection (c)(1).

19 (e) GRANT INFORMATION ANALYSIS CENTER.—The
20 sun grant centers and subcenter shall maintain a Sun
21 Grant Information Analysis Center at the sun grant cen-
22 ter specified in subsection (b)(1)(A) to provide the sun
23 grant centers and subcenter with analysis and data man-
24 agement support.

1 (f) ANNUAL REPORTS.—Not later than 90 days after
2 the end of each fiscal year, a sun grant center or subcenter
3 receiving a grant under this section shall submit to the
4 Secretary a report that describes the policies, priorities,
5 and operations of the program carried out by the center
6 or subcenter during the fiscal year, including—

7 (1) the results of all peer and merit review pro-
8 cedures conducted pursuant to subsection
9 (c)(1)(D)(i); and

10 (2) a description of progress made in facili-
11 tating the priorities described in subsection (d)(1).

12 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
13 authorized to be appropriated to carry out this section
14 \$75,000,000 for each of fiscal years 2008 through 2012,
15 of which not more than \$4,000,000 for each fiscal year
16 shall be made available to carry out subsection (e).

17 **SEC. 7527. STUDY AND REPORT ON FOOD DESERTS.**

18 (a) DEFINITION OF FOOD DESERT.—In this section,
19 the term “food desert” means an area in the United
20 States with limited access to affordable and nutritious
21 food, particularly such an area composed of predominantly
22 lower-income neighborhoods and communities.

23 (b) STUDY AND REPORT.—The Secretary shall carry
24 out a study of, and prepare a report on, food deserts.

25 (c) CONTENTS.—The study and report shall—

1 (1) assess the incidence and prevalence of food
2 deserts;

3 (2) identify—

4 (A) characteristics and factors causing and
5 influencing food deserts; and

6 (B) the effect on local populations of lim-
7 ited access to affordable and nutritious food;
8 and

9 (3) provide recommendations for addressing the
10 causes and effects of food deserts through measures
11 that include—

12 (A) community and economic development
13 initiatives;

14 (B) incentives for retail food market devel-
15 opment, including supermarkets, small grocery
16 stores, and farmers' markets; and

17 (C) improvements to Federal food assist-
18 ance and nutrition education programs.

19 (d) COORDINATION WITH OTHER AGENCIES AND
20 ORGANIZATIONS.—The Secretary shall conduct the study
21 under this section in coordination and consultation with—

22 (1) the Secretary of Health and Human Serv-
23 ices;

24 (2) the Administrator of the Small Business
25 Administration;

1 (3) the Institute of Medicine; and

2 (4) representatives of appropriate businesses,
3 academic institutions, and nonprofit and faith-based
4 organizations.

5 (e) SUBMISSION TO CONGRESS.—Not later than 1
6 year after the date of enactment of this Act, the Secretary
7 shall submit to the Committee on Agriculture of the House
8 of Representatives and the Committee on Agriculture, Nu-
9 trition, and Forestry of the Senate the report prepared
10 under this section, including the findings and rec-
11 ommendations described in subsection (c).

12 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
13 authorized to be appropriated to carry out this section
14 \$500,000.

15 **SEC. 7528. DEMONSTRATION PROJECT AUTHORITY FOR**
16 **TEMPORARY POSITIONS.**

17 Notwithstanding section 4703(d)(1) of title 5, United
18 States Code, the amendment to the personnel manage-
19 ment demonstration project established in the Department
20 of Agriculture (67 Fed. Reg. 70776 (2002)), shall become
21 effective upon the date of enactment of this Act and shall
22 remain in effect unless modified by law.

1 **SEC. 7529. AGRICULTURAL AND RURAL TRANSPORTATION**
2 **RESEARCH AND EDUCATION.**

3 (a) **IN GENERAL.**—The Secretary, in consultation
4 with the Secretary of Transportation, shall make competi-
5 tive grants to institutions of higher education to carry out
6 agricultural and rural transportation research and edu-
7 cation activities.

8 (b) **ACTIVITIES.**—Research and education grants
9 made under this section shall be used to address rural
10 transportation and logistics needs of agricultural pro-
11 ducers and related rural businesses, including—

- 12 (1) the transportation of biofuels; and
13 (2) the export of agricultural products.

14 (c) **SELECTION CRITERIA.**—

15 (1) **IN GENERAL.**—The Secretary shall award
16 grants under this section on the basis of the trans-
17 portation research, education, and outreach expertise
18 of the applicant, as determined by the Secretary.

19 (2) **PRIORITY.**—In awarding grants under this
20 section, the Secretary shall give priority to institu-
21 tions of higher education for use in coordinating re-
22 search and education activities with other institu-
23 tions of higher education with similar agricultural
24 and rural transportation research and education pro-
25 grams.

1 (d) DIVERSIFICATION OF RESEARCH.—The Secretary
2 shall award grants under this section in areas that are
3 regionally diverse and broadly representative of the diver-
4 sity of agricultural production and related transportation
5 needs in the rural areas of the United States.

6 (e) MATCHING FUNDS REQUIREMENT.—The Sec-
7 retary shall require each recipient of a grant under this
8 section to provide, from non-Federal sources, in cash or
9 in kind, 50 percent of the cost of carrying out activities
10 under the grant.

11 (f) GRANT REVIEW.—A grant shall be awarded under
12 this section on a competitive, peer- and merit-reviewed
13 basis in accordance with section 103(a) of the Agricultural
14 Research, Extension, and Education Reform Act of 1998
15 (7 U.S.C. 7613(a)).

16 (g) NO DUPLICATION.—In awarding grants under
17 this section, the Secretary shall ensure that activities
18 funded under this section do not duplicate the efforts of
19 the University Transportation Centers described in sec-
20 tions 5505 and 5506 of title 49, United States Code.

21 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
22 authorized to be appropriated to carry out this section
23 \$5,000,000 for each of fiscal years 2008 through 2012.

1 **TITLE VIII—FORESTRY**
2 **Subtitle A—Amendments to Coop-**
3 **erative Forestry Assistance Act**
4 **of 1978**

5 **SEC. 8001. NATIONAL PRIORITIES FOR PRIVATE FOREST**
6 **CONSERVATION.**

7 Section 2 of the Cooperative Forestry Assistance Act
8 of 1978 (16 U.S.C. 2101) is amended—

9 (1) by redesignating subsections (c) and (d) as
10 subsections (e) and (f), respectively; and

11 (2) by inserting after subsection (b) the fol-
12 lowing new subsections:

13 “(c) **PRIORITIES.**—In allocating funds appropriated
14 or otherwise made available under this Act, the Secretary
15 shall focus on the following national private forest con-
16 servation priorities, notwithstanding other priorities speci-
17 fied elsewhere in this Act:

18 “(1) Conserving and managing working forest
19 landscapes for multiple values and uses.

20 “(2) Protecting forests from threats, including
21 catastrophic wildfires, hurricanes, tornados, wind-
22 storms, snow or ice storms, flooding, drought,
23 invasive species, insect or disease outbreak, or devel-
24 opment, and restoring appropriate forest types in re-
25 sponse to such threats.

1 “(3) Enhancing public benefits from private
2 forests, including air and water quality, soil con-
3 servation, biological diversity, carbon storage, forest
4 products, forestry-related jobs, production of renew-
5 able energy, wildlife, wildlife corridors and wildlife
6 habitat, and recreation.

7 “(d) REPORTING REQUIREMENT.—Not later than
8 September 30, 2011, the Secretary shall submit to Con-
9 gress a report describing how funds were used under this
10 Act, and through other programs administered by the Sec-
11 retary, to address the national priorities specified in sub-
12 section (c) and the outcomes achieved in meeting the na-
13 tional priorities.”.

14 **SEC. 8002. LONG-TERM STATE-WIDE ASSESSMENTS AND**
15 **STRATEGIES FOR FOREST RESOURCES.**

16 The Cooperative Forestry Assistance Act of 1978 is
17 amended by inserting after section 2 (16 U.S.C. 2101)
18 the following new section:

19 **“SEC. 2A. STATE-WIDE ASSESSMENT AND STRATEGIES FOR**
20 **FOREST RESOURCES.**

21 “(a) ASSESSMENT AND STRATEGIES FOR FOREST
22 RESOURCES.—For a State to be eligible to receive funds
23 under the authorities of this Act, the State forester of that
24 State or equivalent State official shall develop and submit
25 to the Secretary, not later than two years after the date

1 of enactment of the Food, Conservation, and Energy Act
2 of 2008, the following:

3 “(1) A State-wide assessment of forest resource
4 conditions, including—

5 “(A) the conditions and trends of forest re-
6 sources in that State;

7 “(B) the threats to forest lands and re-
8 sources in that State consistent with the na-
9 tional priorities specified in section 2(c);

10 “(C) any areas or regions of that State
11 that are a priority; and

12 “(D) any multi-State areas that are a re-
13 gional priority.

14 “(2) A long-term State-wide forest resource
15 strategy, including—

16 “(A) strategies for addressing threats to
17 forest resources in the State outlined in the as-
18 sessment required by paragraph (1); and

19 “(B) a description of the resources nec-
20 essary for the State forester or equivalent State
21 official from all sources to address the State-
22 wide strategy.

23 “(b) UPDATING.—At such times as the Secretary de-
24 termines to be necessary, the State forester or equivalent
25 State official shall update and resubmit to the Secretary

1 the State-wide assessment and State-wide strategy re-
2 quired by subsection (a).

3 “(c) COORDINATION.—In developing or updating the
4 State-wide assessment and State-wide strategy required
5 by subsection (a), the State Forester or equivalent State
6 official shall coordinate with—

7 “(1) the State Forest Stewardship Coordinating
8 Committee established for the State under section
9 19(b);

10 “(2) the State wildlife agency, with respect to
11 strategies contained in the State wildlife action
12 plans;

13 “(3) the State Technical Committee;

14 “(4) applicable Federal land management agen-
15 cies; and

16 “(5) for purposes of the Forest Legacy Pro-
17 gram under section 7, the State lead agency des-
18 ignated by the Governor.

19 “(d) INCORPORATION OF OTHER PLANS.—In devel-
20 oping or updating the State-wide assessment and State-
21 wide strategy required by subsection (a), the State forester
22 or equivalent State official shall incorporate any forest
23 management plan of the State, including community wild-
24 fire protection plans and State wildlife action plans.

1 “(e) SUFFICIENCY.—Once approved by the Secretary,
2 a State-wide assessment and State-wide strategy devel-
3 oped under subsection (a) shall be deemed to be sufficient
4 to satisfy all relevant State planning and assessment re-
5 quirements under this Act.

6 “(f) FUNDING.—

7 “(1) AUTHORIZATION OF APPROPRIATIONS.—
8 There are authorized to be appropriated to carry out
9 this section up to \$10,000,000 for each of fiscal
10 years 2008 through 2012.

11 “(2) ADDITIONAL FUNDING SOURCES.—In ad-
12 dition to the funds appropriated for a fiscal year
13 pursuant to the authorization of appropriations in
14 paragraph (1) to carry out this section, the Sec-
15 retary may use any other funds made available for
16 planning under this Act to carry out this section, ex-
17 cept that the total amount of combined funding used
18 to carry out this section may not exceed
19 \$10,000,000 in any fiscal year.

20 “(g) ANNUAL REPORT ON USE OF FUNDS.—The
21 State forester or equivalent State official shall submit to
22 the Secretary an annual report detailing how funds made
23 available to the State under this Act are being used.”.

1 **SEC. 8003. COMMUNITY FOREST AND OPEN SPACE CON-**
2 **SERVATION PROGRAM.**

3 (a) FINDINGS.—Congress finds that—

4 (1) the Forest Service projects that, by cal-
5 endar year 2030, approximately 44,000,000 acres of
6 privately-owned forest land will be developed
7 throughout the United States;

8 (2) public access to parcels of privately-owned
9 forest land for outdoor recreational activities, includ-
10 ing hunting, fishing, and trapping, has declined and,
11 as a result, participation in those activities has also
12 declined in cases in which public access is not se-
13 cured;

14 (3) rising rates of obesity and other public
15 health problems relating to the inactivity of the citi-
16 zens of the United States have been shown to be
17 ameliorated by improving public access to safe and
18 attractive areas for outdoor recreation;

19 (4) in rapidly-growing communities of all sizes
20 throughout the United States, remaining parcels of
21 forest land play an essential role in protecting public
22 water supplies;

23 (5) forest parcels owned by local governmental
24 entities and nonprofit organizations are providing
25 important demonstration sites for private land-
26 owners to learn forest management techniques;

1 (6) throughout the United States, communities
2 of diverse types and sizes are deriving significant fi-
3 nancial and community benefits from managing for-
4 est land owned by local governmental entities for
5 timber and other forest products; and

6 (7) there is an urgent need for local govern-
7 mental entities to be able to leverage financial re-
8 sources in order to purchase important parcels of
9 privately-owned forest land as the parcels are offered
10 for sale.

11 (b) COMMUNITY FOREST AND OPEN SPACE CON-
12 SERVATION PROGRAM.—The Cooperative Forestry Assist-
13 ance Act of 1978 is amended by inserting after section
14 7 (16 U.S.C. 2103c) the following new section:

15 **“SEC. 7A. COMMUNITY FOREST AND OPEN SPACE CON-**
16 **SERVATION PROGRAM.**

17 “(a) DEFINITIONS.—In this section:

18 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-
19 tity’ means a local governmental entity, Indian tribe,
20 or nonprofit organization that owns or acquires a
21 parcel under the program.

22 “(2) INDIAN TRIBE.—The term ‘Indian tribe’
23 has the meaning given the term in section 4 of the
24 Indian Self-Determination and Education Assistance
25 Act (25 U.S.C. 450b).

1 “(3) LOCAL GOVERNMENTAL ENTITY.—The
2 term ‘local governmental entity’ includes any munic-
3 ipal government, county government, or other local
4 government body with jurisdiction over local land
5 use decisions.

6 “(4) NONPROFIT ORGANIZATION.—The term
7 ‘nonprofit organization’ means any organization
8 that—

9 “(A) is described in section 170(h)(3) of
10 the Internal Revenue Code of 1986; and

11 “(B) operates in accordance with 1 or
12 more of the purposes specified in section
13 170(h)(4)(A) of that Code.

14 “(5) PROGRAM.—The term ‘Program’ means
15 the community forest and open space conservation
16 program established under subsection (b).

17 “(6) SECRETARY.—The term ‘Secretary’ means
18 the Secretary of Agriculture, acting through the
19 Chief of the Forest Service.

20 “(b) ESTABLISHMENT.—The Secretary shall estab-
21 lish a program, to be known as the ‘community forest and
22 open space conservation program’.

23 “(c) GRANT PROGRAM.—

1 “(1) IN GENERAL.—The Secretary may award
2 grants to eligible entities to acquire private forest
3 land, to be owned in fee simple, that—

4 “(A) are threatened by conversion to non-
5 forest uses; and

6 “(B) provide public benefits to commu-
7 nities, including—

8 “(i) economic benefits through sus-
9 tainable forest management;

10 “(ii) environmental benefits, including
11 clean water and wildlife habitat;

12 “(iii) benefits from forest-based edu-
13 cational programs, including vocational
14 education programs in forestry;

15 “(iv) benefits from serving as models
16 of effective forest stewardship for private
17 landowners; and

18 “(v) recreational benefits, including
19 hunting and fishing.

20 “(2) FEDERAL COST SHARE.—An eligible entity
21 may receive a grant under the Program in an
22 amount equal to not more than 50 percent of the
23 cost of acquiring 1 or more parcels, as determined
24 by the Secretary.

1 “(3) NON-FEDERAL SHARE.—As a condition of
2 receipt of the grant, an eligible entity that receives
3 a grant under the Program shall provide, in cash,
4 donation, or in kind, a non-Federal matching share
5 in an amount that is at least equal to the amount
6 of the grant received.

7 “(4) APPRAISAL OF PARCELS.—To determine
8 the non-Federal share of the cost of a parcel of pri-
9 vately-owned forest land under paragraph (2), an eli-
10 gible entity shall require appraisals of the land that
11 comply with the Uniform Appraisal Standards for
12 Federal Land Acquisitions developed by the Inter-
13 agency Land Acquisition Conference.

14 “(5) APPLICATION.—An eligible entity that
15 seeks to receive a grant under the Program shall
16 submit to the State forester or equivalent official (or
17 in the case of an Indian tribe, an equivalent official
18 of the Indian tribe) an application that includes—

19 “(A) a description of the land to be ac-
20 quired;

21 “(B) a forest plan that provides—

22 “(i) a description of community bene-
23 fits to be achieved from the acquisition of
24 the private forest land; and

1 “(ii) an explanation of the manner in
2 which any private forest land to be ac-
3 quired using funds from the grant will be
4 managed; and

5 “(C) such other relevant information as
6 the Secretary may require.

7 “(6) EFFECT ON TRUST LAND.—

8 “(A) INELIGIBILITY.—The Secretary shall
9 not provide a grant under the Program for any
10 project on land held in trust by the United
11 States (including Indian reservations and allot-
12 ment land).

13 “(B) ACQUIRED LAND.—No land acquired
14 using a grant provided under the Program shall
15 be converted to land held in trust by the United
16 States on behalf of any Indian tribe.

17 “(7) APPLICATIONS TO SECRETARY.—The State
18 forester or equivalent official (or in the case of an
19 Indian tribe, an equivalent official of the Indian
20 tribe) shall submit to the Secretary a list that in-
21 cludes a description of each project submitted by an
22 eligible entity at such times and in such form as the
23 Secretary shall prescribe.

24 “(d) DUTIES OF ELIGIBLE ENTITY.—An eligible en-
25 tity shall provide public access to, and manage, forest land

1 acquired with a grant under this section in a manner that
2 is consistent with the purposes for which the land was ac-
3 quired under the Program.

4 “(e) PROHIBITED USES.—

5 “(1) IN GENERAL.—Subject to paragraphs (2)
6 and (3), an eligible entity that acquires a parcel
7 under the Program shall not sell the parcel or con-
8 vert the parcel to nonforest use.

9 “(2) REIMBURSEMENT OF FUNDS.—An eligible
10 entity that sells or converts to nonforest use a parcel
11 acquired under the Program shall pay to the Federal
12 Government an amount equal to the greater of the
13 current sale price, or current appraised value, of the
14 parcel.

15 “(3) LOSS OF ELIGIBILITY.—An eligible entity
16 that sells or converts a parcel acquired under the
17 Program shall not be eligible for additional grants
18 under the Program.

19 “(f) STATE ADMINISTRATION AND TECHNICAL AS-
20 SISTANCE.—The Secretary may allocate not more than 10
21 percent of all funds made available to carry out the Pro-
22 gram for each fiscal year to State foresters or equivalent
23 officials (including equivalent officials of Indian tribes) for
24 Program administration and technical assistance.

1 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as are nec-
3 essary to carry out this section.”.

4 **SEC. 8004. ASSISTANCE TO THE FEDERATED STATES OF MI-**
5 **CRONESIA, THE REPUBLIC OF THE MAR-**
6 **SHALL ISLANDS, AND THE REPUBLIC OF**
7 **PALAU.**

8 Section 13(d)(1) of the Cooperative Forestry Act of
9 1978 (16 U.S.C. 2109(d)(1)) is amended by striking “the
10 Trust Territory of the Pacific Islands,” and inserting “the
11 Federated States of Micronesia, the Republic of the Mar-
12 shall Islands, the Republic of Palau,”.

13 **SEC. 8005. CHANGES TO FOREST RESOURCE COORDI-**
14 **NATING COMMITTEE.**

15 Section 19 of the Cooperative Forestry Assistance
16 Act of 1978 (16 U.S.C. 2113) is amended by striking sub-
17 section (a) and inserting the following new subsection:

18 “(a) FOREST RESOURCE COORDINATING COM-
19 MITTEE.—

20 “(1) ESTABLISHMENT.—The Secretary shall es-
21 tablish a committee, to be known as the ‘Forest Re-
22 source Coordinating Committee’ (in this section re-
23 ferred to as the ‘Coordinating Committee’), to co-
24 ordinate nonindustrial private forestry activities

1 within the Department of Agriculture and with the
2 private sector.

3 “(2) COMPOSITION.—The Coordinating Com-
4 mittee shall be composed of the following:

5 “(A) The Chief of the Forest Service.

6 “(B) The Chief of the Natural Resources
7 Conservation Service.

8 “(C) The Director of the Farm Service
9 Agency.

10 “(D) The Director of the National Insti-
11 tute of Food and Agriculture.

12 “(E) Non-Federal representatives ap-
13 pointed by the Secretary to 3 year terms, al-
14 though initial appointees shall have staggered
15 terms, including the following persons:

16 “(i) At least three State foresters or
17 equivalent State officials from geographi-
18 cally diverse regions of the United States.

19 “(ii) A representative of a State fish
20 and wildlife agency.

21 “(iii) An owner of nonindustrial pri-
22 vate forest land.

23 “(iv) A forest industry representative.

24 “(v) A conservation organization rep-
25 resentative.

1 “(vi) A land-grant university or col-
2 lege representative.

3 “(vii) A private forestry consultant.

4 “(viii) A representative from a State
5 Technical Committee established under
6 section 1261 of the Food Security Act of
7 1985 (16 U.S.C. 3861).

8 “(F) Such other persons as determined by
9 the Secretary to be appropriate.

10 “(3) CHAIRPERSON.—The Chief of the Forest
11 Service shall serve as chairperson of the Coordi-
12 nating Committee.

13 “(4) DUTIES.—The Coordinating Committee
14 shall—

15 “(A) provide direction and coordination of
16 actions within the Department of Agriculture,
17 and coordination with State agencies and the
18 private sector, to effectively address the na-
19 tional priorities specified in section 2(c), with
20 specific focus owners of nonindustrial private
21 forest land;

22 “(B) clarify individual agency responsibil-
23 ities of each agency represented on the Coordi-
24 nating Committee concerning the national pri-

1 orities specified in section 2(c), with specific
2 focus on nonindustrial private forest land;

3 “(C) provide advice on the allocation of
4 funds, including the competitive funds set-aside
5 by sections 13A and 13B; and

6 “(D) assist the Secretary in developing and
7 reviewing the report required by section 2(d).

8 “(5) MEETING.—The Coordinating Committee
9 shall meet annually to discuss progress in addressing
10 the national priorities specified in section 2(c) and
11 issues regarding nonindustrial private forest land.

12 “(6) COMPENSATION.—

13 “(A) FEDERAL MEMBERS.—Members of
14 the Coordinating Committee who are full-time
15 officers or employees of the United States shall
16 receive no additional pay, allowances, or bene-
17 fits by reason of their service on the Coordi-
18 nating Committee.

19 “(B) NON-FEDERAL MEMBERS.—Non-fed-
20 eral members of the Coordinating Committee
21 shall serve without pay, but may be reimbursed
22 for reasonable costs incurred while performing
23 their duties on behalf of the Coordinating Com-
24 mittee.”.

1 **SEC. 8006. CHANGES TO STATE FOREST STEWARDSHIP CO-**
2 **ORDINATING COMMITTEES.**

3 Section 19(b) of the Cooperative Forestry Assistance
4 Act of 1978 (16 U.S.C. 2113(b)) is amended—

5 (1) in paragraph (1)(B)(ii)—

6 (A) by striking “and” at the end of sub-
7 clause (VII); and

8 (B) by adding at the end the following new
9 subclause:

10 “(IX) the State Technical Com-
11 mittee.”.

12 (2) in paragraph (2)(C), by striking “a Forest
13 Stewardship Plan under paragraph (3)” and insert-
14 ing “the State-wide assessment and strategy regard-
15 ing forest resource conditions under section 2A”;

16 (3) by striking paragraphs (3) and (4); and

17 (4) by redesignating paragraphs (5) and (6) as
18 paragraphs (3) and (4), respectively.

19 **SEC. 8007. COMPETITION IN PROGRAMS UNDER COOPERA-**
20 **TIVE FORESTRY ASSISTANCE ACT OF 1978.**

21 The Cooperative Forestry Assistance Act of 1978 is
22 amended by inserting after section 13 (16 U.S.C. 2109)
23 the following new section:

1 **“SEC. 13A. COMPETITIVE ALLOCATION OF FUNDS TO STATE**
2 **FORESTERS OR EQUIVALENT STATE OFFI-**
3 **CIALS.**

4 “(a) COMPETITION.—Beginning not later than 3
5 years after the date of the enactment of the Food, Con-
6 servation, and Energy Act of 2008, the Secretary shall
7 competitively allocate a portion, to be determined by the
8 Secretary, of the funds available under this Act to State
9 foresters or equivalent State officials.

10 “(b) DETERMINATION.—In determining the competi-
11 tive allocation of funds under subsection (a), the Secretary
12 shall consult with the Forest Resource Coordinating Com-
13 mittee established by section 19(a).

14 “(c) PRIORITY.—The Secretary shall give priority for
15 funding to States for which the long-term State-wide for-
16 est resource strategies submitted under section 2A(a)(2)
17 will best promote the national priorities specified in sec-
18 tion 2(e).”.

19 **SEC. 8008. COMPETITIVE ALLOCATION OF FUNDS FOR CO-**
20 **OPERATIVE FOREST INNOVATION PARTNER-**
21 **SHIP PROJECTS.**

22 The Cooperative Forestry Assistance Act of 1978 is
23 amended by inserting after section 13A, as added by sec-
24 tion 8006, the following new section:

1 **“SEC. 13B. COMPETITIVE ALLOCATION OF FUNDS FOR CO-**
2 **OPERATIVE FOREST INNOVATION PARTNER-**
3 **SHIP PROJECTS.**

4 “(a) COOPERATIVE FOREST INNOVATION PARTNER-
5 SHIP PROJECTS.—The Secretary may competitively allo-
6 cate not more than 5 percent of the funds made available
7 under this Act to support innovative national, regional, or
8 local education, outreach, or technology transfer projects
9 that the Secretary determines would substantially increase
10 the ability of the Department of Agriculture to address
11 the national priorities specified in section 2(c).

12 “(b) ELIGIBILITY.—Notwithstanding the eligibility
13 limitations contained in this Act, any State or local gov-
14 ernment, Indian tribe, land-grant college or university, or
15 private entity shall be eligible to compete for funds to be
16 competitively allocated under subsection (a).

17 “(c) COST-SHARE REQUIREMENT.—In carrying out
18 subsection (a), the Secretary shall not cover more than
19 50 percent of the total cost of a project under such sub-
20 section. In calculating the total cost of a project and con-
21 tributions made with regard to the project, the Secretary
22 shall include in-kind contributions.”.

23 **Subtitle B—Cultural and Heritage**
24 **Cooperation Authority**

25 **SEC. 8101. PURPOSES.**

26 The purposes of this subtitle are—

1 (1) to authorize the reburial of human remains
2 and cultural items on National Forest System land,
3 including human remains and cultural items repatri-
4 ated under the Native American Graves Protection
5 and Repatriation Act (25 U.S.C. 3001 et seq.);

6 (2) to prevent the unauthorized disclosure of in-
7 formation regarding reburial sites, including the
8 quantity and identity of human remains and cultural
9 items on sites and the location of sites;

10 (3) to authorize the Secretary of Agriculture to
11 ensure access to National Forest System land, to the
12 maximum extent practicable, by Indians and Indian
13 tribes for traditional and cultural purposes;

14 (4) to authorize the Secretary to provide forest
15 products, without consideration, to Indian tribes for
16 traditional and cultural purposes;

17 (5) to authorize the Secretary to protect the
18 confidentiality of certain information, including in-
19 formation that is culturally sensitive to Indian
20 tribes;

21 (6) to increase the availability of Forest Service
22 programs and resources to Indian tribes in support
23 of the policy of the United States to promote tribal
24 sovereignty and self-determination; and

1 (7) to strengthen support for the policy of the
2 United States of protecting and preserving the tradi-
3 tional, cultural, and ceremonial rites and practices of
4 Indian tribes, in accordance with Public Law 95-
5 341 (commonly known as the American Indian Reli-
6 gious Freedom Act; 42 U.S.C. 1996).

7 **SEC. 8102. DEFINITIONS.**

8 In this subtitle:

9 (1) **ADJACENT SITE.**—The term “adjacent site”
10 means a site that borders a boundary line of Na-
11 tional Forest System land.

12 (2) **CULTURAL ITEMS.**—The term “cultural
13 items” has the meaning given the term in section 2
14 of the Native American Graves Protection and Repa-
15 triation Act (25 U.S.C. 3001), except that the term
16 does not include human remains.

17 (3) **HUMAN REMAINS.**—The term “human re-
18 mains” means the physical remains of the body of
19 a person of Indian ancestry.

20 (4) **INDIAN.**—The term “Indian” means an in-
21 dividual who is a member of an Indian tribe.

22 (5) **INDIAN TRIBE.**—The term “Indian tribe”
23 means any Indian or Alaska Native tribe, band, na-
24 tion, pueblo, village, or other community the name
25 of which is included on a list published by the Sec-

1 retary of the Interior pursuant to section 104 of the
2 Federally Recognized Indian Tribe List Act of 1994
3 (25 U.S.C. 479a-1).

4 (6) LINEAL DESCENDANT.—The term “lineal
5 descendant” means an individual that can trace, di-
6 rectly and without interruption, the ancestry of the
7 individual through the traditional kinship system of
8 an Indian tribe, or through the common law system
9 of descent, to a known Indian, the human remains,
10 funerary objects, or other sacred objects of whom
11 are claimed by the individual.

12 (7) NATIONAL FOREST SYSTEM.—The term
13 “National Forest System” has the meaning given
14 the term in section 11(a) of the Forest and Range-
15 land Renewable Resources Planning Act of 1974 (16
16 U.S.C. 1609(a)).

17 (8) REBURIAL SITE.—The term “reburial site”
18 means a specific physical location at which cultural
19 items or human remains are reburied.

20 (9) TRADITIONAL AND CULTURAL PURPOSE.—
21 The term “traditional and cultural purpose”, with
22 respect to a definable use, area, or practice, means
23 that the use, area, or practice is identified by an In-
24 dian tribe as traditional or cultural because of the

1 long-established significance or ceremonial nature of
2 the use, area, or practice to the Indian tribe.

3 **SEC. 8103. REBURIAL OF HUMAN REMAINS AND CULTURAL**
4 **ITEMS.**

5 (a) REBURIAL SITES.—In consultation with an af-
6 fected Indian tribe or lineal descendant, the Secretary may
7 authorize the use of National Forest System land by the
8 Indian tribe or lineal descendant for the reburial of human
9 remains or cultural items in the possession of the Indian
10 tribe or lineal descendant that have been disinterred from
11 National Forest System land or an adjacent site.

12 (b) REBURIAL.—With the consent of the affected In-
13 dian tribe or lineal descendent, the Secretary may recover
14 and rebury, at Federal expense or using other available
15 funds, human remains and cultural items described in sub-
16 section (a) at the National Forest System land identified
17 under that subsection.

18 (c) AUTHORIZATION OF USE.—

19 (1) IN GENERAL.—Subject to paragraph (2),
20 the Secretary may authorize such uses of reburial
21 sites on National Forest System land, or on the Na-
22 tional Forest System land immediately surrounding
23 a reburial site, as the Secretary determines to be
24 necessary for management of the National Forest
25 System.

1 (2) AVOIDANCE OF ADVERSE IMPACTS.—In car-
2 rying out paragraph (1), the Secretary shall avoid
3 adverse impacts to cultural items and human re-
4 mains, to the maximum extent practicable.

5 **SEC. 8104. TEMPORARY CLOSURE FOR TRADITIONAL AND**
6 **CULTURAL PURPOSES.**

7 (a) RECOGNITION OF HISTORIC USE.—To the max-
8 imum extent practicable, the Secretary shall ensure access
9 to National Forest System land by Indians for traditional
10 and cultural purposes, in accordance with subsection (b),
11 in recognition of the historic use by Indians of National
12 Forest System land.

13 (b) CLOSING LAND FROM PUBLIC ACCESS.—

14 (1) AUTHORITY TO CLOSE.—Upon the approval
15 by the Secretary of a request from an Indian tribe,
16 the Secretary may temporarily close from public ac-
17 cess specifically identified National Forest System
18 land to protect the privacy of tribal activities for tra-
19 ditional and cultural purposes.

20 (2) LIMITATION.—A closure of National Forest
21 System land under paragraph (1) shall affect the
22 smallest practicable area for the minimum period
23 necessary for activities of the applicable Indian tribe.

24 (3) CONSISTENCY.—Access by Indian tribes to
25 National Forest System land under this subsection

1 shall be consistent with the purposes of Public Law
2 95–341 (commonly known as the American Indian
3 Religious Freedom Act; 42 U.S.C. 1996).

4 **SEC. 8105. FOREST PRODUCTS FOR TRADITIONAL AND CUL-**
5 **TURAL PURPOSES.**

6 (a) IN GENERAL.—Notwithstanding section 14 of the
7 National Forest Management Act of 1976 (16 U.S.C.
8 472a), the Secretary may provide free of charge to Indian
9 tribes any trees, portions of trees, or forest products from
10 National Forest System land for traditional and cultural
11 purposes.

12 (b) PROHIBITION.—Trees, portions of trees, or forest
13 products provided under subsection (a) may not be used
14 for commercial purposes.

15 **SEC. 8106. PROHIBITION ON DISCLOSURE.**

16 (a) NONDISCLOSURE OF INFORMATION.—

17 (1) IN GENERAL.—The Secretary shall not dis-
18 close under section 552 of title 5, United States
19 Code (commonly known as the “Freedom of Infor-
20 mation Act”), information relating to—

21 (A) subject to subsection (b)(1), human re-
22 mains or cultural items reburied on National
23 Forest System land under section 8103; or

24 (B) subject to subsection (b)(2), resources,
25 cultural items, uses, or activities that—

1 (i) have a traditional and cultural
2 purpose; and

3 (ii) are provided to the Secretary by
4 an Indian or Indian tribe under an express
5 expectation of confidentiality in the context
6 of forest and rangeland research activities
7 carried out under the authority of the For-
8 est Service.

9 (2) LIMITATIONS ON DISCLOSURE.—Subject to
10 subsection (b)(2), the Secretary shall not be required
11 to disclose information under section 552 of title 5,
12 United States Code (commonly known as the “Free-
13 dom of Information Act”), concerning the identity,
14 use, or specific location in the National Forest Sys-
15 tem of—

16 (A) a site or resource used for traditional
17 and cultural purposes by an Indian tribe; or

18 (B) any cultural items not covered under
19 section 8103.

20 (b) LIMITED RELEASE OF INFORMATION.—

21 (1) REBURIAL.—The Secretary may disclose in-
22 formation described in subsection (a)(1)(A) if, before
23 the disclosure, the Secretary—

24 (A) consults with an affected Indian tribe
25 or lineal descendent;

1 (B) determines that disclosure of the infor-
2 mation—

3 (i) would advance the purposes of this
4 subtitle; and

5 (ii) is necessary to protect the human
6 remains or cultural items from harm,
7 theft, or destruction; and

8 (C) attempts to mitigate any adverse im-
9 pacts identified by an Indian tribe or lineal de-
10 scendant that reasonably could be expected to
11 result from disclosure of the information.

12 (2) OTHER INFORMATION.—The Secretary, in
13 consultation with appropriate Indian tribes, may dis-
14 close information described under paragraph (1)(B)
15 or (2) of subsection (a) if the Secretary determines
16 that disclosure of the information to the public—

17 (A) would advance the purposes of this
18 subtitle;

19 (B) would not create an unreasonable risk
20 of harm, theft, or destruction of the resource,
21 site, or object, including individual organic or
22 inorganic specimens; and

23 (C) would be consistent with other applica-
24 ble laws.

1 **SEC. 8107. SEVERABILITY AND SAVINGS PROVISIONS.**

2 (a) SEVERABILITY.—If any provision of this subtitle,
3 or the application of any provision of this subtitle to any
4 person or circumstance is held invalid, the application of
5 such provision or circumstance and the remainder of this
6 subtitle shall not be affected thereby.

7 (b) SAVINGS.—Nothing in this subtitle—

8 (1) diminishes or expands the trust responsi-
9 bility of the United States to Indian tribes, or any
10 legal obligation or remedy resulting from that re-
11 sponsibility;

12 (2) alters, abridges, repeals, or affects any valid
13 agreement between the Forest Service and an Indian
14 tribe;

15 (3) alters, abridges, diminishes, repeals, or af-
16 fects any reserved or other right of an Indian tribe;
17 or

18 (4) alters, abridges, diminishes, repeals, or af-
19 fects any other valid existing right relating to Na-
20 tional Forest System land or other public land.

21 **Subtitle C—Amendments to Other**
22 **Forestry-Related Laws**

23 **SEC. 8201. RURAL REVITALIZATION TECHNOLOGIES.**

24 Section 2371(d)(2) of the Food, Agriculture, Con-
25 servation, and Trade Act of 1990 (7 U.S.C. 6601(d)(2))

1 is amended by striking “2004 through 2008” and insert-
2 ing “2008 through 2012”.

3 **SEC. 8202. OFFICE OF INTERNATIONAL FORESTRY.**

4 Section 2405(d) of the Global Climate Change Pre-
5 vention Act of 1990 (7 U.S.C. 6704(d)) is amended by
6 striking “2007” and inserting “2012”.

7 **SEC. 8203. EMERGENCY FOREST RESTORATION PROGRAM.**

8 (a) ESTABLISHMENT.—Title IV of the Agricultural
9 Credit Act of 1978 (16 U.S.C. 2201 et seq.) is amended
10 by adding at the end the following new section:

11 **“SEC. 407. EMERGENCY FOREST RESTORATION PROGRAM.**

12 “(a) DEFINITIONS.—In this section:

13 “(1) EMERGENCY MEASURES.—The term
14 ‘emergency measures’ means those measures that—

15 “(A) are necessary to address damage
16 caused by a natural disaster to natural re-
17 sources on nonindustrial private forest land,
18 and the damage, if not treated—

19 “(i) would impair or endanger the
20 natural resources on the land; and

21 “(ii) would materially affect future
22 use of the land; and

23 “(B) would restore forest health and for-
24 est-related resources on the land.

1 “(2) NATURAL DISASTER.—The term ‘natural
2 disaster’ includes wildfires, hurricanes or excessive
3 winds, drought, ice storms or blizzards, floods, or
4 other resource-impacting events, as determined by
5 the Secretary.

6 “(3) NONINDUSTRIAL PRIVATE FOREST
7 LAND.—The term ‘nonindustrial private forest land’
8 means rural land, as determined by the Secretary,
9 that—

10 “(A) has existing tree cover (or had tree
11 cover immediately before the natural disaster
12 and is suitable for growing trees); and

13 “(B) is owned by any nonindustrial private
14 individual, group, association, corporation, or
15 other private legal entity, that has definitive de-
16 cision-making authority over the land.

17 “(4) SECRETARY.—The term ‘Secretary’ means
18 the Secretary of Agriculture.

19 “(b) AVAILABILITY OF ASSISTANCE.—The Secretary
20 may make payments to an owner of nonindustrial private
21 forest land who carries out emergency measures to restore
22 the land after the land is damaged by a natural disaster.

23 “(c) ELIGIBILITY.—To be eligible to receive a pay-
24 ment under subsection (b), an owner must demonstrate
25 to the satisfaction of the Secretary that the nonindustrial

1 private forest land on which the emergency measures are
2 carried out had tree cover immediately before the natural
3 disaster.

4 “(d) COST SHARE REQUIREMENT.—Payments made
5 under subsection (b) shall not exceed 75 percent of the
6 total cost of the emergency measures carried out by an
7 owner of nonindustrial private forest land.

8 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated to the Secretary such
10 funds as may be necessary to carry out this section.
11 Amounts so appropriated shall remain available until ex-
12 pended.”.

13 (b) REGULATIONS.—Not later than one year after the
14 date of the enactment of this Act, the Secretary of Agri-
15 culture shall issue regulations to carry out section 407 of
16 the Agricultural Credit Act of 1978, as added by sub-
17 section (a).

18 **SEC. 8204. PREVENTION OF ILLEGAL LOGGING PRACTICES.**

19 (a) DEFINITIONS.—

20 (1) PLANT.—Subsection (f) of section 2 of the
21 Lacey Act Amendments of 1981 (16 U.S.C. 3371)
22 is amended to read as follows:

23 “(f) PLANT.—

24 “(1) IN GENERAL.—The terms ‘plant’ and
25 ‘plants’ mean any wild member of the plant king-

1 dom, including roots, seeds, parts, or products there-
2 of, and including trees from either natural or plant-
3 ed forest stands.

4 “(2) EXCLUSIONS.—The terms ‘plant’ and
5 ‘plants’ exclude—

6 “(A) common cultivars, except trees, and
7 common food crops (including roots, seeds,
8 parts, or products thereof);

9 “(B) a scientific specimen of plant genetic
10 material (including roots, seeds, germplasm,
11 parts, or products thereof) that is to be used
12 only for laboratory or field research; and

13 “(C) any plant that is to remain planted or
14 to be planted or replanted.

15 “(3) EXCEPTIONS TO APPLICATION OF EXCLU-
16 SIONS.—The exclusions made by subparagraphs (B)
17 and (C) of paragraph (2) do not apply if the plant
18 is listed—

19 “(A) in an appendix to the Convention on
20 International Trade in Endangered Species of
21 Wild Fauna and Flora (27 UST 1087; TIAS
22 8249);

23 “(B) as an endangered or threatened spe-
24 cies under the Endangered Species Act of 1973
25 (16 U.S.C. 1531 et seq.); or

1 “(C) pursuant to any State law that pro-
2 vides for the conservation of species that are in-
3 digenous to the State and are threatened with
4 extinction.”.

5 (2) INCLUSION OF SECRETARY OF AGRICULTURE.—Section 2(h) of the Lacey Act Amend-
6 ments of 1981 (16 U.S.C. 3371(h)) is amended by
7 striking “plants the term means” and inserting
8 “plants, the term also means”.

10 (3) TAKEN AND TAKING.—Subsection (j) of sec-
11 tion 2 of the Lacey Act Amendments of 1981 (16
12 U.S.C. 3371) is amended to read as follows:

13 “(j) TAKEN AND TAKING.—

14 “(1) TAKEN.—The term ‘taken’ means cap-
15 tured, killed, or collected and, with respect to a
16 plant, also means harvested, cut, logged, or removed.

17 “(2) TAKING.—The term ‘taking’ means the act
18 by which fish, wildlife, or plants are taken.”.

19 (b) PROHIBITED ACTS.—

20 (1) OFFENSES OTHER THAN MARKING.—Sec-
21 tion 3(a) of the Lacey Act Amendments of 1981 (16
22 U.S.C. 3372(a)) is amended—

23 (A) in paragraph (2), by striking subpara-
24 graph (B) and inserting the following new sub-
25 paragraph:

1 “(B) any plant—

2 “(i) taken, possessed, transported, or
3 sold in violation of any law or regulation of
4 any State, or any foreign law, that protects
5 plants or that regulates—

6 “(I) the theft of plants;

7 “(II) the taking of plants from a
8 park, forest reserve, or other officially
9 protected area;

10 “(III) the taking of plants from
11 an officially designated area; or

12 “(IV) the taking of plants with-
13 out, or contrary to, required author-
14 ization;

15 “(ii) taken, possessed, transported, or
16 sold without the payment of appropriate
17 royalties, taxes, or stumpage fees required
18 for the plant by any law or regulation of
19 any State or any foreign law; or

20 “(iii) taken, possessed, transported, or
21 sold in violation of any limitation under
22 any law or regulation of any State, or
23 under any foreign law, governing the ex-
24 port or transshipment of plants; or”; and

1 (B) in paragraph (3), by striking subpara-
2 graph (B) and inserting the following subpara-
3 graph:

4 “(B) to possess any plant—

5 “(i) taken, possessed, transported, or
6 sold in violation of any law or regulation of
7 any State, or any foreign law, that protects
8 plants or that regulates—

9 “(I) the theft of plants;

10 “(II) the taking of plants from a
11 park, forest reserve, or other officially
12 protected area;

13 “(III) the taking of plants from
14 an officially designated area; or

15 “(IV) the taking of plants with-
16 out, or contrary to, required author-
17 ization;

18 “(ii) taken, possessed, transported, or
19 sold without the payment of appropriate
20 royalties, taxes, or stumpage fees required
21 for the plant by any law or regulation of
22 any State or any foreign law; or

23 “(iii) taken, possessed, transported, or
24 sold in violation of any limitation under
25 any law or regulation of any State, or

1 under any foreign law, governing the ex-
2 port or transshipment of plants; or”.

3 (2) PLANT DECLARATIONS.—Section 3 of the
4 Lacey Act Amendments of 1981 (16 U.S.C. 3372)
5 is amended by adding at the end the following new
6 subsection:

7 “(f) PLANT DECLARATIONS.—

8 “(1) IMPORT DECLARATION.—Effective 180
9 days from the date of enactment of this subsection,
10 and except as provided in paragraph (3), it shall be
11 unlawful for any person to import any plant unless
12 the person files upon importation a declaration that
13 contains—

14 “(A) the scientific name of any plant (in-
15 cluding the genus and species of the plant) con-
16 tained in the importation;

17 “(B) a description of—

18 “(i) the value of the importation; and

19 “(ii) the quantity, including the unit
20 of measure, of the plant; and

21 “(C) the name of the country from which
22 the plant was taken.

23 “(2) DECLARATION RELATING TO PLANT PROD-
24 UCTS.—Until the date on which the Secretary pro-

1 mulgates a regulation under paragraph (6), a dec-
2 laration relating to a plant product shall—

3 “(A) in the case in which the species of
4 plant used to produce the plant product that is
5 the subject of the importation varies, and the
6 species used to produce the plant product is un-
7 known, contain the name of each species of
8 plant that may have been used to produce the
9 plant product;

10 “(B) in the case in which the species of
11 plant used to produce the plant product that is
12 the subject of the importation is commonly
13 taken from more than one country, and the
14 country from which the plant was taken and
15 used to produce the plant product is unknown,
16 contain the name of each country from which
17 the plant may have been taken; and

18 “(C) in the case in which a paper or paper-
19 board plant product includes recycled plant
20 product, contain the average percent recycled
21 content without regard for the species or coun-
22 try of origin of the recycled plant product, in
23 addition to the information for the non-recycled
24 plant content otherwise required by this sub-
25 section.

1 “(3) EXCLUSIONS.—Paragraphs (1) and (2)
2 shall not apply to plants used exclusively as pack-
3 aging material to support, protect, or carry another
4 item, unless the packaging material itself is the item
5 being imported.

6 “(4) REVIEW.—Not later than two years after
7 the date of enactment of this subsection, the Sec-
8 retary shall review the implementation of each re-
9 quirement imposed by paragraphs (1) and (2) and
10 the effect of the exclusion provided by paragraph
11 (3). In conducting the review, the Secretary shall
12 provide public notice and an opportunity for com-
13 ment.

14 “(5) REPORT.—Not later than 180 days after
15 the date on which the Secretary completes the review
16 under paragraph (4), the Secretary shall submit to
17 the appropriate committees of Congress a report
18 containing—

19 “(A) an evaluation of—

20 “(i) the effectiveness of each type of
21 information required under paragraphs (1)
22 and (2) in assisting enforcement of this
23 section; and

24 “(ii) the potential to harmonize each
25 requirement imposed by paragraphs (1)

1 and (2) with other applicable import regu-
2 lations in existence as of the date of the
3 report;

4 “(B) recommendations for such legislation
5 as the Secretary determines to be appropriate
6 to assist in the identification of plants that are
7 imported into the United States in violation of
8 this section; and

9 “(C) an analysis of the effect of subsection
10 (a) and this subsection on—

11 “(i) the cost of legal plant imports;
12 and

13 “(ii) the extent and methodology of il-
14 legal logging practices and trafficking.

15 “(6) PROMULGATION OF REGULATIONS.—Not
16 later than 180 days after the date on which the Sec-
17 retary completes the review under paragraph (4), the
18 Secretary may promulgate regulations—

19 “(A) to limit the applicability of any re-
20 quirement imposed by paragraph (2) to specific
21 plant products;

22 “(B) to make any other necessary modi-
23 fication to any requirement imposed by para-
24 graph (2), as determined by the Secretary
25 based on the review; and

1 “(C) to limit the scope of the exclusion
2 provided by paragraph (3), if the limitations in
3 scope are warranted as a result of the review.”.

4 (c) CROSS-REFERENCES TO NEW REQUIREMENT.—
5 Section 4 of the Lacey Act Amendments of 1981 (16
6 U.S.C. 3373) is amended—

7 (1) by striking “subsections (b) and (d)” each
8 place it appears and inserting “subsections (b), (d),
9 and (f)”;

10 (2) by striking “section 3(d)” each place it ap-
11 pears and inserting “subsection (d) or (f) of section
12 3”; and

13 (3) in subsection (a)(2), by striking “subsection
14 3(b)” and inserting “subsection (b) or (f) of section
15 3, except as provided in paragraph (1),”.

16 (d) CIVIL FORFEITURES.—Section 5 of the Lacey
17 Act Amendments of 1981 (16 U.S.C. 3374) is amended
18 by adding at the end the following new subsection:

19 “(d) CIVIL FORFEITURES.—Civil forfeitures under
20 this section shall be governed by the provisions of chapter
21 46 of title 18, United States Code.”.

22 (e) ADMINISTRATION.—Section 7 of the Lacey Act
23 Amendments of 1981 (16 U.S.C. 3376) is amended—

1 (1) in subsection (a)(1), by striking “section 4
2 and section” and inserting “sections 3(f), 4, and”;
3 and

4 (2) by adding at the end the following new sub-
5 section:

6 “(c) CLARIFICATION OF EXCLUSIONS FROM DEFINI-
7 TION OF PLANT.—The Secretary of Agriculture and the
8 Secretary of the Interior, after consultation with the ap-
9 propriate agencies, shall jointly promulgate regulations to
10 define the terms used in section 2(f)(2)(A) for the pur-
11 poses of enforcement under this Act.”.

12 (f) TECHNICAL CORRECTION.—Effective as of No-
13 vember 14, 1988, and as if included therein as enacted,
14 section 102(c) of Public Law 100–653 (102 Stat. 3825)
15 is amended—

16 (1) by inserting “of the Lacey Act Amendments
17 of 1981” after “Section 4”; and

18 (2) by striking “(other than section 3(b))” and
19 inserting “(other than subsection 3(b))”.

20 **SEC. 8205. HEALTHY FORESTS RESERVE PROGRAM.**

21 (a) ENROLLMENT.—Section 502 of the Healthy For-
22 ests Restoration Act of 2003 (16 U.S.C. 6572(f)(1)) is
23 amended—

24 (1) by striking subsections (e) and (f);

1 (2) by redesignating subsection (g) as sub-
2 section (f); and

3 (3) by inserting after subsection (d) the fol-
4 lowing new subsection:

5 “(e) METHODS OF ENROLLMENT.—

6 “(1) AUTHORIZED METHODS.—Land may be
7 enrolled in the healthy forests reserve program in ac-
8 cordance with—

9 “(A) a 10-year cost-share agreement;

10 “(B) a 30-year easement; or

11 “(C)(i) a permanent easement; or

12 “(ii) in a State that imposes a maximum
13 duration for easements, an easement for the
14 maximum duration allowed under State law.

15 “(2) LIMITATION ON USE OF COST-SHARE
16 AGREEMENTS AND EASEMENTS.—

17 “(A) IN GENERAL.—Of the total amount
18 of funds expended under the program for a fis-
19 cal year to acquire easements and enter into
20 cost-share agreements described in paragraph
21 (1)—

22 “(i) not more than 40 percent shall be
23 used for cost-share agreements described
24 in paragraph (1)(A); and

1 “(ii) not more than 60 percent shall
2 be used for easements described in sub-
3 paragraphs (B) and (C) of paragraph (1).

4 “(B) REPOOLING.—The Secretary may use
5 any funds allocated under clause (i) or (ii) of
6 subparagraph (A) that are not obligated by
7 April 1 of the fiscal year for which the funds
8 are made available to carry out a different
9 method of enrollment during that fiscal year.

10 “(3) ACREAGE OWNED BY INDIAN TRIBES.—In
11 the case of acreage owned by an Indian tribe, the
12 Secretary may enroll acreage into the healthy forests
13 reserve program through the use of—

14 “(A) a 30-year contract (the value of
15 which shall be equivalent to the value of a 30-
16 year easement);

17 “(B) a 10-year cost-share agreement; or

18 “(C) any combination of the options de-
19 scribed in subparagraphs (A) and (B).”.

20 (b) FINANCIAL ASSISTANCE.—Section 504(a) of the
21 Healthy Forests Restoration Act of 2003 (16 U.S.C.
22 6574(a)) is amended by striking “(a) EASEMENTS OF NOT
23 MORE THAN 99 YEARS” and all that follows through
24 “502(f)(1)(C)” and inserting the following:

1 “(a) PERMANENT EASEMENTS.—In the case of land
2 enrolled in the healthy forests reserve program using a
3 permanent easement (or an easement described in section
4 502(f)(1)(C)(ii))”.

5 (c) FUNDING.—Section 508 of the Healthy Forests
6 Restoration Act of 2003 (16 U.S.C. 6578) is amended to
7 read as follows:

8 **“SEC. 508. FUNDING.**

9 “(a) IN GENERAL.—Of the funds of the Commodity
10 Credit Corporation, the Secretary of Agriculture shall
11 make available \$9,750,000 for each of fiscal years 2009
12 through 2012 to carry out this title.

13 “(b) DURATION OF AVAILABILITY.—The funds made
14 available under subsection (a) shall remain available until
15 expended.”.

16 **Subtitle D—Boundary Adjustments**
17 **and Land Conveyance Provisions**

18 **SEC. 8301. GREEN MOUNTAIN NATIONAL FOREST BOUND-**

19 **ARY ADJUSTMENT.**

20 (a) IN GENERAL.—The boundary of the Green Moun-
21 tain National Forest is modified to include the 13 des-
22 ignated expansion units as generally depicted on the forest
23 maps entitled “Green Mountain Expansion Area Map I”
24 and “Green Mountain Expansion Area Map II” and dated
25 February 20, 2002 (copies of which shall be on file and

1 available for public inspection in the Office of the Chief
2 of the Forest Service, Washington, District of Columbia),
3 and more particularly described according to the site spe-
4 cific maps and legal descriptions on file in the office of
5 the Forest Supervisor, Green Mountain National Forest.

6 (b) MANAGEMENT.—Federally owned land delineated
7 on the maps acquired for National Forest purposes shall
8 continue to be managed in accordance with the laws (in-
9 cluding regulations) applicable to the National Forest Sys-
10 tem.

11 (c) LAND AND WATER CONSERVATION FUND.—For
12 the purposes of section 7 of the Land and Water Con-
13 servation Fund Act of 1965 (16 U.S.C. 460 1–9), the
14 boundaries of the Green Mountain National Forest, as ad-
15 justed by this section, shall be considered to be the bound-
16 aries of the national forest as of January 1, 1965.

17 **SEC. 8302. LAND CONVEYANCES, CHIHUAHUAN DESERT NA-**
18 **TURE PARK, NEW MEXICO, AND GEORGE**
19 **WASHINGTON NATIONAL FOREST, VIRGINIA.**

20 (a) CHIHUAHUAN DESERT NATURE PARK CONVEY-
21 ANCE.—

22 (1) IN GENERAL.—As soon as practicable after
23 the date of enactment of this Act, subject to valid
24 existing rights and subsection (b), the Secretary of
25 Agriculture shall convey to the Chihuahuan Desert

1 Nature Park, Inc., a nonprofit corporation in the
2 State of New Mexico (in this section referred to as
3 the “Nature Park”), by quitclaim deed and for no
4 consideration, all right, title, and interest of the
5 United States in and to the land described in para-
6 graph (2)

7 (2) DESCRIPTION OF LAND.—

8 (A) IN GENERAL.—The parcel of land re-
9 ferred to in paragraph (1) consists of the ap-
10 proximately 935.62 acres of land in Dona Ana
11 County, New Mexico, which is more particularly
12 described—

13 (i) as sections 17, 20, and 21 of T. 21
14 S., R. 2 E., N.M.P.M.; and

15 (ii) in an easement deed dated May
16 14, 1998, from the Department of Agri-
17 culture to the Nature Park.

18 (B) MODIFICATIONS.—The Secretary may
19 modify the description of the land under sub-
20 paragraph (A) to—

21 (i) correct errors in the description; or

22 (ii) facilitate management of the land.

23 (b) CONDITIONS.—The conveyance of land under
24 subsection (a) shall be subject to—

1 (1) the reservation by the United States of all
2 mineral and subsurface rights to the land, including
3 any geothermal resources;

4 (2) the condition that the Chihuahuan Desert
5 Nature Park Board pay any costs relating to the
6 conveyance;

7 (3) any rights-of-way reserved by the Secretary;

8 (4) a covenant or restriction in the deed to the
9 land requiring that—

10 (A) the land may be used only for edu-
11 cational or scientific purposes; and

12 (B) if the land is no longer used for the
13 purposes described in subparagraph (A), the
14 land may, at the discretion of the Secretary, re-
15 vert to the United States in accordance with
16 subsection (c); and

17 (5) any other terms and conditions that the
18 Secretary determines to be appropriate.

19 (c) REVERSION.—If the land conveyed under sub-
20 section (a) is no longer used for the purposes described
21 in subsection (b)(4)(A), the land may, at the discretion
22 of the Secretary, revert to the United States. If the Sec-
23 retary chooses to have the land revert to the United
24 States, the Secretary shall—

1 (1) determine whether the land is environ-
2 mentally contaminated, including contamination
3 from hazardous wastes, hazardous substances, pol-
4 lutants, contaminants, petroleum, or petroleum by-
5 products; and

6 (2) if the Secretary determines that the land is
7 environmentally contaminated, the Nature Park, the
8 successor to the Nature Park, or any other person
9 responsible for the contamination shall be required
10 to remediate the contamination.

11 (d) WITHDRAWAL.—All federally owned mineral and
12 subsurface rights to the land to be conveyed under sub-
13 section (a) are withdrawn from—

14 (1) location, entry, and patent under the mining
15 laws; and

16 (2) the operation of the mineral leasing laws,
17 including the geothermal leasing laws.

18 (e) WATER RIGHTS.—Nothing in subsection (a) au-
19 thorizes the conveyance of water rights to the Nature
20 Park.

21 (f) GEORGE WASHINGTON NATIONAL FOREST CON-
22 VEYANCE, VIRGINIA.—

23 (1) CONVEYANCE REQUIRED.—The Secretary of
24 Agriculture shall convey, without consideration, to
25 the Central Advent Christian Church of Alleghany

1 County, Virginia (in this subsection referred to as
2 the “recipient”), all right, title, and interest of the
3 United States in and to a parcel of real property in
4 the George Washington National Forest, Alleghany
5 County, Virginia, consisting of not more than 8
6 acres, including a cemetery encompassing approxi-
7 mately 6 acres designated as an area of special use
8 for the recipient, and depicted on the Forest Service
9 map showing tract G-2032c and dated August 20,
10 2002, and the Forest Service map showing the area
11 of special use and dated March 14, 2001.

12 (2) CONDITION OF CONVEYANCE.—The convey-
13 ance under this subsection shall be subject to the
14 condition that the recipient accept the real property
15 described in paragraph (1) in its condition at the
16 time of the conveyance, commonly known as convey-
17 ance “as is”.

18 (3) DESCRIPTION OF PROPERTY.—The exact
19 acreage and legal description of the real property to
20 be conveyed under this subsection shall be deter-
21 mined by a survey satisfactory to the Secretary. The
22 cost of the survey shall be borne by the recipient.

23 (4) ADDITIONAL TERMS AND CONDITIONS.—
24 The Secretary may require such additional terms
25 and conditions in connection with the conveyance

1 under this subsection as the Secretary considers ap-
2 propriate to protect the interests of the United
3 States.

4 **SEC. 8303. SALE AND EXCHANGE OF NATIONAL FOREST**
5 **SYSTEM LAND, VERMONT.**

6 (a) DEFINITIONS.—In this section:

7 (1) BROMLEY.—The term “Bromley” means
8 Bromley Mountain Ski Resort, Inc.

9 (2) MAP.—The term “map” means the map en-
10 titled “Proposed Bromley Land Sale or Exchange”
11 and dated April 7, 2004.

12 (3) STATE.—The term “State” means the State
13 of Vermont.

14 (b) SALE OR EXCHANGE OF GREEN MOUNTAIN NA-
15 TIONAL FOREST LAND.—

16 (1) IN GENERAL.—The Secretary of Agriculture
17 may, under any terms and conditions that the Sec-
18 retary may prescribe, sell or exchange any right,
19 title, and interest of the United States in and to the
20 parcels of National Forest System land described in
21 paragraph (2).

22 (2) DESCRIPTION OF LAND.—The parcels of
23 National Forest System land referred to in para-
24 graph (1) are the 5 parcels of land in Bennington

1 County in the State, as generally depicted on the
2 map.

3 (3) MAP AND LEGAL DESCRIPTIONS.—

4 (A) IN GENERAL.—The map shall be on
5 file and available for public inspection in—

6 (i) the office of the Chief of the For-
7 est Service; and

8 (ii) the office of the Supervisor of the
9 Green Mountain National Forest.

10 (B) MODIFICATIONS.—The Secretary may
11 modify the map and legal descriptions to—

12 (i) correct technical errors; or

13 (ii) facilitate the conveyance under
14 paragraph (1).

15 (4) CONSIDERATION.—Consideration for the
16 sale or exchange of land described in paragraph
17 (2)—

18 (A) shall be equal to an amount that is not
19 less than the fair market value of the land sold
20 or exchanged; and

21 (B) may be in the form of cash, land, or
22 a combination of cash and land.

23 (5) APPRAISALS.—Any appraisal carried out to
24 facilitate the sale or exchange of land under para-

1 graph (1) shall conform with the Uniform Appraisal
2 Standards for Federal Land Acquisitions.

3 (6) METHODS OF SALE.—

4 (A) CONVEYANCE TO BROMLEY.—

5 (i) IN GENERAL.—Before soliciting of-
6 fers under subparagraph (B), the Sec-
7 retary shall offer to convey to Bromley the
8 land described in paragraph (2).

9 (ii) CONTRACT DEADLINE.—If
10 Bromley accepts the offer under clause (i),
11 the Secretary and Bromley shall have not
12 more than 180 days after the date on
13 which any environmental analyses with re-
14 spect to the land are completed to enter
15 into a contract for the sale or exchange of
16 the land.

17 (B) PUBLIC OR PRIVATE SALE.—If the
18 Secretary and Bromley do not enter into a con-
19 tract for the sale or exchange of the land by the
20 date specified in subparagraph (A)(ii), the Sec-
21 retary may sell or exchange the land at public
22 or private sale (including auction), in accord-
23 ance with such terms, conditions, and proce-
24 dures as the Secretary determines to be in the
25 public interest.

1 (C) REJECTION OF OFFERS.—The Sec-
2 retary may reject any offer received under this
3 paragraph if the Secretary determines that the
4 offer is not adequate or is not in the public in-
5 terest.

6 (D) BROKERS.—In any sale or exchange of
7 land under this subsection, the Secretary
8 may—

9 (i) use a real estate broker or other
10 third party; and

11 (ii) pay the real estate broker or third
12 party a commission in an amount com-
13 parable to the amounts of commission gen-
14 erally paid for real estate transactions in
15 the area.

16 (7) CASH EQUALIZATION.—Notwithstanding
17 section 206(b) of the Federal Land Policy and Man-
18 agement Act of 1976 (43 U.S.C. 1716(b)), the Sec-
19 retary may accept a cash equalization payment in
20 excess of 25 percent of the value of any Federal land
21 exchanged under this section.

22 (c) DISPOSITION OF PROCEEDS.—

23 (1) IN GENERAL.—The Secretary shall deposit
24 the net proceeds from a sale or exchange under this
25 section in the fund established under Public Law

1 90–171 (16 U.S.C. 484a) (commonly known as the
2 “Sisk Act”).

3 (2) USE.—Amounts deposited under paragraph
4 (1) shall be available to the Secretary until ex-
5 pended, without further appropriation, for—

6 (A) the location and relocation of the Ap-
7 palachian National Scenic Trail and the Long
8 National Recreation Trail in the State;

9 (B) the acquisition of land and interests in
10 land by the Secretary for National Forest Sys-
11 tem purposes within the boundary of the Green
12 Mountain National Forest, including land for
13 and adjacent to the Appalachian National Sce-
14 nic Trail and the Long National Recreation
15 Trail;

16 (C) the acquisition of wetland or an inter-
17 est in wetland within the boundary of the Green
18 Mountain National Forest to offset the loss of
19 wetland from the parcels sold or exchanged;
20 and

21 (D) the payment of direct administrative
22 costs incurred in carrying out this section.

23 (3) LIMITATION.—Amounts deposited under
24 paragraph (1) shall not—

1 (A) be paid or distributed to the State or
2 counties or towns in the State under any provi-
3 sion of law; or

4 (B) be considered to be money received
5 from units of the National Forest System for
6 purposes of—

7 (i) the Act of May 23, 1908 (16
8 U.S.C. 500); or

9 (ii) the Act of March 4, 1913 (16
10 U.S.C. 501).

11 (4) PROHIBITION OF TRANSFER OR RE-
12 PROGRAMMING.—Amounts deposited under para-
13 graph (1) shall not be subject to transfer or re-
14 programming for wildfire management or any other
15 emergency purposes.

16 (d) ACQUISITION OF LAND.—The Secretary may ac-
17 quire, using funds made available under subsection (c) or
18 otherwise made available for acquisition, land or an inter-
19 est in land for National Forest System purposes within
20 the boundary of the Green Mountain National Forest.

21 (e) EXEMPTION FROM CERTAIN LAWS.—Subtitle I of
22 title 40, United States Code, shall not apply to any sale
23 or exchange of National Forest System land under this
24 section.

1 **Subtitle E—Miscellaneous**
2 **Provisions**

3 **SEC. 8401. QUALIFYING TIMBER CONTRACT OPTIONS.**

4 (a) DEFINITIONS.—In this section:

5 (1) AUTHORIZED PRODUCER PRICE INDEX.—

6 The term “authorized Producer Price Index” in-
7 cludes—

8 (A) the softwood commodity index (code
9 number WPU 0811);

10 (B) the hardwood commodity index (code
11 number WPU 0812);

12 (C) the wood chip index (code number
13 PCU 3211133211135); and

14 (D) any other subsequent comparable
15 index, as established by the Bureau of Labor
16 Statistics of the Department of Labor and uti-
17 lized by the Secretary of Agriculture.

18 (2) QUALIFYING CONTRACT.—The term “quali-
19 fying contract” means a contract for the sale of tim-
20 ber on National Forest System land—

21 (A) that was awarded during the period
22 beginning on July 1, 2004, and ending on De-
23 cember 31, 2006;

24 (B) for which there is unharvested volume
25 remaining;

1 (C) for which, not later than 90 days after
2 the date of enactment of this Act, the timber
3 purchaser makes a written request to the Sec-
4 retary for one or more of the options described
5 in subsection (b);

6 (D) that is not a salvage sale;

7 (E) for which the Secretary determines
8 there is not an urgent need to harvest due to
9 deteriorating timber conditions that developed
10 after the award of the contract; and

11 (F) that is not in breach or in default.

12 (3) SECRETARY.—The term “Secretary” means
13 the Secretary of Agriculture, acting through the
14 Chief of the Forest Service.

15 (b) OPTIONS FOR QUALIFYING CONTRACTS.—

16 (1) CANCELLATION OR RATE REDETERMINA-
17 TION.—Notwithstanding any other provision of law,
18 if the rate at which a qualifying contract would be
19 advertised as of the date of enactment of this Act
20 is at least 50 percent less than the sum of the origi-
21 nal bid rates for all of the species of timber that are
22 the subject of the qualifying contract, the Secretary
23 may, at the sole discretion of the Secretary—

24 (A) cancel the qualifying contract if the
25 timber purchaser—

1 (i) pays 30 percent of the total value
2 of the timber remaining in the qualifying
3 contract based on bid rates;

4 (ii) completes each contractual obliga-
5 tion (including the removal of downed tim-
6 ber, the completion of road work, and the
7 completion of erosion control work) of the
8 timber purchaser with respect to each unit
9 on which harvest has begun to a logical
10 stopping point, as determined by the Sec-
11 retary after consultation with the timber
12 purchaser; and

13 (iii) terminates its rights under the
14 qualifying contract; or

15 (B) modify the qualifying contract to rede-
16 termine the current contract rate of the quali-
17 fying contract to equal the sum obtained by
18 adding—

19 (i) 25 percent of the bid premium on
20 the qualifying contract; and

21 (ii) the rate at which the qualifying
22 contract would be advertised as of the date
23 of enactment of this Act.

24 (2) SUBSTITUTION OF INDEX.—

1 (A) SUBSTITUTION.—Notwithstanding any
2 other provision of law, the Secretary may, at
3 the sole discretion of the Secretary, substitute
4 the Producer Price Index specified in the quali-
5 fying contract of a timber purchaser if the tim-
6 ber purchaser identifies—

7 (i) the products the timber purchaser
8 intends to produce from the timber har-
9 vested under the qualifying contract; and

10 (ii) a substitute index from an author-
11 ized Producer Price Index that more accu-
12 rately represents the predominant product
13 identified in clause (i) for which there is an
14 index.

15 (B) RATE REDETERMINATION FOLLOWING
16 SUBSTITUTION OF INDEX.—If the Secretary
17 substitutes the Producer Price Index of a quali-
18 fying contract under subparagraph (A), the
19 Secretary may, at the sole discretion of the Sec-
20 retary, modify the qualifying contract to provide
21 for—

22 (i) an emergency rate redetermination
23 under the terms of the contract; or

24 (ii) a rate redetermination under
25 paragraph (1)(B).

1 (C) LIMITATION ON MARKET-RELATED
2 CONTRACT TERM ADDITION; PERIODIC PAY-
3 MENTS.—Notwithstanding any other provision
4 of law, if the Secretary substitutes the Producer
5 Price Index of a qualifying contract under sub-
6 paragraph (A), the Secretary may, at the sole
7 discretion of the Secretary, modify the quali-
8 fying contract—

9 (i) to adjust the term in accordance
10 with the market-related contract term ad-
11 dition provision in the qualifying contract
12 and section 223.52 of title 36, Code of
13 Federal Regulations, as in effect on the
14 date of the adjustment, but only if the
15 drastic reduction criteria in such section
16 are met for 2 or more consecutive calendar
17 year quarters beginning with the calendar
18 quarter in which the Secretary substitutes
19 the Producer Price Index under subpara-
20 graph (A); and

21 (ii) to adjust the periodic payments
22 required under the contract in accordance
23 with applicable law and policies.

24 (3) CONTRACTS USING HARDWOOD LUMBER
25 INDEX.—With respect to a qualifying contract using

1 the hardwood commodity index referred to in sub-
2 section (a)(1)(B) for which the Secretary does not
3 substitute the Producer Price Index under para-
4 graph (2), the Secretary may, at the sole discretion
5 of the Secretary—

6 (A) extend the contract term for a 1-year
7 period beginning on the current contract termi-
8 nation date; and

9 (B) adjust the periodic payments required
10 under the contract in accordance with applica-
11 ble law and policies.

12 (c) EXTENSION OF MARKET-RELATED CONTRACT
13 TERM ADDITION TIME LIMIT FOR CERTAIN CON-
14 TRACTS.—Notwithstanding any other provision of law,
15 upon the written request of a timber purchaser, the Sec-
16 retary may, at the sole discretion of the Secretary, modify
17 a timber sale contract (including a qualifying contract)
18 awarded to the purchaser before January 1, 2007, to ad-
19 just the term of the contract in accordance with the mar-
20 ket-related contract term addition provision in the con-
21 tract and section 223.52 of title 36, Code of Federal Regu-
22 lations, as in effect on the date of the modification, except
23 that the Secretary may add no more than 4 years to the
24 original contract length.

25 (d) EFFECT OF OPTIONS.—

1 (1) NO SURRENDER OF CLAIMS.—Operation of
2 this section shall not have the effect of surrendering
3 any claim by the United States against any timber
4 purchaser that arose—

5 (A) under a qualifying contract before the
6 date on which the Secretary cancels the con-
7 tract or redetermines the rate under subsection
8 (b)(1), substitutes a Producer Price Index
9 under subsection (b)(2), or modifies the con-
10 tract under subsection (b)(3); or

11 (B) under a timber sale contract, including
12 a qualifying contract, before the date on which
13 the Secretary adjusts the contract term under
14 subsection (c).

15 (2) RELEASE OF LIABILITY.—In the written re-
16 quest for any option provided under subsections (b)
17 and (c), a timber purchaser shall release the United
18 States from all liability, including further consider-
19 ation or compensation, resulting from—

20 (A) the cancellation of a qualifying con-
21 tract of the purchaser or rate redetermination
22 under subsection (b)(1), the substitution of a
23 Producer Price Index under subsection (b)(2),
24 the modification of the contract under sub-
25 section (b)(3) or a determination by the Sec-

1 retary not to provide the cancellation, redeter-
2 mination, substitution, or modification; or

3 (B) the modification of the term of a tim-
4 ber sale contract (including a qualifying con-
5 tract) of the purchaser under subsection (c) or
6 a determination by the Secretary not to provide
7 the modification.

8 (3) LIMITATION.—Subject to subsection
9 (b)(1)(A), the cancellation of a qualifying contract
10 by the Secretary under subsection (b)(1) shall re-
11 lease the timber purchaser from further obligation
12 under the canceled contract.

13 **SEC. 8402. HISPANIC-SERVING INSTITUTION AGRICUL-**
14 **TURAL LAND NATIONAL RESOURCES LEAD-**
15 **ERSHIP PROGRAM.**

16 (a) DEFINITION OF HISPANIC-SERVING INSTITU-
17 TION.—In this section, the term “Hispanic-serving institu-
18 tion” has the meaning given that term in section
19 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C.
20 1101a(a)(5)).

21 (b) GRANT AUTHORITY.—The Secretary of Agri-
22 culture may make grants, on a competitive basis, to His-
23 panic-serving institutions for the purpose of establishing
24 an undergraduate scholarship program to assist in the re-

1 cruitment, retention, and training of Hispanics and other
2 under-represented groups in forestry and related fields.

3 (c) USE OF GRANT FUNDS.—Grants made under this
4 section shall be used to recruit, retain, train, and develop
5 professionals to work in forestry and related fields with
6 Federal agencies, such as the Forest Service, State agen-
7 cies, and private-sector entities.

8 (d) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated to the Secretary for
10 each of fiscal years 2008 through 2012 such sums as may
11 be necessary to carry out this section.

12 **TITLE IX—ENERGY**

13 **SEC. 9001. ENERGY.**

14 (a) IN GENERAL.—Title IX of the Farm Security and
15 Rural Investment Act of 2002 (7 U.S.C. 8101 et seq.)
16 is amended to read as follows:

17 **“TITLE IX—ENERGY**

18 **“SEC. 9001. DEFINITIONS.**

19 “Except as otherwise provided, in this title:

20 “(1) ADMINISTRATOR.—The term ‘Adminis-
21 trator’ means the Administrator of the Environ-
22 mental Protection Agency.

23 “(2) ADVISORY COMMITTEE.—The term ‘Advi-
24 sory Committee’ means the Biomass Research and

1 Development Technical Advisory Committee estab-
2 lished by section 9008(d)(1).

3 “(3) ADVANCED BIOFUEL.—

4 “(A) IN GENERAL.—The term ‘advanced
5 biofuel’ means fuel derived from renewable bio-
6 mass other than corn kernel starch.

7 “(B) INCLUSIONS.—Subject to subpara-
8 graph (A), the term ‘advanced biofuel’ in-
9 cludes—

10 “(i) biofuel derived from cellulose,
11 hemicellulose, or lignin;

12 “(ii) biofuel derived from sugar and
13 starch (other than ethanol derived from
14 corn kernel starch);

15 “(iii) biofuel derived from waste mate-
16 rial, including crop residue, other vegeta-
17 tive waste material, animal waste, food
18 waste, and yard waste;

19 “(iv) diesel-equivalent fuel derived
20 from renewable biomass, including vege-
21 table oil and animal fat;

22 “(v) biogas (including landfill gas and
23 sewage waste treatment gas) produced
24 through the conversion of organic matter
25 from renewable biomass;

1 “(vi) butanol or other alcohols pro-
2 duced through the conversion of organic
3 matter from renewable biomass; and

4 “(vii) other fuel derived from cel-
5 lulosic biomass.

6 “(4) BIOBASED PRODUCT.—The term ‘biobased
7 product’ means a product determined by the Sec-
8 retary to be a commercial or industrial product
9 (other than food or feed) that is—

10 “(A) composed, in whole or in significant
11 part, of biological products, including renewable
12 domestic agricultural materials and forestry
13 materials; or

14 “(B) an intermediate ingredient or feed-
15 stock.

16 “(5) BIOFUEL.—The term ‘biofuel’ means a
17 fuel derived from renewable biomass.

18 “(6) BIOMASS CONVERSION FACILITY.—The
19 term ‘biomass conversion facility’ means a facility
20 that converts or proposes to convert renewable bio-
21 mass into—

22 “(A) heat;

23 “(B) power;

24 “(C) biobased products; or

25 “(D) advanced biofuels.

1 “(7) BIOREFINERY.—The term ‘biorefinery’
2 means a facility (including equipment and processes)
3 that—

4 “(A) converts renewable biomass into
5 biofuels and biobased products; and

6 “(B) may produce electricity.

7 “(8) BOARD.—The term ‘Board’ means the
8 Biomass Research and Development Board estab-
9 lished by section 9008(c).

10 “(9) INDIAN TRIBE.—The term ‘Indian tribe’
11 has the meaning given the term in section 4 of the
12 Indian Self-Determination and Education Assistance
13 Act (25 U.S.C. 450b).

14 “(10) INSTITUTION OF HIGHER EDUCATION.—
15 The term ‘institution of higher education’ has the
16 meaning given the term in section 102(a) of the
17 Higher Education Act of 1965 (20 U.S.C. 1002(a)).

18 “(11) INTERMEDIATE INGREDIENT OR FEED-
19 STOCK.—The term ‘intermediate ingredient or feed-
20 stock’ means a material or compound made in whole
21 or in significant part from biological products, in-
22 cluding renewable agricultural materials (including
23 plant, animal, and marine materials) or forestry ma-
24 terials, that are subsequently used to make a more
25 complex compound or product.

1 “(12) RENEWABLE BIOMASS.—The term ‘re-
2 newable biomass’ means—

3 “(A) materials, pre-commercial thinnings,
4 or invasive species from National Forest Sys-
5 tem land and public lands (as defined in section
6 103 of the Federal Land Policy and Manage-
7 ment Act of 1976 (43 U.S.C. 1702)) that—

8 “(i) are byproducts of preventive
9 treatments that are removed—

10 “(I) to reduce hazardous fuels;

11 “(II) to reduce or contain disease
12 or insect infestation; or

13 “(III) to restore ecosystem
14 health;

15 “(ii) would not otherwise be used for
16 higher-value products; and

17 “(iii) are harvested in accordance
18 with—

19 “(I) applicable law and land
20 management plans; and

21 “(II) the requirements for—

22 “(aa) old-growth mainte-
23 nance, restoration, and manage-
24 ment direction of paragraphs (2),
25 (3), and (4) of subsection (e) of

1 section 102 of the Healthy For-
2 ests Restoration Act of 2003 (16
3 U.S.C. 6512); and

4 “(bb) large-tree retention of
5 subsection (f) of that section; or

6 “(B) any organic matter that is available
7 on a renewable or recurring basis from non-
8 Federal land or land belonging to an Indian or
9 Indian tribe that is held in trust by the United
10 States or subject to a restriction against alien-
11 ation imposed by the United States, including—

12 “(i) renewable plant material, includ-
13 ing—

14 “(I) feed grains;

15 “(II) other agricultural commod-
16 ities;

17 “(III) other plants and trees; and

18 “(IV) algae; and

19 “(ii) waste material, including—

20 “(I) crop residue;

21 “(II) other vegetative waste ma-
22 terial (including wood waste and wood
23 residues);

1 “(III) animal waste and byprod-
2 ucts (including fats, oils, greases, and
3 manure); and

4 “(IV) food waste and yard waste.

5 “(13) RENEWABLE ENERGY.—The term ‘renew-
6 able energy’ means energy derived from—

7 “(A) a wind, solar, renewable biomass,
8 ocean (including tidal, wave, current, and ther-
9 mal), geothermal, or hydroelectric source; or

10 “(B) hydrogen derived from renewable bio-
11 mass or water using an energy source described
12 in subparagraph (A).

13 “(14) SECRETARY.—The term ‘Secretary’
14 means the Secretary of Agriculture.

15 **“SEC. 9002. BIOBASED MARKETS PROGRAM.**

16 “(a) FEDERAL PROCUREMENT OF BIOBASED PROD-
17 UCTS.—

18 “(1) DEFINITION OF PROCURING AGENCY.—In
19 this subsection, the term ‘procuring agency’
20 means—

21 “(A) any Federal agency that is using
22 Federal funds for procurement; or

23 “(B) a person that is a party to a contract
24 with any Federal agency, with respect to work
25 performed under such a contract.

1 “(2) PROCUREMENT PREFERENCE.—

2 “(A) IN GENERAL.—

3 “(i) PROCURING AGENCY DUTIES.—

4 Except as provided in clause (ii) and sub-
5 paragraph (B), after the date specified in
6 applicable guidelines prepared pursuant to
7 paragraph (3), each procuring agency
8 shall—

9 “(I) establish a procurement pro-
10 gram, develop procurement specifica-
11 tions, and procure biobased products
12 identified under the guidelines de-
13 scribed in paragraph (3) in accord-
14 ance with this section; and

15 “(II) with respect to items de-
16 scribed in the guidelines, give a pro-
17 curement preference to those items
18 that—

19 “(aa) are composed of the
20 highest percentage of biobased
21 products practicable; or

22 “(bb) comply with the regu-
23 lations issued under section 103
24 of Public Law 100–556 (42
25 U.S.C. 6914b–1).

1 “(ii) EXCEPTION.—The requirements
2 of clause (i)(I) to establish a procurement
3 program and develop procurement speci-
4 fications shall not apply to a person de-
5 scribed in paragraph (1)(B).

6 “(B) FLEXIBILITY.—Notwithstanding sub-
7 paragraph (A), a procuring agency may decide
8 not to procure items described in that subpara-
9 graph if the procuring agency determines that
10 the items—

11 “(i) are not reasonably available with-
12 in a reasonable period of time;

13 “(ii) fail to meet—

14 “(I) the performance standards
15 set forth in the applicable specifica-
16 tions; or

17 “(II) the reasonable performance
18 standards of the procuring agencies;
19 or

20 “(iii) are available only at an unrea-
21 sonable price.

22 “(C) MINIMUM REQUIREMENTS.—Each
23 procurement program required under this sub-
24 section shall, at a minimum—

1 “(i) be consistent with applicable pro-
2 visions of Federal procurement law;

3 “(ii) ensure that items composed of
4 biobased products will be purchased to the
5 maximum extent practicable;

6 “(iii) include a component to promote
7 the procurement program;

8 “(iv) provide for an annual review and
9 monitoring of the effectiveness of the pro-
10 curement program; and

11 “(v) adopt 1 of the 2 polices described
12 in subparagraph (D) or (E), or a policy
13 substantially equivalent to either of those
14 policies.

15 “(D) CASE-BY-CASE POLICY.—

16 “(i) IN GENERAL.—Subject to sub-
17 paragraph (B) and except as provided in
18 clause (ii), a procuring agency adopting
19 the case-by-case policy shall award a con-
20 tract to the vendor offering an item com-
21 posed of the highest percentage of biobased
22 products practicable.

23 “(ii) EXCEPTION.—Subject to sub-
24 paragraph (B), an agency adopting the
25 policy described in clause (i) may make an

1 award to a vendor offering items with less
2 than the maximum biobased products con-
3 tent.

4 “(E) MINIMUM CONTENT STANDARDS.—
5 Subject to subparagraph (B), a procuring agen-
6 cy adopting the minimum content standards
7 policy shall establish minimum biobased prod-
8 ucts content specifications for awarding con-
9 tracts in a manner that ensures that the
10 biobased products content required is consistent
11 with this subsection.

12 “(F) CERTIFICATION.—After the date
13 specified in any applicable guidelines prepared
14 pursuant to paragraph (3), contracting offices
15 shall require that vendors certify that the
16 biobased products to be used in the perform-
17 ance of the contract will comply with the appli-
18 cable specifications or other contractual require-
19 ments.

20 “(3) GUIDELINES.—

21 “(A) IN GENERAL.—The Secretary, after
22 consultation with the Administrator, the Ad-
23 ministrator of General Services, and the Sec-
24 retary of Commerce (acting through the Direc-
25 tor of the National Institute of Standards and

1 Technology), shall prepare, and from time to
2 time revise, guidelines for the use of procuring
3 agencies in complying with the requirements of
4 this subsection.

5 “(B) REQUIREMENTS.—The guidelines
6 under this paragraph shall—

7 “(i) designate those items (including
8 finished products) that are or can be pro-
9 duced with biobased products (including
10 biobased products for which there is only a
11 single product or manufacturer in the cat-
12 egory) that will be subject to the pref-
13 erence described in paragraph (2);

14 “(ii) designate those intermediate in-
15 gredients and feedstocks that are or can be
16 used to produce items that will be subject
17 to the preference described in paragraph
18 (2);

19 “(iii) automatically designate items
20 composed of intermediate ingredients and
21 feedstocks designated under clause (ii), if
22 the content of the designated intermediate
23 ingredients and feedstocks exceeds 50 per-
24 cent of the item (unless the Secretary de-

1 termines a different composition percent-
2 age is appropriate);

3 “(iv) set forth recommended practices
4 with respect to the procurement of
5 biobased products and items containing
6 such materials;

7 “(v) provide information as to the
8 availability, relative price, performance,
9 and environmental and public health bene-
10 fits of such materials and items; and

11 “(vi) take effect on the date estab-
12 lished in the guidelines, which may not ex-
13 ceed 1 year after publication.

14 “(C) INFORMATION PROVIDED.—Informa-
15 tion provided pursuant to subparagraph (B)(v)
16 with respect to a material or item shall be con-
17 sidered to be provided for another item made
18 with the same material or item.

19 “(D) PROHIBITION.—Guidelines issued
20 under this paragraph may not require a manu-
21 facturer or vendor of biobased products, as a
22 condition of the purchase of biobased products
23 from the manufacturer or vendor, to provide to
24 procuring agencies more data than would be re-
25 quired to be provided by other manufacturers or

1 vendors offering products for sale to a pro-
2 curing agency, other than data confirming the
3 biobased content of a product.

4 “(E) QUALIFYING PURCHASES.—The
5 guidelines shall apply with respect to any pur-
6 chase or acquisition of a procurement item for
7 which—

8 “(i) the purchase price of the item ex-
9 ceeds \$10,000; or

10 “(ii) the quantity of the items or of
11 functionally-equivalent items purchased or
12 acquired during the preceding fiscal year
13 was at least \$10,000.

14 “(4) ADMINISTRATION.—

15 “(A) OFFICE OF FEDERAL PROCUREMENT
16 POLICY.—The Office of Federal Procurement
17 Policy, in cooperation with the Secretary,
18 shall—

19 “(i) coordinate the implementation of
20 this subsection with other policies for Fed-
21 eral procurement;

22 “(ii) annually collect the information
23 required to be reported under subpara-
24 graph (B) and make the information pub-
25 licly available;

1 “(iii) take a leading role in informing
2 Federal agencies concerning, and pro-
3 moting the adoption of and compliance
4 with, procurement requirements for
5 biobased products by Federal agencies; and

6 “(iv) not less than once every 2 years,
7 submit to Congress a report that—

8 “(I) describes the progress made
9 in carrying out this subsection; and

10 “(II) contains a summary of the
11 information reported pursuant to sub-
12 paragraph (B).

13 “(B) OTHER AGENCIES.—To assist the Of-
14 fice of Federal Procurement Policy in carrying
15 out subparagraph (A)—

16 “(i) each procuring agency shall sub-
17 mit each year to the Office of Federal Pro-
18 curement Policy, to the maximum extent
19 practicable, information concerning—

20 “(I) actions taken to implement
21 paragraph (2);

22 “(II) the results of the annual re-
23 view and monitoring program estab-
24 lished under paragraph (2)(C)(iv);

1 “(III) the number and dollar
2 value of contracts entered into during
3 the year that include the direct pro-
4 curement of biobased products;

5 “(IV) the number of service and
6 construction (including renovations)
7 contracts entered into during the year
8 that include language on the use of
9 biobased products; and

10 “(V) the types and dollar value
11 of biobased products actually used by
12 contractors in carrying out service
13 and construction (including renova-
14 tions) contracts during the previous
15 year; and

16 “(ii) the General Services Administra-
17 tion and the Defense Logistics Agency
18 shall submit each year to the Office of
19 Federal Procurement Policy information
20 concerning, to the maximum extent prac-
21 ticable, the types and dollar value of
22 biobased products purchased by procuring
23 agencies.

24 “(C) PROCUREMENT SUBJECT TO OTHER
25 LAW.—Any procurement by any Federal agency

1 that is subject to regulations of the Adminis-
2 trator under section 6002 of the Solid Waste
3 Disposal Act (42 U.S.C. 6962) shall not be sub-
4 ject to the requirements of this section to the
5 extent that the requirements are inconsistent
6 with the regulations.

7 “(b) LABELING.—

8 “(1) IN GENERAL.—The Secretary, in consulta-
9 tion with the Administrator, shall establish a vol-
10 untary program under which the Secretary author-
11 izes producers of biobased products to use the label
12 ‘USDA Certified Biobased Product’.

13 “(2) ELIGIBILITY CRITERIA.—

14 “(A) CRITERIA.—

15 “(i) IN GENERAL.—Not later than 90
16 days after the date of the enactment of the
17 Food, Conservation, and Energy Act of
18 2008 and except as provided in clause (ii),
19 the Secretary, in consultation with the Ad-
20 ministrators and representatives from small
21 and large businesses, academia, other Fed-
22 eral agencies, and such other persons as
23 the Secretary considers appropriate, shall
24 issue criteria (as of the date of enactment
25 of that Act) for determining which prod-

1 ucts may qualify to receive the label under
2 paragraph (1).

3 “(ii) EXCEPTION.—Clause (i) shall
4 not apply to final criteria that have been
5 issued (as of the date of enactment of that
6 Act) by the Secretary.

7 “(B) REQUIREMENTS.—Criteria issued
8 under subparagraph (A) shall—

9 “(i) encourage the purchase of prod-
10 ucts with the maximum biobased content;

11 “(ii) provide that the Secretary may
12 designate as biobased for the purposes of
13 the voluntary program established under
14 this subsection finished products that con-
15 tain significant portions of biobased mate-
16 rials or components; and

17 “(iii) to the maximum extent prac-
18 ticable, be consistent with the guidelines
19 issued under subsection (a)(3).

20 “(3) USE OF LABEL.—The Secretary shall en-
21 sure that the label referred to in paragraph (1) is
22 used only on products that meet the criteria issued
23 pursuant to paragraph (2).

24 “(c) RECOGNITION.—The Secretary shall—

1 “(1) establish a program to recognize Federal
2 agencies and private entities that use a substantial
3 amount of biobased products; and

4 “(2) encourage Federal agencies to establish in-
5 centives programs to recognize Federal employees or
6 contractors that make exceptional contributions to
7 the expanded use of biobased products.

8 “(d) LIMITATION.—Nothing in this section shall
9 apply to the procurement of motor vehicle fuels, heating
10 oil, or electricity.

11 “(e) INCLUSION.—Effective beginning on the date
12 that is 90 days after the date of enactment of the Food,
13 Conservation, and Energy Act of 2008, the Architect of
14 the Capitol, the Sergeant at Arms of the Senate, and the
15 Chief Administrative Officer of the House of Representa-
16 tives shall consider the biobased product designations
17 made under this section in making procurement decisions
18 for the Capitol Complex.

19 “(f) NATIONAL TESTING CENTER REGISTRY.—The
20 Secretary shall establish a national registry of testing cen-
21 ters for biobased products that will serve biobased product
22 manufacturers.

23 “(g) REPORTS.—

24 “(1) IN GENERAL.—Not later than 180 days
25 after the date of enactment of the Food, Conserva-

1 tion, and Energy Act of 2008 and each year there-
2 after, the Secretary shall submit to Congress a re-
3 port on the implementation of this section.

4 “(2) CONTENTS.—The report shall include—

5 “(A) a comprehensive management plan
6 that establishes tasks, milestones, and
7 timelines, organizational roles and responsibil-
8 ities, and funding allocations for fully imple-
9 menting this section; and

10 “(B) information on the status of imple-
11 mentation of—

12 “(i) item designations (including des-
13 ignation of intermediate ingredients and
14 feedstocks); and

15 “(ii) the voluntary labeling program
16 established under subsection (b).

17 “(h) FUNDING.—

18 “(1) MANDATORY FUNDING.—Of the funds of
19 the Commodity Credit Corporation, the Secretary
20 shall use to provide mandatory funding for biobased
21 products testing and labeling as required to carry
22 out this section—

23 “(A) \$1,000,000 for fiscal year 2008; and

24 “(B) \$2,000,000 for each of fiscal years
25 2009 through 2012.

1 “(2) DISCRETIONARY FUNDING.—In addition to
2 any other funds made available to carry out this sec-
3 tion, there is authorized to be appropriated to carry
4 out this section \$2,000,000 for each of fiscal years
5 2009 through 2012.

6 **“SEC. 9003. BIOREFINERY ASSISTANCE.**

7 “(a) PURPOSE.—The purpose of this section is to as-
8 sist in the development of new and emerging technologies
9 for the development of advanced biofuels, so as to—

10 “(1) increase the energy independence of the
11 United States;

12 “(2) promote resource conservation, public
13 health, and the environment;

14 “(3) diversify markets for agricultural and for-
15 estry products and agriculture waste material; and

16 “(4) create jobs and enhance the economic de-
17 velopment of the rural economy.

18 “(b) DEFINITIONS.—In this section:

19 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-
20 tity’ means an individual, entity, Indian tribe, or
21 unit of State or local government, including a cor-
22 poration, farm cooperative, farmer cooperative orga-
23 nization, association of agricultural producers, Na-
24 tional Laboratory, institution of higher education,

1 rural electric cooperative, public power entity, or
2 consortium of any of those entities.

3 “(2) ELIGIBLE TECHNOLOGY.—The term ‘eligi-
4 ble technology’ means, as determined by the Sec-
5 retary—

6 “(A) a technology that is being adopted in
7 a viable commercial-scale operation of a bio-
8 refinery that produces an advanced biofuel; and

9 “(B) a technology not described in sub-
10 paragraph (A) that has been demonstrated to
11 have technical and economic potential for com-
12 mercial application in a biorefinery that pro-
13 duces an advanced biofuel.

14 “(c) ASSISTANCE.—The Secretary shall make avail-
15 able to eligible entities—

16 “(1) grants to assist in paying the costs of the
17 development and construction of demonstration-scale
18 biorefineries to demonstrate the commercial viability
19 of 1 or more processes for converting renewable bio-
20 mass to advanced biofuels; and

21 “(2) guarantees for loans made to fund the de-
22 velopment, construction, and retrofitting of commer-
23 cial-scale biorefineries using eligible technology.

24 “(d) GRANTS.—

1 “(1) COMPETITIVE BASIS.—The Secretary shall
2 award grants under subsection (c)(1) on a competi-
3 tive basis.

4 “(2) SELECTION CRITERIA.—

5 “(A) IN GENERAL.—In approving grant
6 applications, the Secretary shall establish a pri-
7 ority scoring system that assigns priority scores
8 to each application and only approve applica-
9 tions that exceed a specified minimum, as de-
10 termined by the Secretary.

11 “(B) FEASIBILITY.—In approving a grant
12 application, the Secretary shall determine the
13 technical and economic feasibility of the project
14 based on a feasibility study of the project de-
15 scribed in the application conducted by an inde-
16 pendent third party.

17 “(C) SCORING SYSTEM.—In determining
18 the priority scoring system, the Secretary shall
19 consider—

20 “(i) the potential market for the ad-
21 vanced biofuel and the byproducts pro-
22 duced;

23 “(ii) the level of financial participation
24 by the applicant, including support from
25 non-Federal and private sources;

1 “(iii) whether the applicant is pro-
2 posing to use a feedstock not previously
3 used in the production of advanced
4 biofuels;

5 “(iv) whether the applicant is pro-
6 posing to work with producer associations
7 or cooperatives;

8 “(v) whether the applicant has estab-
9 lished that the adoption of the process pro-
10 posed in the application will have a positive
11 impact on resource conservation, public
12 health, and the environment;

13 “(vi) the potential for rural economic
14 development;

15 “(vii) whether the area in which the
16 applicant proposes to locate the biorefinery
17 has other similar facilities;

18 “(viii) whether the project can be rep-
19 licated; and

20 “(ix) scalability for commercial use.

21 “(3) COST SHARING.—

22 “(A) LIMITS.—The amount of a grant
23 awarded for development and construction of a
24 biorefinery under subsection (c)(1) shall not ex-

1 ceed an amount equal to 30 percent of the cost
2 of the project.

3 “(B) FORM OF GRANTEE SHARE.—

4 “(i) IN GENERAL.—The grantee share
5 of the cost of a project may be made in the
6 form of cash or material.

7 “(ii) LIMITATION.—The amount of
8 the grantee share that is made in the form
9 of material shall not exceed 15 percent of
10 the amount of the grantee share deter-
11 mined under subparagraph (A).

12 “(e) LOAN GUARANTEES.—

13 “(1) SELECTION CRITERIA.—

14 “(A) IN GENERAL.—In approving loan
15 guarantee applications, the Secretary shall es-
16 tablish a priority scoring system that assigns
17 priority scores to each application and only ap-
18 prove applications that exceed a specified min-
19 imum, as determined by the Secretary.

20 “(B) FEASIBILITY.—In approving a loan
21 guarantee application, the Secretary shall deter-
22 mine the technical and economic feasibility of
23 the project based on a feasibility study of the
24 project described in the application conducted
25 by an independent third party.

1 “(C) SCORING SYSTEM.—In determining
2 the priority scoring system for loan guarantees
3 under subsection (c)(2), the Secretary shall con-
4 sider—

5 “(i) whether the applicant has estab-
6 lished a market for the advanced biofuel
7 and the byproducts produced;

8 “(ii) whether the area in which the
9 applicant proposes to place the biorefinery
10 has other similar facilities;

11 “(iii) whether the applicant is pro-
12 posing to use a feedstock not previously
13 used in the production of advanced
14 biofuels;

15 “(iv) whether the applicant is pro-
16 posing to work with producer associations
17 or cooperatives;

18 “(v) the level of financial participation
19 by the applicant, including support from
20 non-Federal and private sources;

21 “(vi) whether the applicant has estab-
22 lished that the adoption of the process pro-
23 posed in the application will have a positive
24 impact on resource conservation, public
25 health, and the environment;

1 “(vii) whether the applicant can estab-
2 lish that if adopted, the biofuels production
3 technology proposed in the application will
4 not have any significant negative impacts
5 on existing manufacturing plants or other
6 facilities that use similar feedstocks;

7 “(viii) the potential for rural economic
8 development;

9 “(ix) the level of local ownership pro-
10 posed in the application; and

11 “(x) whether the project can be rep-
12 licated.

13 “(2) LIMITATIONS.—

14 “(A) MAXIMUM AMOUNT OF LOAN GUAR-
15 ANTEED.—The principal amount of a loan
16 guaranteed under subsection (c)(2) may not ex-
17 ceed \$250,000,000.

18 “(B) MAXIMUM PERCENTAGE OF LOAN
19 GUARANTEED.—

20 “(i) IN GENERAL.—Except as other-
21 wise provided in this subparagraph, a loan
22 guaranteed under subsection (c)(2) shall be
23 in an amount not to exceed 80 percent of
24 the project costs, as determined by the
25 Secretary.

1 “(ii) OTHER DIRECT FEDERAL FUND-
2 ING.—The amount of a loan guaranteed
3 for a project under subsection (c)(2) shall
4 be reduced by the amount of other direct
5 Federal funding that the eligible entity re-
6 ceives for the same project.

7 “(iii) AUTHORITY TO GUARANTEE
8 THE LOAN.—The Secretary may guarantee
9 up to 90 percent of the principal and inter-
10 est due on a loan guaranteed under sub-
11 section (c)(2).

12 “(C) LOAN GUARANTEE FUND DISTRIBU-
13 TION.—Of the funds made available for loan
14 guarantees for a fiscal year under subsection
15 (h), 50 percent of the funds shall be reserved
16 for obligation during the second half of the fis-
17 cal year.

18 “(f) CONSULTATION.—In carrying out this section,
19 the Secretary shall consult with the Secretary of Energy.

20 “(g) CONDITION ON PROVISION OF ASSISTANCE.—

21 “(1) IN GENERAL.—As a condition of receiving
22 a grant or loan guarantee under this section, an eli-
23 gible entity shall ensure that all laborers and me-
24 chanics employed by contractors or subcontractors in
25 the performance of construction work financed, in

1 whole or in part, with the grant or loan guarantee,
2 as the case may be, shall be paid wages at rates not
3 less than those prevailing on similar construction in
4 the locality, as determined by the Secretary of Labor
5 in accordance with sections 3141 through 3144,
6 3146, and 3147 of title 40, United States Code.

7 “(2) AUTHORITY AND FUNCTIONS.—The Sec-
8 retary of Labor shall have, with respect to the labor
9 standards described in paragraph (1), the authority
10 and functions set forth in Reorganization Plan
11 Numbered 14 of 1950 (5 U.S.C. App) and section
12 3145 of title 40, United States Code.

13 “(h) FUNDING.—

14 “(1) MANDATORY FUNDING.—Of the funds of
15 the Commodity Credit Corporation, the Secretary
16 shall use for the cost of loan guarantees under this
17 section, to remain available until expended—

18 “(A) \$75,000,000 for fiscal year 2009; and

19 “(B) \$245,000,000 for fiscal year 2010.

20 “(2) DISCRETIONARY FUNDING.—In addition to
21 any other funds made available to carry out this sec-
22 tion, there is authorized to be appropriated to carry
23 out this section \$150,000,000 for each of fiscal
24 years 2009 through 2012.

1 **“SEC. 9004. REPOWERING ASSISTANCE.**

2 “(a) IN GENERAL.—The Secretary shall carry out a
3 program to encourage biorefineries in existence on the
4 date of enactment of the Food, Conservation, and Energy
5 Act of 2008 to replace fossil fuels used to produce heat
6 or power to operate the biorefineries by making payments
7 for—

8 “(1) the installation of new systems that use re-
9 newable biomass; or

10 “(2) the new production of energy from renew-
11 able biomass.

12 “(b) PAYMENTS.—

13 “(1) IN GENERAL.—The Secretary may make
14 payments under this section to any biorefinery that
15 meets the requirements of this section for a period
16 determined by the Secretary.

17 “(2) AMOUNT.—The Secretary shall determine
18 the amount of payments to be made under this sec-
19 tion to a biorefinery after considering—

20 “(A) the quantity of fossil fuels a renew-
21 able biomass system is replacing;

22 “(B) the percentage reduction in fossil fuel
23 used by the biorefinery that will result from the
24 installation of the renewable biomass system;
25 and

1 “(C) the cost and cost effectiveness of the
2 renewable biomass system.

3 “(c) ELIGIBILITY.—To be eligible to receive a pay-
4 ment under this section, a biorefinery shall demonstrate
5 to the Secretary that the renewable biomass system of the
6 biorefinery is feasible based on an independent feasibility
7 study that takes into account the economic, technical and
8 environmental aspects of the system.

9 “(d) FUNDING.—

10 “(1) MANDATORY FUNDING.—Of the funds of
11 the Commodity Credit Corporation, the Secretary
12 shall use to make payments under this section
13 \$35,000,000 for fiscal year 2009, to remain avail-
14 able until expended.

15 “(2) DISCRETIONARY FUNDING.—In addition to
16 any other funds made available to carry out this sec-
17 tion, there is authorized to be appropriated to carry
18 out this section \$15,000,000 for each of fiscal years
19 2009 through 2012.

20 **“SEC. 9005. BIOENERGY PROGRAM FOR ADVANCED**
21 **BIOFUELS.**

22 “(a) DEFINITION OF ELIGIBLE PRODUCER.—In this
23 section, the term ‘eligible producer’ means a producer of
24 advanced biofuels.

1 “(b) PAYMENTS.—The Secretary shall make pay-
2 ments to eligible producers to support and ensure an ex-
3 panding production of advanced biofuels.

4 “(c) CONTRACTS.—To receive a payment, an eligible
5 producer shall—

6 “(1) enter into a contract with the Secretary
7 for production of advanced biofuels; and

8 “(2) submit to the Secretary such records as
9 the Secretary may require as evidence of the produc-
10 tion of advanced biofuels.

11 “(d) BASIS FOR PAYMENTS.—The Secretary shall
12 make payments under this section to eligible producers
13 based on—

14 “(1) the quantity and duration of production by
15 the eligible producer of an advanced biofuel;

16 “(2) the net nonrenewable energy content of the
17 advanced biofuel, if sufficient data is available, as
18 determined by the Secretary; and

19 “(3) other appropriate factors, as determined
20 by the Secretary.

21 “(e) EQUITABLE DISTRIBUTION.—The Secretary
22 may limit the amount of payments that may be received
23 by a single eligible producer under this section in order
24 to distribute the total amount of funding available in an
25 equitable manner.

1 “(f) OTHER REQUIREMENTS.—To receive a payment
2 under this section, an eligible producer shall meet any
3 other requirements of Federal and State law (including
4 regulations) applicable to the production of advanced
5 biofuels.

6 “(g) FUNDING.—

7 “(1) MANDATORY FUNDING.—Of the funds of
8 the Commodity Credit Corporation, the Secretary
9 shall use to carry out this section, to remain avail-
10 able until expended—

11 “(A) \$55,000,000 for fiscal year 2009;

12 “(B) \$55,000,000 for fiscal year 2010;

13 “(C) \$85,000,000 for fiscal year 2011; and

14 “(D) \$105,000,000 for fiscal year 2012.

15 “(2) DISCRETIONARY FUNDING.—In addition to
16 any other funds made available to carry out this sec-
17 tion, there is authorized to be appropriated to carry
18 out this section \$25,000,000 for each of fiscal years
19 2009 through 2012.

20 “(3) LIMITATION.—Of the funds provided for
21 each fiscal year, not more than 5 percent of the
22 funds shall be made available to eligible producers
23 for production at facilities with a total refining ca-
24 pacity exceeding 150,000,000 gallons per year.

1 **“SEC. 9006. BIODIESEL FUEL EDUCATION PROGRAM.**

2 “(a) ESTABLISHMENT.—The Secretary shall, under
3 such terms and conditions as the Secretary determines to
4 be appropriate, make competitive grants to eligible entities
5 to educate governmental and private entities that operate
6 vehicle fleets, other interested entities (as determined by
7 the Secretary), and the public about the benefits of bio-
8 diesel fuel use.

9 “(b) ELIGIBLE ENTITIES.—To receive a grant under
10 subsection (b), an entity shall—

11 “(1) be a nonprofit organization or institution
12 of higher education;

13 “(2) have demonstrated knowledge of biodiesel
14 fuel production, use, or distribution; and

15 “(3) have demonstrated the ability to conduct
16 educational and technical support programs.

17 “(c) CONSULTATION.—In carrying out this section,
18 the Secretary shall consult with the Secretary of Energy.

19 “(d) FUNDING.—Of the funds of the Commodity
20 Credit Corporation, the Secretary shall use to carry out
21 this section \$1,000,000 for each of fiscal years 2008
22 through 2012.

23 **“SEC. 9007. RURAL ENERGY FOR AMERICA PROGRAM.**

24 “(a) ESTABLISHMENT.—The Secretary, in consulta-
25 tion with the Secretary of Energy, shall establish a Rural
26 Energy for America Program to promote energy efficiency

1 and renewable energy development for agricultural pro-
2 ducers and rural small businesses through—

3 “(1) grants for energy audits and renewable en-
4 ergy development assistance; and

5 “(2) financial assistance for energy efficiency
6 improvements and renewable energy systems.

7 “(b) ENERGY AUDITS AND RENEWABLE ENERGY
8 DEVELOPMENT ASSISTANCE.—

9 “(1) IN GENERAL.—The Secretary shall make
10 competitive grants to eligible entities to provide as-
11 sistance to agricultural producers and rural small
12 businesses—

13 “(A) to become more energy efficient; and

14 “(B) to use renewable energy technologies
15 and resources.

16 “(2) ELIGIBLE ENTITIES.—An eligible entity
17 under this subsection is—

18 “(A) a unit of State, tribal, or local gov-
19 ernment;

20 “(B) a land-grant college or university or
21 other institution of higher education;

22 “(C) a rural electric cooperative or public
23 power entity; and

24 “(D) any other similar entity, as deter-
25 mined by the Secretary.

1 “(3) SELECTION CRITERIA.—In reviewing appli-
2 cations of eligible entities to receive grants under
3 paragraph (1), the Secretary shall consider—

4 “(A) the ability and expertise of the eligi-
5 ble entity in providing professional energy au-
6 dits and renewable energy assessments;

7 “(B) the geographic scope of the program
8 proposed by the eligible entity in relation to the
9 identified need;

10 “(C) the number of agricultural producers
11 and rural small businesses to be assisted by the
12 program;

13 “(D) the potential of the proposed pro-
14 gram to produce energy savings and environ-
15 mental benefits;

16 “(E) the plan of the eligible entity for per-
17 forming outreach and providing information
18 and assistance to agricultural producers and
19 rural small businesses on the benefits of energy
20 efficiency and renewable energy development;
21 and

22 “(F) the ability of the eligible entity to le-
23 verage other sources of funding.

24 “(4) USE OF GRANT FUNDS.—A recipient of a
25 grant under paragraph (1) shall use the grant funds

1 to assist agricultural producers and rural small busi-
2 nesses by—

3 “(A) conducting and promoting energy au-
4 dits; and

5 “(B) providing recommendations and in-
6 formation on how—

7 “(i) to improve the energy efficiency
8 of the operations of the agricultural pro-
9 ducers and rural small businesses; and

10 “(ii) to use renewable energy tech-
11 nologies and resources in the operations.

12 “(5) LIMITATION.—Grant recipients may not
13 use more than 5 percent of a grant for administra-
14 tive expenses.

15 “(6) COST SHARING.—A recipient of a grant
16 under paragraph (1) that conducts an energy audit
17 for an agricultural producer or rural small business
18 under paragraph (4) shall require that, as a condi-
19 tion of the energy audit, the agricultural producer or
20 rural small business pay at least 25 percent of the
21 cost of the energy audit, which shall be retained by
22 the eligible entity for the cost of the energy audit.

23 “(c) FINANCIAL ASSISTANCE FOR ENERGY EFFI-
24 CIENCY IMPROVEMENTS AND RENEWABLE ENERGY SYS-
25 TEMS.—

1 “(1) IN GENERAL.—In addition to any similar
2 authority, the Secretary shall provide loan guaran-
3 tees and grants to agricultural producers and rural
4 small businesses—

5 “(A) to purchase renewable energy sys-
6 tems, including systems that may be used to
7 produce and sell electricity; and

8 “(B) to make energy efficiency improve-
9 ments.

10 “(2) AWARD CONSIDERATIONS.—In determining
11 the amount of a loan guarantee or grant provided
12 under this section, the Secretary shall take into con-
13 sideration, as applicable—

14 “(A) the type of renewable energy system
15 to be purchased;

16 “(B) the estimated quantity of energy to
17 be generated by the renewable energy system;

18 “(C) the expected environmental benefits
19 of the renewable energy system;

20 “(D) the quantity of energy savings ex-
21 pected to be derived from the activity, as dem-
22 onstrated by an energy audit;

23 “(E) the estimated period of time for the
24 energy savings generated by the activity to
25 equal the cost of the activity;

1 “(F) the expected energy efficiency of the
2 renewable energy system; and

3 “(G) other appropriate factors.

4 “(3) FEASIBILITY STUDIES.—

5 “(A) IN GENERAL.—The Secretary may
6 provide assistance in the form of grants to an
7 agricultural producer or rural small business to
8 conduct a feasibility study for a project for
9 which assistance may be provided under this
10 subsection.

11 “(B) LIMITATION.—The Secretary shall
12 use not more than 10 percent of the funds
13 made available to carry out this subsection to
14 provide assistance described in subparagraph
15 (A).

16 “(C) AVOIDANCE OF DUPLICATIVE ASSIST-
17 ANCE.—An entity shall be ineligible to receive
18 assistance to carry out a feasibility study for a
19 project under this paragraph if the entity has
20 received other Federal or State assistance for a
21 feasibility study for the project.

22 “(4) LIMITS.—

23 “(A) GRANTS.—The amount of a grant
24 under this subsection shall not exceed 25 per-

1 cent of the cost of the activity carried out using
2 funds from the grant.

3 “(B) MAXIMUM AMOUNT OF LOAN GUAR-
4 ANTEES.—The amount of a loan guaranteed
5 under this subsection shall not exceed
6 \$25,000,000.

7 “(C) MAXIMUM AMOUNT OF COMBINED
8 GRANT AND LOAN GUARANTEE.—The combined
9 amount of a grant and loan guaranteed under
10 this subsection shall not exceed 75 percent of
11 the cost of the activity funded under this sub-
12 section.

13 “(d) OUTREACH.—The Secretary shall ensure, to the
14 maximum extent practicable, that adequate outreach relat-
15 ing to this section is being conducted at the State and
16 local levels.

17 “(e) LOWER-COST ACTIVITIES.—

18 “(1) LIMITATION ON USE OF FUNDS.—Except
19 as provided in paragraph (2), the Secretary shall use
20 not less than 20 percent of the funds made available
21 under subsection (g) to provide grants of \$20,000 or
22 less.

23 “(2) EXCEPTION.—Effective beginning on June
24 30 of each fiscal year, paragraph (1) shall not apply

1 to funds made available under subsection (g) for the
2 fiscal year.

3 “(f) REPORT.—Not later than 4 years after the date
4 of enactment of the Food, Conservation, and Energy Act
5 of 2008, the Secretary shall submit to Congress a report
6 on the implementation of this section, including the out-
7 comes achieved by projects funded under this section.

8 “(g) FUNDING.—

9 “(1) MANDATORY FUNDING.—Of the funds of
10 the Commodity Credit Corporation, the Secretary
11 shall use to carry out this section, to remain avail-
12 able until expended—

13 “(A) \$55,000,000 for fiscal year 2009;

14 “(B) \$60,000,000 for fiscal year 2010;

15 “(C) \$70,000,000 for fiscal year 2011; and

16 “(D) \$70,000,000 for fiscal year 2012.

17 “(2) AUDIT AND TECHNICAL ASSISTANCE
18 FUNDING.—

19 “(A) IN GENERAL.—Subject to subpara-
20 graph (B), of the funds made available for each
21 fiscal year under paragraph (1), 4 percent shall
22 be available to carry out subsection (b).

23 “(B) OTHER USE.—Funds not obligated
24 under subparagraph (A) by April 1 of each fis-

1 cal year to carry out subsection (b) shall be-
2 come available to carry out subsection (c).

3 “(3) DISCRETIONARY FUNDING.—In addition to
4 any other funds made available to carry out this sec-
5 tion, there is authorized to be appropriated to carry
6 out this section \$25,000,000 for each of fiscal years
7 2009 through 2012.

8 **“SEC. 9008. BIOMASS RESEARCH AND DEVELOPMENT.**

9 “(a) DEFINITIONS.—In this section:

10 “(1) BIOBASED PRODUCT.—The term ‘biobased
11 product’ means—

12 “(A) an industrial product (including
13 chemicals, materials, and polymers) produced
14 from biomass; or

15 “(B) a commercial or industrial product
16 (including animal feed and electric power) de-
17 rived in connection with the conversion of bio-
18 mass to fuel.

19 “(2) DEMONSTRATION.—The term ‘demonstra-
20 tion’ means demonstration of technology in a pilot
21 plant or semi-works scale facility, including a plant
22 or facility located on a farm.

23 “(3) INITIATIVE.—The term ‘Initiative’ means
24 the Biomass Research and Development Initiative
25 established under subsection (e).

1 “(b) COOPERATION AND COORDINATION IN BIOMASS
2 RESEARCH AND DEVELOPMENT.—

3 “(1) IN GENERAL.—The Secretary of Agri-
4 culture and the Secretary of Energy shall coordinate
5 policies and procedures that promote research and
6 development regarding the production of biofuels
7 and biobased products.

8 “(2) POINTS OF CONTACT.—To coordinate re-
9 search and development programs and activities re-
10 lating to biofuels and biobased products that are
11 carried out by their respective departments—

12 “(A) the Secretary of Agriculture shall
13 designate, as the point of contact for the De-
14 partment of Agriculture, an officer of the De-
15 partment of Agriculture appointed by the Presi-
16 dent to a position in the Department before the
17 date of the designation, by and with the advice
18 and consent of the Senate; and

19 “(B) the Secretary of Energy shall des-
20 ignate, as the point of contact for the Depart-
21 ment of Energy, an officer of the Department
22 of Energy appointed by the President to a posi-
23 tion in the Department before the date of the
24 designation, by and with the advice and consent
25 of the Senate.

1 “(c) BIOMASS RESEARCH AND DEVELOPMENT
2 BOARD.—

3 “(1) ESTABLISHMENT.—There is established
4 the Biomass Research and Development Board to
5 carry out the duties described in paragraph (3).

6 “(2) MEMBERSHIP.—The Board shall consist
7 of—

8 “(A) the point of contacts of the Depart-
9 ment of Energy and the Department of Agri-
10 culture, who shall serve as cochairpersons of the
11 Board;

12 “(B) a senior officer of each of the Depart-
13 ment of the Interior, the Environmental Protec-
14 tion Agency, the National Science Foundation,
15 and the Office of Science and Technology Pol-
16 icy, each of whom shall have a rank that is
17 equivalent to the rank of the points of contact;
18 and

19 “(C) at the option of the Secretary of Ag-
20 riculture and the Secretary of Energy, other
21 members appointed by the Secretaries (after
22 consultation with the Board).

23 “(3) DUTIES.—The Board shall—

1 “(A) coordinate research and development
2 activities relating to biofuels and biobased prod-
3 ucts—

4 “(i) between the Department of Agri-
5 culture and the Department of Energy;
6 and

7 “(ii) with other departments and
8 agencies of the Federal Government;

9 “(B) provide recommendations to the
10 points of contact concerning administration of
11 this title;

12 “(C) ensure that—

13 “(i) solicitations are open and com-
14 petitive with awards made annually; and

15 “(ii) objectives and evaluation criteria
16 of the solicitations are clearly stated and
17 minimally prescriptive, with no areas of
18 special interest; and

19 “(D) ensure that the panel of scientific
20 and technical peers assembled under subsection
21 (e) to review proposals is composed predomi-
22 nantly of independent experts selected from out-
23 side the Departments of Agriculture and En-
24 ergy.

1 “(4) FUNDING.—Each agency represented on
2 the Board is encouraged to provide funds for any
3 purpose under this section.

4 “(5) MEETINGS.—The Board shall meet at
5 least quarterly.

6 “(d) BIOMASS RESEARCH AND DEVELOPMENT
7 TECHNICAL ADVISORY COMMITTEE.—

8 “(1) ESTABLISHMENT.—There is established
9 the Biomass Research and Development Technical
10 Advisory Committee to carry out the duties de-
11 scribed in paragraph (3).

12 “(2) MEMBERSHIP.—

13 “(A) IN GENERAL.—The Advisory Com-
14 mittee shall consist of—

15 “(i) an individual affiliated with the
16 biofuels industry;

17 “(ii) an individual affiliated with the
18 biobased industrial and commercial prod-
19 ucts industry;

20 “(iii) an individual affiliated with an
21 institution of higher education who has ex-
22 pertise in biofuels and biobased products;

23 “(iv) 2 prominent engineers or sci-
24 entists from government or academia who

1 have expertise in biofuels and biobased
2 products;

3 “(v) an individual affiliated with a
4 commodity trade association;

5 “(vi) 2 individuals affiliated with envi-
6 ronmental or conservation organizations;

7 “(vii) an individual associated with
8 State government who has expertise in
9 biofuels and biobased products;

10 “(viii) an individual with expertise in
11 energy and environmental analysis;

12 “(ix) an individual with expertise in
13 the economics of biofuels and biobased
14 products;

15 “(x) an individual with expertise in
16 agricultural economics;

17 “(xi) an individual with expertise in
18 plant biology and biomass feedstock devel-
19 opment;

20 “(xii) an individual with expertise in
21 agronomy, crop science, or soil science; and

22 “(xiii) at the option of the points of
23 contact, other members.

1 “(B) APPOINTMENT.—The members of the
2 Advisory Committee shall be appointed by the
3 points of contact.

4 “(3) DUTIES.—The Advisory Committee
5 shall—

6 “(A) advise the points of contact with re-
7 spect to the Initiative; and

8 “(B) evaluate and make recommendations
9 in writing to the Board regarding whether—

10 “(i) funds authorized for the Initiative
11 are distributed and used in a manner that
12 is consistent with the objectives, purposes,
13 and considerations of the Initiative;

14 “(ii) solicitations are open and com-
15 petitive with awards made annually;

16 “(iii) objectives and evaluation criteria
17 of the solicitations are clearly stated and
18 minimally prescriptive, with no areas of
19 special interest;

20 “(iv) the points of contact are funding
21 proposals under this title that are selected
22 on the basis of merit, as determined by an
23 independent panel of scientific and tech-
24 nical peers predominantly from outside the

1 Departments of Agriculture and Energy;
2 and

3 “(v) activities under this title are car-
4 ried out in accordance with this title.

5 “(4) COORDINATION.—To avoid duplication of
6 effort, the Advisory Committee shall coordinate its
7 activities with those of other Federal advisory com-
8 mittees working in related areas.

9 “(5) MEETINGS.—The Advisory Committee
10 shall meet at least quarterly.

11 “(6) TERMS.—Members of the Advisory Com-
12 mittee shall be appointed for a term of 3 years.

13 “(e) BIOMASS RESEARCH AND DEVELOPMENT INI-
14 TIATIVE.—

15 “(1) IN GENERAL.—The Secretary of Agri-
16 culture and the Secretary of Energy, acting through
17 their respective points of contact and in consultation
18 with the Board, shall establish and carry out a Bio-
19 mass Research and Development Initiative under
20 which competitively awarded grants, contracts, and
21 financial assistance are provided to, or entered into
22 with, eligible entities to carry out research on and
23 development and demonstration of—

24 “(A) biofuels and biobased products; and

1 “(B) the methods, practices, and tech-
2 nologies, for the production of biofuels and
3 biobased products.

4 “(2) OBJECTIVES.—The objectives of the Initia-
5 tive are to develop—

6 “(A) technologies and processes necessary
7 for abundant commercial production of biofuels
8 at prices competitive with fossil fuels;

9 “(B) high-value biobased products—

10 “(i) to enhance the economic viability
11 of biofuels and power;

12 “(ii) to serve as substitutes for petro-
13 leum-based feedstocks and products; and

14 “(iii) to enhance the value of coprod-
15 ucts produced using the technologies and
16 processes; and

17 “(C) a diversity of economically and envi-
18 ronmentally sustainable domestic sources of re-
19 newable biomass for conversion to biofuels, bio-
20 energy, and biobased products.

21 “(3) TECHNICAL AREAS.—The Secretary of Ag-
22 riculture and the Secretary of Energy, in consulta-
23 tion with the Administrator of the Environmental
24 Protection Agency and heads of other appropriate
25 departments and agencies (referred to in this sub-

1 section as the ‘Secretaries’), shall direct the Initia-
2 tive in the 3 following areas:

3 “(A) FEEDSTOCKS DEVELOPMENT.—Re-
4 search, development, and demonstration activi-
5 ties regarding feedstocks and feedstock logistics
6 (including the harvest, handling, transport,
7 preprocessing, and storage) relevant to produc-
8 tion of raw materials for conversion to biofuels
9 and biobased products.

10 “(B) BIOFUELS AND BIOBASED PRODUCTS
11 DEVELOPMENT.—Research, development, and
12 demonstration activities to support—

13 “(i) the development of diverse cost-
14 effective technologies for the use of cel-
15 lulosic biomass in the production of
16 biofuels and biobased products; and

17 “(ii) product diversification through
18 technologies relevant to production of a
19 range of biobased products (including
20 chemicals, animal feeds, and cogenerated
21 power) that potentially can increase the
22 feasibility of fuel production in a bio-
23 refinery.

24 “(C) BIOFUELS DEVELOPMENT ANAL-
25 YSIS.—

1 “(i) STRATEGIC GUIDANCE.—The de-
2 velopment of analysis that provides stra-
3 tegic guidance for the application of renew-
4 able biomass technologies to improve sus-
5 tainability and environmental quality, cost
6 effectiveness, security, and rural economic
7 development.

8 “(ii) ENERGY AND ENVIRONMENTAL
9 IMPACT.—Development of systematic eval-
10 uations of the impact of expanded biofuel
11 production on the environment (including
12 forest land) and on the food supply for hu-
13 mans and animals, including the improve-
14 ment and development of tools for life
15 cycle analysis of current and potential
16 biofuels.

17 “(iii) ASSESSMENT OF FEDERAL
18 LAND.—Assessments of the potential of
19 Federal land resources to increase the pro-
20 duction of feedstocks for biofuels and
21 biobased products, consistent with the in-
22 tegrity of soil and water resources and
23 with other environmental considerations.

24 “(4) ADDITIONAL CONSIDERATIONS.—Within
25 the technical areas described in paragraph (3), the

1 Secretaries shall support research and develop-
2 ment—

3 “(A) to create continuously expanding op-
4 portunities for participants in existing biofuels
5 production by seeking synergies and continuity
6 with current technologies and practices;

7 “(B) to maximize the environmental, eco-
8 nomic, and social benefits of production of
9 biofuels and derived biobased products on a
10 large scale; and

11 “(C) to facilitate small-scale production
12 and local and on-farm use of biofuels, including
13 the development of small-scale gasification tech-
14 nologies for production of biofuel from cellulose
15 feedstocks.

16 “(5) ELIGIBILITY.—To be eligible for a grant,
17 contract, or assistance under this section, an appli-
18 cant shall be—

19 “(A) an institution of higher education;

20 “(B) a National Laboratory;

21 “(C) a Federal research agency;

22 “(D) a State research agency;

23 “(E) a private sector entity;

24 “(F) a nonprofit organization; or

1 “(G) a consortium of 2 or more entities de-
2 scribed in subparagraphs (A) through (F).

3 “(6) ADMINISTRATION.—

4 “(A) IN GENERAL.—After consultation
5 with the Board, the points of contact shall—

6 “(i) publish annually 1 or more joint
7 requests for proposals for grants, con-
8 tracts, and assistance under this sub-
9 section;

10 “(ii) require that grants, contracts,
11 and assistance under this section be
12 awarded based on a scientific peer review
13 by an independent panel of scientific and
14 technical peers;

15 “(iii) give special consideration to ap-
16 plications that—

17 “(I) involve a consortia of experts
18 from multiple institutions;

19 “(II) encourage the integration
20 of disciplines and application of the
21 best technical resources; and

22 “(III) increase the geographic di-
23 versity of demonstration projects; and

24 “(iv) require that the technical areas
25 described in each of subparagraphs (A),

1 (B), and (C) of paragraph (3) receive not
2 less than 15 percent of funds made avail-
3 able to carry out this section.

4 “(B) COST SHARE.—

5 “(i) RESEARCH AND DEVELOPMENT
6 PROJECTS.—

7 “(I) IN GENERAL.—Except as
8 provided in subclause (II), the non-
9 Federal share of the cost of a re-
10 search or development project under
11 this section shall be not less than 20
12 percent.

13 “(II) REDUCTION.—The Sec-
14 retary of Agriculture or the Secretary
15 of Energy, as appropriate, may reduce
16 the non-Federal share required under
17 subclause (I) if the appropriate Sec-
18 retary determines the reduction to be
19 necessary and appropriate.

20 “(ii) DEMONSTRATION AND COMMER-
21 CIAL PROJECTS.—The non-Federal share
22 of the cost of a demonstration or commer-
23 cial project under this section shall be not
24 less than 50 percent.

1 “(C) TECHNOLOGY AND INFORMATION
2 TRANSFER.—The Secretary of Agriculture and
3 the Secretary of Energy shall ensure that appli-
4 cable research results and technologies from the
5 Initiative are—

6 “(i) adapted, made available, and dis-
7 seminated, as appropriate; and

8 “(ii) included in the best practices
9 database established under section
10 1672C(e) of the Food, Agriculture, Con-
11 servation, and Trade Act of 1990.

12 “(f) ADMINISTRATIVE SUPPORT AND FUNDS.—

13 “(1) IN GENERAL.—The Secretary of Energy
14 and the Secretary of Agriculture may provide such
15 administrative support and funds of the Department
16 of Energy and the Department of Agriculture to the
17 Board and the Advisory Committee as are necessary
18 to enable the Board and the Advisory Committee to
19 carry out their duties under this section.

20 “(2) OTHER AGENCIES.—The heads of the
21 agencies referred to in subsection (c)(2)(B), and the
22 other members of the Board appointed under sub-
23 section (c)(2)(C), are encouraged to provide adminis-
24 trative support and funds of their respective agen-
25 cies to the Board and the Advisory Committee.

1 “(3) LIMITATION.—Not more than 4 percent of
2 the amount made available for each fiscal year under
3 subsection (h) may be used to pay the administrative
4 costs of carrying out this section.

5 “(g) REPORTS.—For each fiscal year for which funds
6 are made available to carry out this section, the Secretary
7 of Energy and the Secretary of Agriculture shall jointly
8 submit to Congress a detailed report on—

9 “(1) the status and progress of the Initiative,
10 including a report from the Advisory Committee on
11 whether funds appropriated for the Initiative have
12 been distributed and used in a manner that is con-
13 sistent with the objectives and requirements of this
14 section;

15 “(2) the general status of cooperation and re-
16 search and development efforts carried out at each
17 agency with respect to biofuels and biobased prod-
18 ucts; and

19 “(3) the plans of the Secretary of Energy and
20 the Secretary of Agriculture for addressing concerns
21 raised in the report, including concerns raised by the
22 Advisory Committee.

23 “(h) FUNDING.—

24 “(1) MANDATORY FUNDING.—Of the funds of
25 the Commodity Credit Corporation, the Secretary of

1 Agriculture shall use to carry out this section, to re-
2 main available until expended—

3 “(A) \$20,000,000 for fiscal year 2009;

4 “(B) \$28,000,000 for fiscal year 2010;

5 “(C) \$30,000,000 for fiscal year 2011; and

6 “(D) \$40,000,000 for fiscal year 2012.

7 “(2) DISCRETIONARY FUNDING.—In addition to
8 any other funds made available to carry out this sec-
9 tion, there is authorized to be appropriated to carry
10 out this section \$35,000,000 for each of fiscal years
11 2009 through 2012.

12 **“SEC. 9009. RURAL ENERGY SELF-SUFFICIENCY INITIATIVE.**

13 “(a) DEFINITIONS.—In this section:

14 “(1) ELIGIBLE RURAL COMMUNITY.—The term
15 ‘eligible rural community’ means a community lo-
16 cated in a rural area (as defined in section
17 343(a)(13)(A) of the Consolidated Farm and Rural
18 Development Act (7 U.S.C. 1991(a)(13)(A))).

19 “(2) INITIATIVE.—The term ‘Initiative’ means
20 the Rural Energy Self-Sufficiency Initiative estab-
21 lished under this section.

22 “(3) INTEGRATED RENEWABLE ENERGY SYS-
23 TEM.—The term ‘integrated renewable energy sys-
24 tem’ means a community-wide energy system that—

25 “(A) reduces conventional energy use; and

1 “(B) increases the use of energy from re-
2 newable sources.

3 “(b) ESTABLISHMENT.—The Secretary shall estab-
4 lish a Rural Energy Self-Sufficiency Initiative to provide
5 financial assistance for the purpose of enabling eligible
6 rural communities to substantially increase the energy
7 self-sufficiency of the eligible rural communities.

8 “(c) GRANT ASSISTANCE.—

9 “(1) IN GENERAL.—The Secretary shall make
10 grants available under the Initiative to eligible rural
11 communities to carry out an activity described in
12 paragraph (2).

13 “(2) USE OF GRANT FUNDS.—An eligible rural
14 community may use a grant—

15 “(A) to conduct an energy assessment that
16 assesses the total energy use of all energy users
17 in the eligible rural community;

18 “(B) to formulate and analyze ideas for re-
19 ducing energy usage by the eligible rural com-
20 munity from conventional sources; and

21 “(C) to develop and install an integrated
22 renewable energy system.

23 “(3) GRANT SELECTION.—

24 “(A) APPLICATION.—To be considered for
25 a grant, an eligible rural community shall sub-

1 mit an application to the Secretary that de-
2 scribes the ways in which the community would
3 use the grant to carry out an activity described
4 in paragraph (2).

5 “(B) PREFERENCE.—The Secretary shall
6 give preference to those applications that pro-
7 pose to carry out an activity in coordination
8 with—

9 “(i) institutions of higher education or
10 nonprofit foundations of institutions of
11 higher education;

12 “(ii) Federal, State, or local govern-
13 ment agencies;

14 “(iii) public or private power genera-
15 tion entities; or

16 “(iv) government entities with respon-
17 sibility for water or natural resources.

18 “(4) REPORT.—An eligible rural community re-
19 ceiving a grant under the Initiative shall submit to
20 the Secretary a report on the project of the eligible
21 rural community.

22 “(5) COST-SHARING.—The amount of a grant
23 under the Initiative shall not exceed 50 percent of
24 the cost of the activities described in the application.

1 “(A) PURCHASES AND SALES.—For each
2 of the 2008 through 2012 crops, the Secretary
3 shall purchase eligible commodities from eligible
4 entities and sell such commodities to bioenergy
5 producers for the purpose of producing bio-
6 energy in a manner that ensures that section
7 156 of the Federal Agriculture Improvement
8 and Reform Act (7 U.S.C. 7272) is operated at
9 no cost to the Federal Government by avoiding
10 forfeitures to the Commodity Credit Corpora-
11 tion.

12 “(B) COMPETITIVE PROCEDURES.—In car-
13 rying out the purchases and sales required
14 under subparagraph (A), the Secretary shall, to
15 the maximum extent practicable, use competi-
16 tive procedures, including the receiving, offer-
17 ing, and accepting of bids, when entering into
18 contracts with eligible entities and bioenergy
19 producers, provided that such procedures are
20 consistent with the purposes of subparagraph
21 (A).

22 “(C) LIMITATION.—The purchase and sale
23 of eligible commodities under subparagraph (A)
24 shall only be made in crop years in which such
25 purchases and sales are necessary to ensure

1 that the program authorized under section 156
2 of the Federal Agriculture Improvement and
3 Reform Act (7 U.S.C. 7272) is operated at no
4 cost to the Federal Government by avoiding for-
5 feitures to the Commodity Credit Corporation.

6 “(2) NOTICE.—

7 “(A) IN GENERAL.—As soon as practicable
8 after the date of enactment of the Food, Con-
9 servation, and Energy Act of 2008 and each
10 September 1 thereafter through September 1,
11 2012, the Secretary shall provide notice to eligi-
12 ble entities and bioenergy producers of the
13 quantity of eligible commodities that shall be
14 made available for purchase and sale for the
15 crop year following the date of the notice under
16 this section.

17 “(B) REESTIMATES.—Not later than the
18 January 1, April 1, and July 1 of the calendar
19 year following the date of a notice under sub-
20 paragraph (A), the Secretary shall reestimate
21 the quantity of eligible commodities determined
22 under subparagraph (A), and provide notice
23 and make purchases and sales based on such
24 reestimates.

1 “(3) COMMODITY CREDIT CORPORATION INVEN-
2 TORY.—

3 “(A) DISPOSITIONS.—

4 “(i) BIOENERGY AND GENERALLY.—

5 Except as provided in clause (ii), to the ex-
6 tent that an eligible commodity is owned
7 and held in inventory by the Commodity
8 Credit Corporation (accumulated pursuant
9 to the program authorized under section
10 156 of the Federal Agriculture Improve-
11 ment and Reform Act (7 U.S.C. 7272)),
12 the Secretary shall—

13 “(I) sell the eligible commodity to
14 bioenergy producers under this section
15 consistent with paragraph (1)(C);

16 “(II) dispose of the eligible com-
17 modity in accordance with section
18 156(f)(2) of that Act; or

19 “(III) otherwise dispose of the el-
20 igible commodity through the buyback
21 of certificates of quota entry.

22 “(ii) PRESERVATION OF OTHER AU-
23 THORITIES.—Nothing in this section limits
24 the use of other authorities for the disposi-
25 tion of an eligible commodity held in the

1 inventory of the Commodity Credit Cor-
2 poration for nonfood use or otherwise in a
3 manner that does not increase the net
4 quantity of sugar available for human con-
5 sumption in the United States market,
6 consistent with section 156(f)(1) of the
7 Federal Agriculture Improvement and Re-
8 form Act (7 U.S.C. 7272(f)(1)).

9 “(B) EMERGENCY SHORTAGES.—Notwith-
10 standing subparagraph (A), if there is an emer-
11 gency shortage of sugar for human consumption
12 in the United States market that is caused by
13 a war, flood, hurricane, or other natural dis-
14 aster, or other similar event, the Secretary may
15 dispose of an eligible commodity that is owned
16 and held in inventory by the Commodity Credit
17 Corporation (accumulated pursuant to the pro-
18 gram authorized under section 156 of the Fed-
19 eral Agriculture Improvement and Reform Act
20 (7 U.S.C. 7272)) through disposition as author-
21 ized under section 156(f) of that Act or through
22 the use of any other authority of the Com-
23 modity Credit Corporation.

24 “(4) TRANSFER RULE; STORAGE FEES.—

1 “(A) GENERAL TRANSFER RULE.—Except
2 with regard to emergency dispositions under
3 paragraph (3)(B) and as provided in subpara-
4 graph (C), the Secretary shall ensure that bio-
5 energy producers that purchase eligible com-
6 modities pursuant to this section take posses-
7 sion of the eligible commodities within 30 cal-
8 endar days of the date of such purchase from
9 the Commodity Credit Corporation.

10 “(B) PAYMENT OF STORAGE FEES PRO-
11 HIBITED.—

12 “(i) IN GENERAL.—The Secretary
13 shall, to the maximum extent practicable,
14 carry out this section in a manner that en-
15 sures no storage fees are paid by the Com-
16 modity Credit Corporation in the adminis-
17 tration of this section.

18 “(ii) EXCEPTION.—Clause (i) shall
19 not apply with respect to any commodities
20 owned and held in inventory by the Com-
21 modity Credit Corporation (accumulated
22 pursuant to the program authorized under
23 section 156 of the Federal Agriculture Im-
24 provement and Reform Act (7 U.S.C.
25 7272)).

1 “(C) OPTION TO PREVENT STORAGE
2 FEES.—

3 “(i) IN GENERAL.—The Secretary
4 may enter into contracts with bioenergy
5 producers to sell eligible commodities to
6 such producers prior in time to entering
7 into contracts with eligible entities to pur-
8 chase the eligible commodities to be used
9 to satisfy the contracts entered into with
10 the bioenergy producers.

11 “(ii) SPECIAL TRANSFER RULE.—If
12 the Secretary makes a sale and purchase
13 referred to in clause (i), the Secretary shall
14 ensure that the bioenergy producer that
15 purchased eligible commodities takes pos-
16 session of such commodities within 30 cal-
17 endar days of the date the Commodity
18 Credit Corporation purchases the eligible
19 commodities.

20 “(5) RELATION TO OTHER LAWS.—If sugar
21 that is subject to a marketing allotment under part
22 VII of subtitle B of title III of the Agricultural Ad-
23 justment Act of 1938 (7 U.S.C. 1359aa et seq.) is
24 the subject of a payment under this section, the
25 sugar shall be considered marketed and shall count

1 against a processor's allocation of an allotment
2 under such part, as applicable.

3 “(6) FUNDING.—The Secretary shall use the
4 funds, facilities, and authorities of the Commodity
5 Credit Corporation, including the use of such sums
6 as are necessary, to carry out this section.

7 **“SEC. 9011. BIOMASS CROP ASSISTANCE PROGRAM.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) BCAP.—The term ‘BCAP’ means the Bio-
10 mass Crop Assistance Program established under
11 this section.

12 “(2) BCAP PROJECT AREA.—The term ‘BCAP
13 project area’ means an area that—

14 “(A) has specified boundaries that are sub-
15 mitted to the Secretary by the project sponsor
16 and subsequently approved by the Secretary;

17 “(B) includes producers with contract
18 acreage that will supply a portion of the renew-
19 able biomass needed by a biomass conversion
20 facility; and

21 “(C) is physically located within an eco-
22 nomically practicable distance from the biomass
23 conversion facility.

1 “(3) CONTRACT ACREAGE.—The term ‘contract
2 acreage’ means eligible land that is covered by a
3 BCAP contract entered into with the Secretary.

4 “(4) ELIGIBLE CROP.—

5 “(A) IN GENERAL.—The term ‘eligible
6 crop’ means a crop of renewable biomass.

7 “(B) EXCLUSIONS.—The term ‘eligible
8 crop’ does not include—

9 “(i) any crop that is eligible to receive
10 payments under title I of the Food, Con-
11 servation, and Energy Act of 2008 or an
12 amendment made by that title; or

13 “(ii) any plant that is invasive or nox-
14 ious or has the potential to become
15 invasive or noxious, as determined by the
16 Secretary, in consultation with other ap-
17 propriate Federal or State departments
18 and agencies.

19 “(5) ELIGIBLE LAND.—

20 “(A) IN GENERAL.—The term ‘eligible
21 land’ includes agricultural and nonindustrial
22 private forest lands (as defined in section 5(c)
23 of the Cooperative Forestry Assistance Act of
24 1978 (16 U.S.C. 2103a(c))).

1 “(B) EXCLUSIONS.—The term ‘eligible
2 land’ does not include—

3 “(i) Federal- or State-owned land;

4 “(ii) land that is native sod, as of the
5 date of enactment of the Food, Conserva-
6 tion, and Energy Act of 2008;

7 “(iii) land enrolled in the conservation
8 reserve program established under sub-
9 chapter B of chapter 1 of subtitle D of
10 title XII of the Food Security Act of 1985
11 (16 U.S.C. 3831 et seq.);

12 “(iv) land enrolled in the wetlands re-
13 serve program established under sub-
14 chapter C of chapter 1 of subtitle D of
15 title XII of that Act (16 U.S.C. 3837 et
16 seq.); or

17 “(v) land enrolled in the grassland re-
18 serve program established under sub-
19 chapter D of chapter 2 of subtitle D of
20 title XII of that Act (16 U.S.C. 3838n et
21 seq.).

22 “(6) ELIGIBLE MATERIAL.—

23 “(A) IN GENERAL.—The term ‘eligible ma-
24 terial’ means renewable biomass.

1 “(B) EXCLUSIONS.—The term ‘eligible ma-
2 terial’ does not include—

3 “(i) any crop that is eligible to receive
4 payments under title I of the Food, Con-
5 servation, and Energy Act of 2008 or an
6 amendment made by that title;

7 “(ii) animal waste and byproducts (in-
8 cluding fats, oils, greases, and manure);

9 “(iii) food waste and yard waste; or

10 “(iv) algae.

11 “(7) PRODUCER.—The term ‘producer’ means
12 an owner or operator of contract acreage that is
13 physically located within a BCAP project area.

14 “(8) PROJECT SPONSOR.—The term ‘project
15 sponsor’ means—

16 “(A) a group of producers; or

17 “(B) a biomass conversion facility.

18 “(b) ESTABLISHMENT AND PURPOSE.—The Sec-
19 retary shall establish and administer a Biomass Crop As-
20 sistance Program to—

21 “(1) support the establishment and production
22 of eligible crops for conversion to bioenergy in se-
23 lected BCAP project areas; and

24 “(2) assist agricultural and forest land owners
25 and operators with collection, harvest, storage, and

1 transportation of eligible material for use in a bio-
2 mass conversion facility.

3 “(c) BCAP PROJECT AREA.—

4 “(1) IN GENERAL.—The Secretary shall provide
5 financial assistance to producers of eligible crops in
6 a BCAP project area.

7 “(2) SELECTION OF PROJECT AREAS.—

8 “(A) IN GENERAL.—To be considered for
9 selection as a BCAP project area, a project
10 sponsor shall submit to the Secretary a pro-
11 posal that includes, at a minimum—

12 “(i) a description of the eligible land
13 and eligible crops of each producer that
14 will participate in the proposed BCAP
15 project area;

16 “(ii) a letter of commitment from a
17 biomass conversion facility that the facility
18 will use the eligible crops intended to be
19 produced in the proposed BCAP project
20 area;

21 “(iii) evidence that the biomass con-
22 version facility has sufficient equity avail-
23 able, as determined by the Secretary, if the
24 biomass conversion facility is not oper-

1 ational at the time the proposal is sub-
2 mitted to the Secretary; and

3 “ (iv) any other appropriate informa-
4 tion about the biomass conversion facility
5 or proposed biomass conversion facility
6 that gives the Secretary a reasonable as-
7 surance that the plant will be in operation
8 by the time that the eligible crops are
9 ready for harvest.

10 “(B) BCAP PROJECT AREA SELECTION
11 CRITERIA.—In selecting BCAP project areas,
12 the Secretary shall consider—

13 “(i) the volume of the eligible crops
14 proposed to be produced in the proposed
15 BCAP project area and the probability
16 that such crops will be used for the pur-
17 poses of the BCAP;

18 “(ii) the volume of renewable biomass
19 projected to be available from sources
20 other than the eligible crops grown on con-
21 tract acres;

22 “(iii) the anticipated economic impact
23 in the proposed BCAP project area;

24 “(iv) the opportunity for producers
25 and local investors to participate in the

1 ownership of the biomass conversion facil-
2 ity in the proposed BCAP project area;

3 “(v) the participation rate by—

4 “(I) beginning farmers or ranch-
5 ers (as defined in accordance with sec-
6 tion 343(a) of the Consolidated Farm
7 and Rural Development Act (7 U.S.C.
8 1991(a))); or

9 “(II) socially disadvantaged
10 farmers or ranchers (as defined in
11 section 2501(e) of the Food, Agri-
12 culture, Conservation, and Trade Act
13 of 1990 (7 U.S.C. 2279(e)));

14 “(vi) the impact on soil, water, and
15 related resources;

16 “(vii) the variety in biomass produc-
17 tion approaches within a project area, in-
18 cluding (as appropriate)—

19 “(I) agronomic conditions;

20 “(II) harvest and postharvest
21 practices; and

22 “(III) monoculture and
23 polyculture crop mixes;

24 “(viii) the range of eligible crops
25 among project areas; and

1 “(ix) any additional information, as
2 determined by the Secretary.

3 “(3) CONTRACT.—

4 “(A) IN GENERAL.—On approval of a
5 BCAP project area by the Secretary, each pro-
6 ducer in the BCAP project area shall enter into
7 a contract directly with the Secretary.

8 “(B) MINIMUM TERMS.—At a minimum,
9 contracts shall include terms that cover—

10 “(i) an agreement to make available
11 to the Secretary, or to an institution of
12 higher education or other entity designated
13 by the Secretary, such information as the
14 Secretary considers to be appropriate to
15 promote the production of eligible crops
16 and the development of biomass conversion
17 technology;

18 “(ii) compliance with the highly erod-
19 ible land conservation requirements of sub-
20 title B of title XII of the Food Security
21 Act of 1985 (16 U.S.C. 3811 et seq.) and
22 the wetland conservation requirements of
23 subtitle C of title XII of that Act (16
24 U.S.C. 3821 et seq.);

1 “(iii) the implementation of (as deter-
2 mined by the Secretary)—

3 “(I) a conservation plan; or

4 “(II) a forest stewardship plan or
5 an equivalent plan; and

6 “(iv) any additional requirements the
7 Secretary considers appropriate.

8 “(C) DURATION.—A contract under this
9 subsection shall have a term of up to—

10 “(i) 5 years for annual and perennial
11 crops; or

12 “(ii) 15 years for woody biomass.

13 “(4) RELATIONSHIP TO OTHER PROGRAMS.—In
14 carrying out this subsection, the Secretary shall pro-
15 vide for the preservation of cropland base and yield
16 history applicable to the land enrolled in a BCAP
17 contract.

18 “(5) PAYMENTS.—

19 “(A) IN GENERAL.—The Secretary shall
20 make establishment and annual payments di-
21 rectly to producers to support the establishment
22 and production of eligible crops on contract
23 acreage.

24 “(B) AMOUNT OF ESTABLISHMENT PAY-
25 MENTS.—The amount of an establishment pay-

1 ment under this subsection shall be up to 75
2 percent of the costs of establishing an eligible
3 perennial crop covered by the contract, includ-
4 ing—

5 “(i) the cost of seeds and stock for
6 perennials;

7 “(ii) the cost of planting the perennial
8 crop, as determined by the Secretary; and

9 “(iii) in the case of nonindustrial pri-
10 vate forestland, the costs of site prepara-
11 tion and tree planting.

12 “(C) AMOUNT OF ANNUAL PAYMENTS.—

13 “(i) IN GENERAL.—Subject to clause
14 (ii), the amount of an annual payment
15 under this subsection shall be determined
16 by the Secretary.

17 “(ii) REDUCTION.—The Secretary
18 shall reduce an annual payment by an
19 amount determined to be appropriate by
20 the Secretary, if—

21 “(I) an eligible crop is used for
22 purposes other than the production of
23 energy at the biomass conversion fa-
24 cility;

1 “(II) an eligible crop is delivered
2 to the biomass conversion facility;

3 “(III) the producer receives a
4 payment under subsection (d);

5 “(IV) the producer violates a
6 term of the contract; or

7 “(V) there are such other cir-
8 cumstances, as determined by the Sec-
9 retary to be necessary to carry out
10 this section.

11 “(d) ASSISTANCE WITH COLLECTION, HARVEST,
12 STORAGE, AND TRANSPORTATION.—

13 “(1) IN GENERAL.—The Secretary shall make a
14 payment for the delivery of eligible material to a bio-
15 mass conversion facility to—

16 “(A) a producer of an eligible crop that is
17 produced on BCAP contract acreage; or

18 “(B) a person with the right to collect or
19 harvest eligible material.

20 “(2) PAYMENTS.—

21 “(A) COSTS COVERED.—A payment under
22 this subsection shall be in an amount described
23 in subparagraph (B) for—

24 “(i) collection;

25 “(ii) harvest;

1 “(iii) storage; and

2 “(iv) transportation to a biomass con-
3 version facility.

4 “(B) AMOUNT.—Subject to paragraph (3),
5 the Secretary may provide matching payments
6 at a rate of \$1 for each \$1 per ton provided by
7 the biomass conversion facility, in an amount
8 equal to not more than \$45 per ton for a period
9 of 2 years.

10 “(3) LIMITATION ON ASSISTANCE FOR BCAP
11 CONTRACT ACREAGE.—As a condition of the receipt
12 of annual payment under subsection (c), a producer
13 receiving a payment under this subsection for collec-
14 tion, harvest, storage or transportation of an eligible
15 crop produced on BCAP acreage shall agree to a re-
16 duction in the annual payment.

17 “(e) REPORT.—Not later than 4 years after the date
18 of enactment of the Food, Conservation, and Energy Act
19 of 2008, the Secretary shall submit to the Committee on
20 Agriculture of the House of Representatives and the Com-
21 mittee on Agriculture, Nutrition, and Forestry of the Sen-
22 ate a report on the dissemination by the Secretary of the
23 best practice data and information gathered from partici-
24 pants receiving assistance under this section.

1 “(f) FUNDING.—Of the funds of the Commodity
2 Credit Corporation, the Secretary shall use to carry out
3 this section such sums as are necessary for each of fiscal
4 years 2008 through 2012.

5 **“SEC. 9012. FOREST BIOMASS FOR ENERGY.**

6 “(a) IN GENERAL.—The Secretary, acting through
7 the Forest Service, shall conduct a competitive research
8 and development program to encourage use of forest bio-
9 mass for energy.

10 “(b) ELIGIBLE ENTITIES.—Entities eligible to com-
11 pete under the program under this section include—

12 “(1) the Forest Service (acting through Re-
13 search and Development);

14 “(2) other Federal agencies;

15 “(3) State and local governments;

16 “(4) Indian tribes;

17 “(5) land-grant colleges and universities; and

18 “(6) private entities.

19 “(c) PRIORITY FOR PROJECT SELECTION.—In car-
20 rying out this section, the Secretary shall give priority to
21 projects that—

22 “(1) develop technology and techniques to use
23 low-value forest biomass, such as byproducts of for-
24 est health treatments and hazardous fuels reduction,
25 for the production of energy;

1 “(2) develop processes that integrate production
2 of energy from forest biomass into biorefineries or
3 other existing manufacturing streams;

4 “(3) develop new transportation fuels from for-
5 est biomass; and

6 “(4) improve the growth and yield of trees in-
7 tended for renewable energy production.

8 “(d) AUTHORIZATION OF APPROPRIATIONS.—There
9 is authorized to be appropriated to carry out this section
10 \$15,000,000 for each of fiscal years 2009 through 2012.

11 **“SEC. 9013. COMMUNITY WOOD ENERGY PROGRAM.**

12 “(a) DEFINITIONS.—In this section:

13 “(1) COMMUNITY WOOD ENERGY PLAN.—The
14 term ‘community wood energy plan’ means an as-
15 sessment of—

16 “(A) available feedstocks necessary to sup-
17 ply a community wood energy system; and

18 “(B) the long-term feasibility of supplying
19 and operating a community wood energy sys-
20 tem.

21 “(2) COMMUNITY WOOD ENERGY SYSTEM.—

22 “(A) IN GENERAL.—The term ‘community
23 wood energy system’ means an energy system
24 that—

1 “(i) primarily services public facilities
2 owned or operated by State or local gov-
3 ernments, including schools, town halls, li-
4 braries, and other public buildings; and

5 “(ii) uses woody biomass as the pri-
6 mary fuel.

7 “(B) INCLUSIONS.—The term ‘community
8 wood energy system’ includes single facility cen-
9 tral heating, district heating, combined heat
10 and energy systems, and other related biomass
11 energy systems.

12 “(b) GRANT PROGRAM.—

13 “(1) IN GENERAL.—The Secretary, acting
14 through the Chief of the Forest Service, shall estab-
15 lish a program to be known as the ‘Community
16 Wood Energy Program’ to provide—

17 “(A) grants of up to \$50,000 to State and
18 local governments (or designees) to develop
19 community wood energy plans; and

20 “(B) competitive grants to State and local
21 governments to acquire or upgrade community
22 wood energy systems.

23 “(2) CONSIDERATIONS.—In selecting applicants
24 for grants under paragraph (1)(B), the Secretary
25 shall consider—

1 “(A) the energy efficiency of the proposed
2 system;

3 “(B) the cost effectiveness of the proposed
4 system; and

5 “(C) other conservation and environmental
6 criteria that the Secretary considers appro-
7 priate.

8 “(3) USE OF PLAN.—A State or local govern-
9 ment applying to receive a competitive grant de-
10 scribed in paragraph (1)(B) shall submit to the Sec-
11 retary as part of the grant application the applicable
12 community wood energy plan.

13 “(c) LIMITATION.—A community wood energy system
14 acquired with grant funds provided under subsection
15 (b)(1)(B) shall not exceed an output of—

16 “(1) 50,000,000 Btu per hour for heating; and

17 “(2) 2 megawatts for electric power production.

18 “(d) MATCHING FUNDS.—A State or local govern-
19 ment that receives a grant under subsection (b) shall con-
20 tribute an amount of non-Federal funds towards the devel-
21 opment of the community wood energy plan, or acquisition
22 of the community wood energy systems that is at least
23 equal to the amount of grant funds received by the State
24 or local government under that subsection.

1 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
2 is authorized to be appropriated to carry out this section
3 \$5,000,000 for each of fiscal years 2009 through 2012.”.

4 (b) CONFORMING AMENDMENT.—The Biomass Re-
5 search and Development Act of 2000 (7 U.S.C. 8601 et
6 seq.) is repealed.

7 **SEC. 9002. BIOFUELS INFRASTRUCTURE STUDY.**

8 (a) IN GENERAL.—The Secretary of Agriculture, the
9 Secretary of Energy, the Administrator of the Environ-
10 mental Protection Agency, and the Secretary of Transpor-
11 tation (referred to in this section as the “Secretaries”),
12 shall jointly conduct a study that includes—

13 (1) an assessment of the infrastructure needs
14 for expanding the domestic production, transport,
15 and distribution of biofuels given current and likely
16 future market trends;

17 (2) recommendations for infrastructure needs
18 and development approaches, taking into account
19 cost and other associated factors; and

20 (3) a report that includes—

21 (A) a summary of infrastructure needs;

22 (B) an analysis of alternative development
23 approaches to meeting the needs described in
24 subparagraph (A), including cost, siting, and
25 other regulatory issues; and

1 (C) recommendations for specific infra-
2 structure development actions to be taken.

3 (b) SCOPE OF STUDY.—

4 (1) IN GENERAL.—In conducting the study de-
5 scribed in subsection (a), the Secretaries shall ad-
6 dress—

7 (A) current and likely future market
8 trends for biofuels through calendar year 2025;

9 (B) current and future availability of feed-
10 stocks;

11 (C) water resource needs, including water
12 requirements for biorefineries;

13 (D) shipping and storage needs for bio-
14 mass feedstock and biofuels, including the ade-
15 quacy of rural roads; and

16 (E) modes of transportation and delivery
17 for biofuels (including shipment by rail, truck,
18 pipeline or barge) and associated infrastructure
19 issues.

20 (2) CONSIDERATIONS.—In addressing the
21 issues described in paragraph (1), the Secretaries
22 shall consider—

23 (A) the effects of increased tank truck,
24 rail, and barge transport on existing infrastruc-
25 ture and safety;

1 (B) the feasibility of shipping biofuels
2 through pipelines in existence as the date of en-
3 actment of this Act;

4 (C) the development of new biofuels pipe-
5 lines, including siting, financing, timing, and
6 other economic issues;

7 (D) the implications of various biofuel
8 blend levels on infrastructure needs;

9 (E) the implications of various approaches
10 to infrastructure development on resource use
11 and conservation;

12 (F) regional differences in biofuels infra-
13 structure needs; and

14 (G) other infrastructure issues, as deter-
15 mined by the Secretaries.

16 (c) IMPLEMENTATION.—In carrying out this section,
17 the Secretaries —

18 (1) shall—

19 (A) consult with individuals and entities
20 with interest or expertise in the areas described
21 in subsection (b);

22 (B) to the extent available, use the infor-
23 mation developed and results of the related
24 studies authorized under sections 243 and 245
25 of the Energy Independence and Security Act

1 of 2007 (Public Law 110–140; 121 Stat. 1540,
2 1546)); and

3 (C) submit to Congress the report required
4 under subsection (a)(3), including—

5 (i) in the Senate—

6 (I) the Committee on Agri-
7 culture, Nutrition, and Forestry ;

8 (II) the Committee on Com-
9 merce, Science, and Transportation;

10 (III) the Committee on Energy
11 and Natural Resources; and

12 (IV) the Committee on Environ-
13 ment and Public Works; and

14 (ii) in the House of Representatives—

15 (I) the Committee on Agri-
16 culture;

17 (II) the Committee on Energy
18 and Commerce;

19 (III) the Committee on Trans-
20 portation and Infrastructure; and

21 (IV) the Committee on Science
22 and Technology; and

23 (2) may issue a solicitation for a competition to
24 select a contractor to support the Secretaries.

1 **SEC. 9003. RENEWABLE FERTILIZER STUDY.**

2 (a) IN GENERAL.—Not later than 1 year after the
3 date of receipt of appropriations to carry out this section,
4 the Secretary shall—

5 (1) conduct a study to assess the current state
6 of knowledge regarding the potential for the produc-
7 tion of fertilizer from renewable energy sources in
8 rural areas, including—

9 (A) identification of the critical challenges
10 to commercialization of rural production of ni-
11 trogen and phosphorus-based fertilizer from re-
12 newables;

13 (B) the most promising processes and
14 technologies for renewable fertilizer production;

15 (C) the potential cost-competitiveness of
16 renewable fertilizer; and

17 (D) the potential impacts of renewable fer-
18 tilizer on fossil fuel use and the environment;
19 and

20 (2) submit to the Committee on Agriculture of
21 the House of Representatives and the Committee on
22 Agriculture, Nutrition, and Forestry of the Senate a
23 report describing the results of the study.

24 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
25 authorized to be appropriated to carry out this section
26 \$1,000,000 for fiscal year 2009.

1 **TITLE X—HORTICULTURE AND**
2 **ORGANIC AGRICULTURE**

3 **SEC. 10001. DEFINITIONS.**

4 In this title:

5 (1) **SPECIALTY CROP.**—The term “specialty
6 crop” has the meaning given the term in section 3
7 of the Specialty Crops Competitiveness Act of 2004
8 (7 U.S.C. 1621 note; Public Law 108–465).

9 (2) **STATE DEPARTMENT OF AGRICULTURE.**—
10 The term “State department of agriculture” means
11 the agency, commission, or department of a State
12 government responsible for protecting and promoting
13 agriculture in the State.

14 **Subtitle A—Horticulture Marketing**
15 **and Information**

16 **SEC. 10101. INDEPENDENT EVALUATION OF DEPARTMENT**
17 **OF AGRICULTURE COMMODITY PURCHASE**
18 **PROCESS.**

19 (a) **EVALUATION REQUIRED.**—The Secretary shall
20 arrange to have performed an independent evaluation of
21 the purchasing processes (including the budgetary, statu-
22 tory, and regulatory authority underlying the processes)
23 used by the Department of Agriculture to implement the
24 requirement that funds available under section 32 of the

1 Act of August 24, 1935 (7 U.S.C. 612c), shall be prin-
2 cipally devoted to perishable agricultural commodities.

3 (b) SUBMISSION OF RESULTS.—Not later than 18
4 months after the date of the enactment of this Act, the
5 Secretary shall submit to the Committee on Agriculture
6 of the House of Representatives and the Committee on
7 Agriculture, Nutrition, and Forestry of the Senate a re-
8 port on the results of the evaluation.

9 **SEC. 10102. QUALITY REQUIREMENTS FOR CLEMENTINES.**

10 Section 8e(a) of the Agricultural Adjustment Act (7
11 U.S.C. 608e–1(a)), reenacted with amendments by the Ag-
12 ricultural Marketing Agreement Act of 1937, is amended
13 in the matter preceding the first proviso in the first sen-
14 tence by inserting “clementines,” after “nectarines,”.

15 **SEC. 10103. INCLUSION OF SPECIALTY CROPS IN CENSUS**
16 **OF AGRICULTURE.**

17 Section 2(a) of the Census of Agriculture Act of 1997
18 (7 U.S.C. 2204g(a)) is amended—

19 (1) by striking “In 1998” and inserting the fol-
20 lowing:

21 “(1) IN GENERAL.—In 1998”; and

22 (2) by adding at the end the following:

23 “(2) INCLUSION OF SPECIALTY CROPS.—Effec-
24 tive beginning with the census of agriculture re-
25 quired to be conducted in 2008, the Secretary shall

1 conduct as part of each census of agriculture a cen-
2 sus of specialty crops (as that term is defined in sec-
3 tion 3 of the Specialty Crops Competitiveness Act of
4 2004 (7 U.S.C. 1621 note; Public Law 108-465)).”.

5 **SEC. 10104. MUSHROOM PROMOTION, RESEARCH, AND CON-**
6 **SUMER INFORMATION.**

7 (a) **REGIONS AND MEMBERS.**—Section 1925(b)(2) of
8 the Mushroom Promotion, Research, and Consumer Infor-
9 mation Act of 1990 (7 U.S.C. 6104(b)(2)) is amended—

10 (1) in subparagraph (B), by striking “4 re-
11 gions” and inserting “3 regions”;

12 (2) in subparagraph (D), by striking
13 “35,000,000 pounds” and inserting “50,000,000
14 pounds”; and

15 (3) by striking subparagraph (E) and inserting
16 the following:

17 “(E) **ADDITIONAL MEMBERS.**—In addition
18 to the members appointed pursuant to para-
19 graph (1), and subject to the 9-member limit of
20 members on the Council provided in that para-
21 graph, the Secretary shall appoint additional
22 members to the council from a region that at-
23 tains additional pounds of production as fol-
24 lows:

1 “(i) If the annual production of a re-
2 gion is greater than 110,000,000 pounds,
3 but less than or equal to 180,000,000
4 pounds, the region shall be represented by
5 1 additional member.

6 “(ii) If the annual production of a re-
7 gion is greater than 180,000,000 pounds,
8 but less than or equal to 260,000,000
9 pounds, the region shall be represented by
10 2 additional members.

11 “(iii) If the annual production of a re-
12 gion is greater than 260,000,000 pounds,
13 the region shall be represented by 3 addi-
14 tional members.”.

15 (b) POWERS AND DUTIES OF COUNCIL.—Section
16 1925(c) of the Mushroom Promotion, Research, and Con-
17 sumer Information Act of 1990 (7 U.S.C. 6104(c)) is
18 amended—

19 (1) by redesignating paragraphs (6), (7), and
20 (8) as paragraphs (7), (8), and (9), respectively; and

21 (2) by inserting after paragraph (5) the fol-
22 lowing:

23 “(6) to develop and propose to the Secretary
24 programs for good agricultural and good handling
25 practices and related activities for mushrooms;”.

1 **SEC. 10105. FOOD SAFETY EDUCATION INITIATIVES.**

2 (a) INITIATIVE AUTHORIZED.—The Secretary may
3 carry out a food safety education program to educate the
4 public and persons in the fresh produce industry about—

5 (1) scientifically proven practices for reducing
6 microbial pathogens on fresh produce; and

7 (2) methods of reducing the threat of cross-con-
8 tamination of fresh produce through sanitary han-
9 dling practices.

10 (b) COOPERATION.—The Secretary may carry out the
11 education program in cooperation with public and private
12 partners.

13 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
14 authorized to be appropriated to the Secretary to carry
15 out this section \$1,000,000 for each of fiscal years 2008
16 through 2012, to remain available until expended.

17 **SEC. 10106. FARMERS' MARKET PROMOTION PROGRAM.**

18 Section 6 of the Farmer-to-Consumer Direct Mar-
19 keting Act of 1976 (7 U.S.C. 3005) is amended—

20 (1) in subsection (a), by inserting “and to pro-
21 mote direct producer-to-consumer marketing” before
22 the period at the end;

23 (2) in subsection (b)(1)—

24 (A) in subparagraph (A), by inserting
25 “agri-tourism activities,” after “programs,”;
26 and

1 (B) in subparagraph (B)—

2 (i) by inserting “agri-tourism activi-
3 ties,” after “programs,” and

4 (ii) by striking “infrastructure” and
5 inserting “marketing opportunities”;

6 (3) in subsection (c)(1), by inserting “or a pro-
7 ducer network or association” after “cooperative”;
8 and

9 (4) by striking subsection (e) and inserting the
10 following:

11 “(e) FUNDING.—

12 “(1) IN GENERAL.—Of the funds of the Com-
13 modity Credit Corporation, the Secretary shall use
14 to carry out this section—

15 “(A) \$3,000,000 for fiscal year 2008;

16 “(B) \$5,000,000 for each of fiscal years
17 2009 through 2010; and

18 “(C) \$10,000,000 for each of fiscal years
19 2011 and 2012.

20 “(2) USE OF FUNDS.—Not less than 10 percent
21 of the funds used to carry out this section in a fiscal
22 year under paragraph (1) shall be used to support
23 the use of electronic benefits transfers for Federal
24 nutrition programs at farmers’ markets.

1 “(3) INTERDEPARTMENTAL COORDINATION.—

2 In carrying out this subsection, the Secretary shall
3 ensure coordination between the various agencies to
4 the maximum extent practicable.

5 “(4) LIMITATION.—Funds described in para-
6 graph (2)—

7 “(A) may not be used for the ongoing cost
8 of carrying out any project; and

9 “(B) shall only be provided to eligible enti-
10 ties that demonstrate a plan to continue to pro-
11 vide EBT card access at 1 or more farmers’
12 markets following the receipt of the grant.”.

13 **SEC. 10107. SPECIALTY CROPS MARKET NEWS ALLOCATION.**

14 (a) IN GENERAL.—The Secretary shall—

15 (1) carry out market news activities to provide
16 timely price and shipment information of specialty
17 crops in the United States; and

18 (2) use funds made available under subsection

19 (b) to increase the reporting levels for specialty
20 crops in effect on the date of enactment of this Act.

21 (b) AUTHORIZATION OF APPROPRIATIONS.—In addi-
22 tion to any other funds made available through annual ap-
23 propriations for market news services, there is authorized
24 to be appropriated to carry out this section \$9,000,000

1 for each of fiscal years 2008 through 2012, to remain
2 available until expended.

3 **SEC. 10108. EXPEDITED MARKETING ORDER FOR HASS AVO-**
4 **CADOS FOR GRADES AND STANDARDS AND**
5 **OTHER PURPOSES.**

6 (a) IN GENERAL.—The Secretary shall initiate proce-
7 dures under the Agricultural Adjustment Act (7 U.S.C.
8 601 et seq.), reenacted with amendments by the Agricul-
9 tural Marketing Agreement Act of 1937, to determine
10 whether it would be appropriate to establish a Federal
11 marketing order for Hass avocados relating to grades and
12 standards and for other purposes under that Act.

13 (b) EXPEDITED PROCEDURES.—

14 (1) PROPOSAL FOR AN ORDER.—An organiza-
15 tion of domestic avocado producers in existence on
16 the date of enactment of this Act may request the
17 issuance of, and submit to the Secretary a proposal
18 for, an order described in subsection (a).

19 (2) PUBLICATION OF PROPOSAL.—Not later
20 than 60 days after the date on which the Secretary
21 receives a proposed order under paragraph (1), the
22 Secretary shall initiate procedures described in sub-
23 section (a) to determine whether the proposed order
24 should proceed.

1 (c) **EFFECTIVE DATE.**—Any order issued under this
2 section shall become effective not later than 15 months
3 after the date on which the Secretary initiates procedures
4 under the Agricultural Adjustment Act (7 U.S.C. 601 et
5 seq.), reenacted with amendments by the Agricultural
6 Marketing Agreement Act of 1937.

7 **SEC. 10109. SPECIALTY CROP BLOCK GRANTS.**

8 (a) **DEFINITION OF SPECIALTY CROP.**—Section 3(1)
9 of the Specialty Crops Competitiveness Act of 2004 (Pub-
10 lic Law 108–465; 7 U.S.C. 1621 note) is amended by in-
11 serting “horticulture and” before “nursery”.

12 (b) **DEFINITION OF STATE.**—Section 3(2) of the Spe-
13 cialty Crops Competitiveness Act of 2004 (Public Law
14 108–465; 7 U.S.C. 1621 note) is amended by striking
15 “and the Commonwealth of Puerto Rico” and inserting
16 “the Commonwealth of Puerto Rico, Guam, American
17 Samoa, the United States Virgin Islands, and the Com-
18 monwealth of the Northern Mariana Islands”.

19 (c) **SPECIALTY CROP BLOCK GRANTS.**—Section 101
20 of the Specialty Crops Competitiveness Act of 2004 (Pub-
21 lic Law 108–465; 7 U.S.C. 1621 note) is amended—

22 (1) in subsection (a)—

23 (A) by striking “Subject to the appropria-
24 tion of funds to carry out this section” and in-

1 serting “Using the funds made available under
2 subsection (j)”; and

3 (B) by striking “2009” and inserting
4 “2012”;

5 (2) in subsection (b), by striking “appropriated
6 pursuant to the authorization of appropriations in
7 subsection (i)” and inserting “made available under
8 subsection (j)”;

9 (3) by striking subsection (c) and inserting the
10 following:

11 “(c) MINIMUM GRANT AMOUNT.—Notwithstanding
12 subsection (b), each State shall receive a grant under this
13 section for each fiscal year in an amount that is at least
14 equal to the higher of—

15 “(1) \$100,000; or

16 “(2) $\frac{1}{3}$ of 1 percent of the total amount of
17 funding made available to carry out this section for
18 the fiscal year.”; and

19 (4) by striking subsection (i) and inserting the
20 following:

21 “(i) REALLOCATION.—

22 “(1) IN GENERAL.—The Secretary shall reallo-
23 cate to other States in accordance with paragraph
24 (2) any amounts made available for a fiscal year
25 under this section that are not obligated or expended

1 by a date during that fiscal year determined by the
2 Secretary.

3 “(2) PRO RATA ALLOCATION.—The Secretary
4 shall allocate funds described in paragraph (1) pro
5 rata to the remaining States that applied during the
6 specified grant application period.

7 “(3) USE OF REALLOCATED FUNDS.—Funds al-
8 located to a State under this subsection shall be
9 used by the State only to carry out projects that
10 were previously approved in the State plan of the
11 State.

12 “(j) FUNDING.—Of the funds of the Commodity
13 Credit Corporation, the Secretary of Agriculture shall
14 make grants under this section, using—

15 “(1) \$10,000,000 for fiscal year 2008;

16 “(2) \$49,000,000 for fiscal year 2009; and

17 “(3) \$55,000,000 for each of fiscal years 2010
18 through 2012.”.

19 **Subtitle B—Pest and Disease**
20 **Management**

21 **SEC. 10201. PLANT PEST AND DISEASE MANAGEMENT AND**
22 **DISASTER PREVENTION.**

23 (a) IN GENERAL.—Subtitle A of the Plant Protection
24 Act (7 U.S.C. 7711 et seq.) is amended by adding at the
25 end the following:

1 **“SEC. 420. PLANT PEST AND DISEASE MANAGEMENT AND**
2 **DISASTER PREVENTION.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) EARLY PLANT PEST DETECTION AND SUR-
5 VEILLANCE.—The term ‘early plant pest detection
6 and surveillance’ means the full range of activities
7 undertaken to find newly introduced plant pests,
8 whether the plant pests are new to the United States
9 or new to certain areas of the United States, be-
10 fore—

11 “(A) the plant pests become established; or

12 “(B) the plant pest infestations become too
13 large and costly to eradicate or control.

14 “(2) SPECIALTY CROP.—The term ‘specialty
15 crop’ has the meaning given the term in section 3
16 of the Specialty Crops Competitiveness Act of 2004
17 (7 U.S.C. 1621 note; Public Law 108–465).

18 “(3) STATE DEPARTMENT OF AGRICULTURE.—
19 The term ‘State department of agriculture’ means
20 an agency of a State that has a legal responsibility
21 to perform early plant pest detection and surveil-
22 lance activities.

23 “(b) EARLY PLANT PEST DETECTION AND SURVEIL-
24 LANCE IMPROVEMENT PROGRAM.—

25 “(1) COOPERATIVE AGREEMENTS.—The Sec-
26 retary shall enter into a cooperative agreement with

1 each State department of agriculture that agrees to
2 conduct early plant pest detection and surveillance
3 activities.

4 “(2) CONSULTATION.—In carrying out this sub-
5 section, the Secretary shall consult with—

6 “(A) the National Plant Board; and

7 “(B) other interested parties.

8 “(3) FEDERAL ADVISORY COMMITTEE ACT.—
9 The Federal Advisory Committee Act (5 U.S.C.
10 App.) shall not apply to consultations under this
11 subsection.

12 “(4) APPLICATION.—

13 “(A) IN GENERAL.—A State department of
14 agriculture seeking to enter into a cooperative
15 agreement under this subsection shall submit to
16 the Secretary an application containing such in-
17 formation as the Secretary may require.

18 “(B) NOTIFICATION.—The Secretary shall
19 notify applicants of—

20 “(i) the requirements to be imposed
21 on a State department of agriculture for
22 auditing of, and reporting on, the use of
23 any funds provided by the Secretary under
24 the cooperative agreement;

1 “(ii) the criteria to be used to ensure
2 that early pest detection and surveillance
3 activities supported under the cooperative
4 agreement are based on sound scientific
5 data or thorough risk assessments; and

6 “(iii) the means of identifying path-
7 ways of pest introductions.

8 “(5) USE OF FUNDS.—

9 “(A) PLANT PEST DETECTION AND SUR-
10 VEILLANCE ACTIVITIES.—A State department
11 of agriculture that receives funds under this
12 subsection shall use the funds to carry out early
13 plant pest detection and surveillance activities
14 approved by the Secretary to prevent the intro-
15 duction or spread of a plant pest.

16 “(B) SUBAGREEMENTS.—Nothing in this
17 subsection prevents a State department of agri-
18 culture from using funds received under para-
19 graph (4) to enter into subagreements with po-
20 litical subdivisions of the State that have legal
21 responsibilities relating to agricultural plant
22 pest and disease surveillance.

23 “(C) NON-FEDERAL SHARE.—The non-
24 Federal share of the cost of carrying out a co-
25 operative agreement under this section may be

1 provided in-kind, including through provision of
2 such indirect costs of the cooperative agreement
3 as the Secretary considers to be appropriate.

4 “(D) ABILITY TO PROVIDE FUNDS.—The
5 Secretary shall not take the ability to provide
6 non-Federal costs to carry out a cooperative
7 agreement entered into under subparagraph (A)
8 into consideration when deciding whether to
9 enter into a cooperative agreement with a State
10 department of agriculture.

11 “(6) SPECIAL FUNDING CONSIDERATIONS.—
12 The Secretary shall provide funds to a State depart-
13 ment of agriculture if the Secretary determines
14 that—

15 “(A) the State department of agriculture is
16 in a State that has a high risk of being affected
17 by 1 or more plant pests or diseases, taking
18 into consideration—

19 “(i) the number of international ports
20 of entry in the State;

21 “(ii) the volume of international pas-
22 senger and cargo entry into the State;

23 “(iii) the geographic location of the
24 State and if the location or types of agri-
25 cultural commodities produced in the State

1 are conducive to agricultural pest and dis-
2 ease establishment due to the climate, crop
3 diversity, or natural resources (including
4 unique plant species) of the State; and

5 “(iv) whether the Secretary has deter-
6 mined that an agricultural pest or disease
7 in the State is a Federal concern ; and

8 “(B) the early plant pest detection and
9 surveillance activities supported with the funds
10 will likely—

11 “(i) prevent the introduction and es-
12 tablishment of plant pests; and

13 “(ii) provide a comprehensive ap-
14 proach to compliment Federal detection ef-
15 forts.

16 “(7) REPORTING REQUIREMENT.—Not later
17 than 90 days after the date of completion of an early
18 plant pest detection and surveillance activity con-
19 ducted by a State department of agriculture using
20 funds provided under this section, the State depart-
21 ment of agriculture shall submit to the Secretary a
22 report that describes the purposes and results of the
23 activities.

24 “(c) THREAT IDENTIFICATION AND MITIGATION
25 PROGRAM.—

1 “(1) ESTABLISHMENT.—The Secretary shall es-
2 tablish a threat identification and mitigation pro-
3 gram to determine and address threats to the do-
4 mestic production of crops.

5 “(2) REQUIREMENTS.—In conducting the pro-
6 gram established under paragraph (1), the Secretary
7 shall—

8 “(A) develop risk assessments of the poten-
9 tial threat to the agricultural industry of the
10 United States from foreign sources;

11 “(B) collaborate with the National Plant
12 Board; and

13 “(C) implement action plans for high con-
14 sequence plant pest and diseases to assist in
15 preventing the introduction and widespread dis-
16 semination of new plant pest and disease
17 threats in the United States.

18 “(3) REPORTS.—Not later than 1 year after the
19 date of enactment of this paragraph, and annually
20 thereafter, the Secretary shall submit to the Com-
21 mittee on Agriculture of the House of Representa-
22 tives and the Committee on Agriculture, Nutrition,
23 and Forestry of the Senate a report on the action
24 plans described in paragraph (2), including an ac-
25 counting of funds expended on the action plans.

1 “(d) SPECIALTY CROP CERTIFICATION AND RISK
2 MANAGEMENT SYSTEMS.—The Secretary shall provide
3 funds and technical assistance to specialty crop growers,
4 organizations representing specialty crop growers, and
5 State and local agencies working with specialty crop grow-
6 ers and organizations for the development and implemen-
7 tation of—

8 “(1) audit-based certification systems, such as
9 best management practices—

10 “(A) to address plant pests; and

11 “(B) to mitigate the risk of plant pests in
12 the movement of plants and plant products; and

13 “(2) nursery plant pest risk management sys-
14 tems, in collaboration with the nursery industry, re-
15 search institutions, and other appropriate entities—

16 “(A) to enable growers to identify and
17 prioritize nursery plant pests and diseases of
18 regulatory significance;

19 “(B) to prevent the introduction, establish-
20 ment, and spread of those plant pests and dis-
21 eases; and

22 “(C) to reduce the risk of and mitigate
23 those plant pests and diseases.

1 “(e) FUNDING.—Of the funds of the Commodity
2 Credit Corporation, the Secretary shall make available to
3 carry out this section—

4 “(1) \$12,000,000 for fiscal year 2009;

5 “(2) \$45,000,000 for fiscal year 2010;

6 “(3) \$50,000,000 for fiscal year 2011; and

7 “(4) \$50,000,000 for fiscal year 2012 and each
8 fiscal year thereafter.”.

9 (b) CONGRESSIONAL DISAPPROVAL.—Congress dis-
10 approves the rule submitted by the Secretary of Agri-
11 culture relating to cost-sharing for animal and plant
12 health emergency programs (68 Fed. Reg. 40541 (2003)),
13 and such rule shall have no force or effect.

14 **SEC. 10202. NATIONAL CLEAN PLANT NETWORK.**

15 (a) IN GENERAL.—The Secretary shall establish a
16 program to be known as the “National Clean Plant Net-
17 work” (referred to in this section as the “Program”).

18 (b) REQUIREMENTS.—Under the Program, the Sec-
19 retary shall establish a network of clean plant centers for
20 diagnostic and pathogen elimination services to—

21 (1) produce clean propagative plant material;

22 and

23 (2) maintain blocks of pathogen-tested plant
24 material in sites located throughout the United
25 States.

1 (c) AVAILABILITY OF CLEAN PLANT SOURCE MATE-
2 RIAL.—Clean plant source material may be made available
3 to—

4 (1) a State for a certified plant program of the
5 State; and

6 (2) private nurseries and producers.

7 (d) CONSULTATION AND COLLABORATION.—In car-
8 rying out the Program, the Secretary shall—

9 (1) consult with State departments of agri-
10 culture, land grant universities, and NLGCA Institu-
11 tions (as defined in section 1404 of the National Ag-
12 ricultural Research, Extension, and Teaching Policy
13 Act of 1977 (7 U.S.C. 3103)); and

14 (2) to the extent practicable and with input
15 from the appropriate State officials and industry
16 representatives, use existing Federal or State facili-
17 ties to serve as clean plant centers.

18 (e) FUNDING.—Of the funds of the Commodity Cred-
19 it Corporation, the Secretary shall use to carry out the
20 Program \$5,000,000 for each of fiscal years 2009 through
21 2012, to remain available until expended.

22 **SEC. 10203. PLANT PROTECTION.**

23 (a) REVIEW OF PAYMENT OF COMPENSATION.—Sec-
24 tion 415(e) of the Plant Protection Act (7 U.S.C. 7715(e))

1 is amended in the second sentence by striking “of longer
2 than 60 days”.

3 (b) SECRETARIAL DISCRETION.—Section 442(c) of
4 the Plant Protection Act (7 U.S.C. 7772(c)) is amended
5 by striking “of longer than 60 days”.

6 (c) SUBPOENA AUTHORITY.—Section 423 of the
7 Plant Protection Act (7 U.S.C. 7733) is amended—

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

10 “(a) AUTHORITY TO ISSUE.—The Secretary shall
11 have the power to subpoena the attendance and testimony
12 of any witness, the production of all evidence (including
13 books, papers, documents, electronically stored informa-
14 tion, and other tangible things that constitute or contain
15 evidence), or to require the person to whom the subpoena
16 is directed to permit the inspection of premises relating
17 to the administration or enforcement of this title or any
18 matter under investigation in connection with this title.”;

19 (2) in subsection (b), by striking “documen-
20 tary”; and

21 (3) in subsection (c)—

22 (A) in the first sentence, by striking “testi-
23 mony of any witness and the production of doc-
24 umentary evidence” and inserting “testimony of

1 any witness, the production of evidence, or the
2 inspection of premises”; and

3 (B) in the second sentence, by striking
4 “question or to produce documentary evidence”
5 and inserting “question, produce evidence, or
6 permit the inspection of premises”.

7 (d) WILLFUL VIOLATIONS.—Section 424(b)(1)(A) of
8 the Plant Protection Act (7 U.S.C. 7734(b)(1)(A)) is
9 amended by striking “and \$500,000 for all violations adju-
10 dicated in a single proceeding” and inserting “\$500,000
11 for all violations adjudicated in a single proceeding if the
12 violations do not include a willful violation, and
13 \$1,000,000 for all violations adjudicated in a single pro-
14 ceeding if the violations include a willful violation”.

15 **SEC. 10204. REGULATIONS TO IMPROVE MANAGEMENT AND**
16 **OVERSIGHT OF CERTAIN REGULATED ARTI-**
17 **CLES.**

18 (a) IN GENERAL.—Not later than 18 months after
19 the date of enactment of this Act, the Secretary shall—

20 (1) take action on each issue identified in the
21 document entitled “Lessons Learned and Revisions
22 under Consideration for APHIS’ Biotechnology
23 Framework”, dated October 4, 2007; and

24 (2) as the Secretary considers appropriate, pro-
25 mulgate regulations to improve the management and

1 oversight of articles regulated under the Plant Pro-
2 tection Act (7 U.S.C. 7701 et seq.).

3 (b) INCLUSIONS.—In carrying out subsection (a), the
4 Secretary shall take actions that are designed to en-
5 hance—

6 (1) the quality and completeness of records;

7 (2) the availability of representative samples;

8 (3) the maintenance of identity and control in
9 the event of an unauthorized release;

10 (4) corrective actions in the event of an unau-
11 thorized release;

12 (5) protocols for conducting molecular forensics;

13 (6) clarity in contractual agreements;

14 (7) the use of the latest scientific techniques for
15 isolation and confinement distances;

16 (8) standards for quality management systems
17 and effective research; and

18 (9) the design of electronic permits to store
19 documents and other information relating to the per-
20 mit and notification processes.

21 (c) CONSIDERATION.—In carrying out subsection (a),
22 the Secretary shall consider—

23 (1) establishing—

24 (A) a system of risk-based categories to
25 classify each regulated article;

1 (B) a means to identify regulated articles
2 (including the retention of seed samples); and

3 (C) standards for isolation and contain-
4 ment distances; and

5 (2) requiring permit holders—

6 (A) to maintain a positive chain of cus-
7 tody;

8 (B) to provide for the maintenance of
9 records;

10 (C) to provide for the accounting of mate-
11 rial;

12 (D) to conduct periodic audits;

13 (E) to establish an appropriate training
14 program;

15 (F) to provide contingency and corrective
16 action plans; and

17 (G) to submit reports as the Secretary con-
18 siders to be appropriate.

19 **SEC. 10205. PEST AND DISEASE REVOLVING LOAN FUND.**

20 (a) DEFINITIONS.—In this section:

21 (1) AUTHORIZED EQUIPMENT.—

22 (A) IN GENERAL.—The term “authorized
23 equipment” means any equipment necessary for
24 the management of forest land.

1 (B) INCLUSIONS.—The term “authorized
2 equipment” includes—

3 (i) cherry pickers;

4 (ii) equipment necessary for—

5 (I) the construction of staging
6 and marshalling areas;

7 (II) the planting of trees; and

8 (III) the surveying of forest land;

9 (iii) vehicles capable of transporting
10 harvested trees;

11 (iv) wood chippers; and

12 (v) any other appropriate equipment,
13 as determined by the Secretary.

14 (2) FUND.—The term “Fund” means the Pest
15 and Disease Revolving Loan Fund established by
16 subsection (b).

17 (3) SECRETARY.—The term “Secretary” means
18 the Secretary of Agriculture, acting through the
19 Deputy Chief of the State and Private Forestry or-
20 ganization.

21 (b) ESTABLISHMENT OF FUND.—There is estab-
22 lished in the Treasury of the United States a revolving
23 fund, to be known as the “Pest and Disease Revolving
24 Loan Fund”, consisting of such amounts as are appro-
25 priated to the Fund under subsection (f).

1 (c) EXPENDITURES FROM FUND.—

2 (1) IN GENERAL.—Subject to paragraph (2), on
3 request by the Secretary, the Secretary of the Treas-
4 ury shall transfer from the Fund to the Secretary
5 such amounts as the Secretary determines are nec-
6 essary to provide loans under subsection (e).

7 (2) ADMINISTRATIVE EXPENSES.—An amount
8 not exceeding 10 percent of the amounts in the
9 Fund shall be available for each fiscal year to pay
10 the administrative expenses necessary to carry out
11 this section.

12 (d) TRANSFERS OF AMOUNTS.—

13 (1) IN GENERAL.—The amounts required to be
14 transferred to the Fund under this section shall be
15 transferred at least monthly from the general fund
16 of the Treasury to the Fund on the basis of esti-
17 mates made by the Secretary of the Treasury.

18 (2) ADJUSTMENTS.—Proper adjustment shall
19 be made in amounts subsequently transferred to the
20 extent prior estimates were in excess of or less than
21 the amounts required to be transferred.

22 (e) USES OF FUND.—

23 (1) LOANS.—

24 (A) IN GENERAL.—The Secretary shall use
25 amounts in the Fund to provide loans to eligible

1 units of local government to finance purchases
2 of authorized equipment to monitor, remove,
3 dispose of, and replace infested trees that are
4 located—

5 (i) on land under the jurisdiction of
6 the eligible units of local government; and

7 (ii) within the borders of quarantine
8 areas infested by plant pests.

9 (B) MAXIMUM AMOUNT.—The maximum
10 amount of a loan that may be provided by the
11 Secretary to an eligible unit of local government
12 under this subsection shall be the lesser of—

13 (i) the amount that the eligible unit of
14 local government has appropriated to fi-
15 nance purchases of authorized equipment
16 in accordance with subparagraph (A); or

17 (ii) \$5,000,000.

18 (C) INTEREST RATE.—The interest rate on
19 any loan made by the Secretary under this
20 paragraph shall be a rate equal to 2 percent.

21 (D) REPORT.—Not later than 180 days
22 after the date on which an eligible unit of local
23 government receives a loan provided by the Sec-
24 retary under subparagraph (A), the eligible unit
25 of local government shall submit to the Sec-

1 retary a report that describes each purchase
2 made by the eligible unit of local government
3 using assistance provided through the loan.

4 (2) LOAN REPAYMENT SCHEDULE.—

5 (A) IN GENERAL.—To be eligible to receive
6 a loan from the Secretary under paragraph (1),
7 in accordance with each requirement described
8 in subparagraph (B), an eligible unit of local
9 government shall enter into an agreement with
10 the Secretary to establish a loan repayment
11 schedule relating to the repayment of the loan.

12 (B) REQUIREMENTS RELATING TO LOAN
13 REPAYMENT SCHEDULE.—A loan repayment
14 schedule established under subparagraph (A)
15 shall require the eligible unit of local govern-
16 ment—

17 (i) to repay to the Secretary of the
18 Treasury, not later than 1 year after the
19 date on which the eligible unit of local gov-
20 ernment receives a loan under paragraph
21 (1), and semiannually thereafter, an
22 amount equal to the quotient obtained by
23 dividing—

24 (I) the principal amount of the
25 loan (including interest); by

1 (II) the total quantity of pay-
2 ments that the eligible unit of local
3 government is required to make dur-
4 ing the repayment period of the loan;
5 and

6 (ii) not later than 20 years after the
7 date on which the eligible unit of local gov-
8 ernment receives a loan under paragraph
9 (1), to complete repayment to the Sec-
10 retary of the Treasury of the loan made
11 under this section (including interest).

12 (f) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated to the Fund such sums
14 as are necessary to carry out this section.

15 **SEC. 10206. COOPERATIVE AGREEMENTS RELATING TO**
16 **PLANT PEST AND DISEASE PREVENTION AC-**
17 **TIVITIES.**

18 Section 431 of the Plant Protection Act (7 U.S.C.
19 7751) is amended by adding at the end the following:

20 “(f) TRANSFER OF COOPERATIVE AGREEMENT
21 FUND.—

22 “(1) IN GENERAL.—A State may provide to a
23 unit of local government in the State described in
24 paragraph (2) any cost-sharing assistance or financ-
25 ing mechanism provided to the State under a cooper-

1 ative agreement entered into under this Act between
2 the Secretary and the State relating to the eradi-
3 cation, prevention, control, or suppression of plant
4 pests.

5 “(2) REQUIREMENTS.—To be eligible for assist-
6 ance or financing under paragraph (1), a unit of
7 local government shall be—

8 “(A) engaged in any activity relating to
9 the eradication, prevention, control, or suppres-
10 sion of the plant pest infestation covered under
11 the cooperative agreement between the Sec-
12 retary and the State; and

13 “(B) capable of documenting each plant
14 pest infestation eradication, prevention, control,
15 or suppression activity generally carried out
16 by—

17 “(i) the Department of Agriculture; or

18 “(ii) the State department of agri-
19 culture that has jurisdiction over the unit
20 of local government.”.

21 **Subtitle C—Organic Agriculture**

22 **SEC. 10301. NATIONAL ORGANIC CERTIFICATION COST-** 23 **SHARE PROGRAM.**

24 Section 10606 of the Farm Security and Rural In-
25 vestment Act of 2002 (7 U.S.C. 6523) is amended—

1 (1) in subsection (a), by striking “\$5,000,000
2 for fiscal year 2002” and inserting “\$22,000,000 for
3 fiscal year 2008”;

4 (2) in subsection (b)(2), by striking “\$500”
5 and inserting “\$750”; and

6 (3) by adding at the end the following:

7 “(c) REPORTING.—Not later than March 1 of each
8 year, the Secretary shall submit to the Committee on Agri-
9 culture of the House of Representatives and the Com-
10 mittee on Agriculture, Nutrition, and Forestry of the Sen-
11 ate a report that describes the requests by, disbursements
12 to, and expenditures for each State under the program
13 during the current and previous fiscal year, including the
14 number of producers and handlers served by the program
15 in the previous fiscal year.”.

16 **SEC. 10302. ORGANIC PRODUCTION AND MARKET DATA INI-**
17 **TIATIVES.**

18 Section 7407 of the Farm Security and Rural Invest-
19 ment Act of 2002 (7 U.S.C. 5925c) is amended to read
20 as follows:

21 **“SEC. 7407. ORGANIC PRODUCTION AND MARKET DATA INI-**
22 **TIATIVES.**

23 “(a) IN GENERAL.—The Secretary shall collect and
24 report data on the production and marketing of organic
25 agricultural products.

1 “(b) REQUIREMENTS.—In carrying out subsection
2 (a), the Secretary shall, at a minimum—

3 “(1) collect and distribute comprehensive re-
4 reporting of prices relating to organically produced ag-
5 ricultural products;

6 “(2) conduct surveys and analysis and publish
7 reports relating to organic production, handling, dis-
8 tribution, retail, and trend studies (including con-
9 sumer purchasing patterns); and

10 “(3) develop surveys and report statistical anal-
11 ysis on organically produced agricultural products.

12 “(c) REPORT.—Not later than 180 days after the
13 date of enactment of this subsection, the Secretary shall
14 submit to the Committee on Agriculture of the House of
15 Representatives and the Committee on Agriculture, Nutri-
16 tion, and Forestry of the Senate a report that—

17 “(1) describes the progress that has been made
18 in implementing this section; and

19 “(2) identifies any additional production and
20 marketing data needs.

21 “(d) FUNDING.—

22 “(1) IN GENERAL.—Of the funds of the Com-
23 modity Credit Corporation, the Secretary shall use
24 to carry out this section \$5,000,000, to remain
25 available until expended.

1 “(2) ADDITIONAL FUNDING.—In addition to
2 funds made available under paragraph (1), there are
3 authorized to be appropriated to carry out this sec-
4 tion not more than \$5,000,000 for each of fiscal
5 years 2008 through 2012, to remain available until
6 expended.”.

7 **SEC. 10303. NATIONAL ORGANIC PROGRAM.**

8 Section 2123 of the Organic Foods Production Act
9 of 1990 (7 U.S.C. 6522) is amended—

10 (1) by striking “There are” and inserting the
11 following:

12 “(a) IN GENERAL.—There are”; and

13 (2) by adding at the end the following:

14 “(b) NATIONAL ORGANIC PROGRAM.—Notwith-
15 standing any other provision of law, in order to carry out
16 activities under the national organic program established
17 under this title, there are authorized to be appropriated—

18 “(1) \$5,000,000 for fiscal year 2008;

19 “(2) \$6,500,000 for fiscal year 2009;

20 “(3) \$8,000,000 for fiscal year 2010;

21 “(4) \$9,500,000 for fiscal year 2011;

22 “(5) \$11,000,000 for fiscal year 2012; and

23 “(6) in addition to those amounts, such addi-
24 tional sums as are necessary for fiscal year 2009
25 and each fiscal year thereafter.”.

1 **Subtitle D—Miscellaneous**

2 **SEC. 10401. NATIONAL HONEY BOARD.**

3 Section 7(c) of the Honey Research, Promotion, and
4 Consumer Information Act (7 U.S.C. 4606(c)) is amended
5 by adding at the end the following:

6 “(12) REFERENDUM REQUIREMENT.—

7 “(A) DEFINITION OF EXISTING HONEY
8 BOARD.—The term ‘existing Honey Board’
9 means the Honey Board in effect on the date
10 of enactment of this paragraph.

11 “(B) CONDUCT OF REFERENDA.—Notwith-
12 standing any other provision of law, subject to
13 subparagraph (C), the order providing for the
14 establishment and operation of the existing
15 Honey Board shall continue in force, until the
16 Secretary first conducts, at the earliest prac-
17 ticable date, but not later than 180 days after
18 the date of enactment of this paragraph,
19 referenda on orders to establish a honey packer-
20 importer board or a United States honey pro-
21 ducer board.

22 “(C) REQUIREMENTS.—In conducting
23 referenda under subparagraph (B), and in exer-
24 cising fiduciary responsibilities in any transition

1 to any 1 or more successor boards, the Sec-
2 retary shall—

3 “(i) conduct a referendum of eligible
4 United States honey producers for the es-
5 tablishment of a marketing board solely for
6 United States honey producers;

7 “(ii) conduct a referendum of eligible
8 packers, importers, and handlers of honey
9 for the establishment of a marketing board
10 for packers, importers, and handlers of
11 honey;

12 “(iii) notwithstanding the timing of
13 the referenda required under clauses (i)
14 and (ii) or of the establishment of any 1 or
15 more successor boards pursuant to those
16 referenda, ensure that the rights and inter-
17 ests of honey producers, importers, pack-
18 ers, and handlers of honey are equitably
19 protected in any disposition of the assets,
20 facilities, intellectual property, and pro-
21 grams of the existing Honey Board and in
22 the transition to any 1 or more new suc-
23 cessor marketing boards;

1 “(iv) ensure that the existing Honey
2 Board continues in operation until such
3 time as the Secretary determines that—

4 “(I) any 1 or more successor
5 boards, if approved, are operational;
6 and

7 “(II) the interests of producers,
8 importers, packers, and handlers of
9 honey can be equitably protected dur-
10 ing any remaining period in which a
11 referendum on a successor board or
12 the establishment of such a board is
13 pending; and

14 “(v) discontinue collection of assess-
15 ments under the order establishing the ex-
16 isting Honey Board on the date the Sec-
17 retary requires that collections commence
18 pursuant to an order approved in a ref-
19 erendum by eligible producers or proc-
20 essors and importers of honey.

21 “(D) HONEY BOARD REFERENDUM.—If 1
22 or more orders are approved pursuant to para-
23 graph (C)—

24 “(i) the Secretary shall not be re-
25 quired to conduct a continuation ref-

1 erendum on the order in existence on the
2 date of enactment of this paragraph; and
3 “(ii) that order shall be terminated
4 pursuant to the provisions of the order.”.

5 **SEC. 10402. IDENTIFICATION OF HONEY.**

6 (a) IN GENERAL.—Section 203(h) of the Agricultural
7 Marketing Act of 1946 (7 U.S.C. 1622(h)) is amended—

8 (1) by designating the first through sixth sen-
9 tences as paragraphs (1), (2)(A), (2)(B), (3), (4),
10 and (5), respectively; and

11 (2) by adding at the end the following:

12 “(6) IDENTIFICATION OF HONEY.—

13 “(A) IN GENERAL.—The use of a label or
14 advertising material on, or in conjunction with,
15 packaged honey that bears any official certifi-
16 cate of quality, grade mark or statement, con-
17 tinuous inspection mark or statement, sampling
18 mark or statement, or any combination of the
19 certificates, marks, or statements of the De-
20 partment of Agriculture is hereby prohibited
21 under this Act unless there appears legibly and
22 permanently in close proximity (such as on the
23 same side(s) or surface(s)) to the certificate,
24 mark, or statement, and in at least a com-
25 parable size, the 1 or more names of the 1 or

1 more countries of origin of the lot or container
2 of honey, preceded by the words ‘Product of’ or
3 other words of similar meaning.

4 “(B) VIOLATION.—A violation of the re-
5 quirements of subparagraph (A) may be deemed
6 by the Secretary to be sufficient cause for de-
7 barment from the benefits of this Act only with
8 respect to honey.”.

9 (b) EFFECTIVE DATE.—The amendments made by
10 subsection (a) take effect on the date that is 1 year after
11 the date of enactment of this Act.

12 **SEC. 10403. GRANT PROGRAM TO IMPROVE MOVEMENT OF**
13 **SPECIALTY CROPS.**

14 (a) GRANTS AUTHORIZED.—The Secretary may
15 make grants under this section to an eligible entity de-
16 scribed in subsection (b)—

17 (1) to improve the cost-effective movement of
18 specialty crops to local, regional, national, and inter-
19 national markets; and

20 (2) to address regional intermodal transpor-
21 tation deficiencies that adversely affect the move-
22 ment of specialty crops to markets inside or outside
23 the United States.

24 (b) ELIGIBLE GRANT RECIPIENTS.—Grants may be
25 made under this section to any of, or any combination of:

1 (1) State and local governments.

2 (2) Grower cooperatives.

3 (3) National, State, or regional organizations of
4 producers, shippers, or carriers.

5 (4) Other entities as determined to be appro-
6 priate by the Secretary.

7 (c) MATCHING FUNDS.—The recipient of a grant
8 under this section shall contribute an amount of non-Fed-
9 eral funds toward the project for which the grant is pro-
10 vided that is at least equal to the amount of grant funds
11 received by the recipient under this section.

12 (d) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated to carry out this section
14 such sums as are necessary for each of fiscal years 2008
15 through 2012.

16 **SEC. 10404. MARKET LOSS ASSISTANCE FOR ASPARAGUS**
17 **PRODUCERS.**

18 (a) IN GENERAL.—As soon as practicable after the
19 date of enactment of this Act, the Secretary shall make
20 payments to producers of the 2007 crop of asparagus for
21 market loss resulting from imports during the 2004
22 through 2007 crop years.

23 (b) PAYMENT RATE.—The payment rate for a pay-
24 ment under this section shall be based on the reduction

1 in revenue received by asparagus producers associated
2 with imports during the 2004 through 2007 crop years.

3 (c) PAYMENT QUANTITY.—The payment quantity for
4 asparagus for which the producers on a farm are eligible
5 for payments under this section shall be equal to the aver-
6 age quantity of the 2003 crop of asparagus produced by
7 producers on the farm.

8 (d) FUNDING.—

9 (1) IN GENERAL.—Subject to paragraph (2),
10 the Secretary shall make available \$15,000,000 of
11 the funds of the Commodity Credit Corporation to
12 carry out a program to provide market loss pay-
13 ments to producers of asparagus under this section.

14 (2) ALLOCATION.—Of the amount made avail-
15 able under paragraph (1), the Secretary shall use—

16 (A) \$7,500,000 to make payments to pro-
17 ducers of asparagus for the fresh market; and

18 (B) \$7,500,000 to make payments to pro-
19 ducers of asparagus for the processed or frozen
20 market.

21 **TITLE XI—LIVESTOCK**

22 **SEC. 11001. LIVESTOCK MANDATORY REPORTING.**

23 (a) WEB SITE IMPROVEMENTS AND USER EDU-
24 CATION.—

1 (1) IN GENERAL.—Section 251(g) of the Agri-
2 cultural Marketing Act of 1946 (7 U.S.C. 1636(g))
3 is amended to read as follows:

4 “(g) ELECTRONIC REPORTING AND PUBLISHING.—

5 “(1) IN GENERAL.—The Secretary shall, to the
6 maximum extent practicable, provide for the report-
7 ing and publishing of the information required under
8 this subtitle by electronic means.

9 “(2) IMPROVEMENTS AND EDUCATION.—

10 “(A) ENHANCED ELECTRONIC PUB-
11 LISHING.—The Secretary shall develop and im-
12 plement an enhanced system of electronic pub-
13 lishing to disseminate information collected pur-
14 suant to this subtitle. Such system shall—

15 “(i) present information in a format
16 that can be readily understood by pro-
17 ducers, packers, and other market partici-
18 pants;

19 “(ii) adhere to the publication dead-
20 lines in this subtitle;

21 “(iii) present information in charts
22 and graphs, as appropriate;

23 “(iv) present comparative information
24 for prior reporting periods, as the Sec-
25 retary considers appropriate; and

1 “(v) be updated as soon as practicable
2 after information is reported to the Sec-
3 retary.

4 “(B) EDUCATION.—The Secretary shall
5 carry out a market news education program to
6 educate the public and persons in the livestock
7 and meat industries about—

8 “(i) usage of the system developed
9 under subparagraph (A); and

10 “(ii) interpreting and understanding
11 information collected and disseminated
12 through such system.”.

13 (2) APPLICABILITY.—

14 (A) ENHANCED REPORTING.—The Sec-
15 retary of Agriculture shall develop and imple-
16 ment the system required under paragraph
17 (2)(A) of section 251(g) of the Agricultural
18 Marketing Act of 1946 (7 U.S.C. 1636(g)), as
19 amended by paragraph (1), not later than one
20 year after the date on which the Secretary de-
21 termines sufficient funds have been appro-
22 priated pursuant to subsection (c).

23 (B) CURRENT SYSTEM.—Notwithstanding
24 the amendment made by paragraph (1), the
25 Secretary shall continue to use the information

1 format for disseminating information under
2 subtitle B of the Agricultural Marketing Act of
3 1946 (7 U.S.C. 1621 et seq.) in effect on the
4 date of the enactment of this Act at least until
5 the date that is two years after the date on
6 which the Secretary makes the determination
7 referred to in subparagraph (A).

8 (b) STUDY AND REPORT.—

9 (1) STUDY.—The Secretary shall conduct a
10 study on the effects of requiring packer processing
11 plants to report to the Secretary information on
12 wholesale pork cuts (including price and volume in-
13 formation), including—

14 (A) the positive or negative economic ef-
15 fects on producers and consumers; and

16 (B) the effects of a confidentiality require-
17 ment on mandatory reporting.

18 (2) INFORMATION.—During the period pre-
19 ceding the submission of the report under paragraph
20 (3), the Secretary may collect, and each packer proc-
21 essing plant shall provide, such information as is
22 necessary to enable the Secretary to conduct the
23 study required under paragraph (1).

24 (3) REPORT.—Not later than one year after the
25 date of the enactment of this Act, the Secretary

1 shall submit to the Committee on Agriculture of the
2 House of Representatives and the Committee on Ag-
3 riculture, Nutrition, and Forestry of the Senate a
4 report on the results of the study conducted under
5 paragraph (1).

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

9 **SEC. 11002. COUNTRY OF ORIGIN LABELING.**

10 Subtitle D of the Agricultural Marketing Act of 1946
11 (7 U.S.C. 1638 et seq.) is amended—

12 (1) in section 281(2)(A)—

13 (A) in clause (v), by striking “and”;

14 (B) in clause (vi), by striking the period at
15 the end and inserting “; and”; and

16 (C) by adding at the end the following:

17 “(vii) meat produced from goats;

18 “(viii) chicken, in whole and in part;

19 “(ix) ginseng;

20 “(x) pecans; and

21 “(xi) macadamia nuts.”;

22 (2) in section 282—

23 (A) in subsection (a), by striking para-
24 graphs (2) and (3) and inserting the following:

1 “(2) DESIGNATION OF COUNTRY OF ORIGIN
2 FOR BEEF, LAMB, PORK, CHICKEN, AND GOAT
3 MEAT.—

4 “(A) UNITED STATES COUNTRY OF ORI-
5 GIN.—A retailer of a covered commodity that is
6 beef, lamb, pork, chicken, or goat meat may
7 designate the covered commodity as exclusively
8 having a United States country of origin only if
9 the covered commodity is derived from an ani-
10 mal that was—

11 “(i) exclusively born, raised, and
12 slaughtered in the United States;

13 “(ii) born and raised in Alaska or Ha-
14 waii and transported for a period of not
15 more than 60 days through Canada to the
16 United States and slaughtered in the
17 United States; or

18 “(iii) present in the United States on
19 or before July 15, 2008, and once present
20 in the United States, remained continu-
21 ously in the United States.

22 “(B) MULTIPLE COUNTRIES OF ORIGIN.—

23 “(i) IN GENERAL.—A retailer of a
24 covered commodity that is beef, lamb,

1 pork, chicken, or goat meat that is derived
2 from an animal that is—

3 “(I) not exclusively born, raised,
4 and slaughtered in the United States,

5 “(II) born, raised, or slaughtered
6 in the United States, and

7 “(III) not imported into the
8 United States for immediate slaugh-
9 ter,

10 may designate the country of origin of
11 such covered commodity as all of the coun-
12 tries in which the animal may have been
13 born, raised, or slaughtered.

14 “(ii) RELATION TO GENERAL RE-
15 QUIREMENT.—Nothing in this subpara-
16 graph alters the mandatory requirement to
17 inform consumers of the country of origin
18 of covered commodities under paragraph
19 (1).

20 “(C) IMPORTED FOR IMMEDIATE SLAUGH-
21 TER.—A retailer of a covered commodity that is
22 beef, lamb, pork, chicken, or goat meat that is
23 derived from an animal that is imported into
24 the United States for immediate slaughter shall

1 designate the origin of such covered commodity
2 as—

3 “(i) the country from which the ani-
4 mal was imported; and

5 “(ii) the United States.

6 “(D) FOREIGN COUNTRY OF ORIGIN.—A
7 retailer of a covered commodity that is beef,
8 lamb, pork, chicken, or goat meat that is de-
9 rived from an animal that is not born, raised,
10 or slaughtered in the United States shall des-
11 ignate a country other than the United States
12 as the country of origin of such commodity.

13 “(E) GROUND BEEF, PORK, LAMB, CHICK-
14 EN, AND GOAT.—The notice of country of origin
15 for ground beef, ground pork, ground lamb,
16 ground chicken, or ground goat shall include—

17 “(i) a list of all countries of origin of
18 such ground beef, ground pork, ground
19 lamb, ground chicken, or ground goat; or

20 “(ii) a list of all reasonably possible
21 countries of origin of such ground beef,
22 ground pork, ground lamb, ground chicken,
23 or ground goat.

24 “(3) DESIGNATION OF COUNTRY OF ORIGIN
25 FOR FISH.—

1 “(A) IN GENERAL.—A retailer of a covered
2 commodity that is farm-raised fish or wild fish
3 may designate the covered commodity as having
4 a United States country of origin only if the
5 covered commodity—

6 “(i) in the case of farm-raised fish, is
7 hatched, raised, harvested, and processed
8 in the United States; and

9 “(ii) in the case of wild fish, is—

10 “(I) harvested in the United
11 States, a territory of the United
12 States, or a State, or by a vessel that
13 is documented under chapter 121 of
14 title 46, United States Code, or reg-
15 istered in the United States; and

16 “(II) processed in the United
17 States, a territory of the United
18 States, or a State, including the wa-
19 ters thereof, or aboard a vessel that is
20 documented under chapter 121 of title
21 46, United States Code, or registered
22 in the United States.

23 “(B) DESIGNATION OF WILD FISH AND
24 FARM-RAISED FISH.—The notice of country of
25 origin for wild fish and farm-raised fish shall

1 distinguish between wild fish and farm-raised
2 fish.

3 “(4) DESIGNATION OF COUNTRY OF ORIGIN
4 FOR PERISHABLE AGRICULTURAL COMMODITIES,
5 GINSENG, PEANUTS, PECANS, AND MACADAMIA
6 NUTS.—

7 “(A) IN GENERAL.—A retailer of a covered
8 commodity that is a perishable agricultural
9 commodity, ginseng, peanut, pecan, or maca-
10 damia nut may designate the covered com-
11 modity as having a United States country of or-
12 igin only if the covered commodity is exclusively
13 produced in the United States.

14 “(B) STATE, REGION, LOCALITY OF THE
15 UNITED STATES.—With respect to a covered
16 commodity that is a perishable agricultural
17 commodity, ginseng, peanut, pecan, or maca-
18 damia nut produced exclusively in the United
19 States, designation by a retailer of the State,
20 region, or locality of the United States where
21 such commodity was produced shall be suffi-
22 cient to identify the United States as the coun-
23 try of origin.”; and

24 (B) by striking subsection (d) and insert-
25 ing the following:

1 “(d) AUDIT VERIFICATION SYSTEM.—

2 “(1) IN GENERAL.—The Secretary may conduct
3 an audit of any person that prepares, stores, han-
4 dles, or distributes a covered commodity for retail
5 sale to verify compliance with this subtitle (including
6 the regulations promulgated under section 284(b)).

7 “(2) RECORD REQUIREMENTS.—

8 “(A) IN GENERAL.—A person subject to
9 an audit under paragraph (1) shall provide the
10 Secretary with verification of the country of ori-
11 gin of covered commodities. Records maintained
12 in the course of the normal conduct of the busi-
13 ness of such person, including animal health pa-
14 pers, import or customs documents, or producer
15 affidavits, may serve as such verification.

16 “(B) PROHIBITION ON REQUIREMENT OF
17 ADDITIONAL RECORDS.—The Secretary may not
18 require a person that prepares, stores, handles,
19 or distributes a covered commodity to maintain
20 a record of the country of origin of a covered
21 commodity other than those maintained in the
22 course of the normal conduct of the business of
23 such person.”; and

24 (3) in section 283—

25 (A) by striking subsections (a) and (c);

1 (B) by redesignating subsection (b) as sub-
2 section (a);

3 (C) in subsection (a) (as so redesignated),
4 by striking “retailer” and inserting “retailer or
5 person engaged in the business of supplying a
6 covered commodity to a retailer”; and

7 (D) by adding at the end the following new
8 subsection:

9 “(b) FINES.—If, on completion of the 30-day period
10 described in subsection (a)(2), the Secretary determines
11 that the retailer or person engaged in the business of sup-
12 plying a covered commodity to a retailer has—

13 “(1) not made a good faith effort to comply
14 with section 282, and

15 “(2) continues to willfully violate section 282
16 with respect to the violation about which the retailer
17 or person received notification under subsection
18 (a)(1),

19 after providing notice and an opportunity for a hearing
20 before the Secretary with respect to the violation, the Sec-
21 retary may fine the retailer or person in an amount of
22 not more than \$1,000 for each violation.”.

1 **SEC. 11003. AGRICULTURAL FAIR PRACTICES ACT OF 1967**

2 **DEFINITIONS.**

3 Section 3 of the Agricultural Fair Practices Act of
4 1967 (7 U.S.C. 2302) is amended—

5 (1) by striking “When used in this Act—” and
6 inserting “In this Act.”;

7 (2) in subsection (a)—

8 (A) by redesignating paragraphs (1)
9 through (4) as clauses (i) through (iv), respec-
10 tively; and

11 (B) in clause (iv) (as so redesignated), by
12 striking “clause (1), (2), or (3) of this para-
13 graph” and inserting “clause (i), (ii), or (iii)”;

14 (3) by striking subsection (d);

15 (4) by redesignating subsections (a), (b), (c),
16 and (e) as paragraphs (3), (4), (2), (1), respectively,
17 indenting appropriately, and moving those para-
18 graphs so as to appear in numerical order;

19 (5) in each paragraph (as so redesignated) that
20 does not have a heading, by inserting a heading, in
21 the same style as the heading in the amendment
22 made by paragraph (6), the text of which is com-
23 prised of the term defined in the paragraph;

24 (6) in paragraph (2) (as so redesignated)—

25 (A) by striking “The term ‘association of
26 producers’ means” and inserting the following:

1 “(2) ASSOCIATION OF PRODUCERS.—

2 “(A) IN GENERAL.—The term ‘association
3 of producers’ means”; and

4 (B) by adding at the end the following:

5 “(B) INCLUSION.—The term ‘association
6 of producers’ includes an organization whose
7 membership is exclusively limited to agricultural
8 producers and dedicated to promoting the com-
9 mon interest and general welfare of producers
10 of agricultural products.”; and

11 (7) in paragraph (3) (as so redesignated)—

12 (A) by striking “The term” and inserting
13 the following:

14 “(3) HANDLER.—

15 “(A) IN GENERAL.—The term”; and

16 (B) by inserting after clause (iv) of sub-
17 paragraph (A) (as redesignated by subpara-
18 graph (A) and paragraph (2)) the following:

19 “(B) EXCLUSION.—The term ‘handler’
20 does not include a person, other than a packer
21 (as defined in section 201 of the Packers and
22 Stockyards Act, 1921 (7 U.S.C. 191)), that
23 provides custom feeding services for a pro-
24 ducer.”.

1 **SEC. 11004. ANNUAL REPORT.**

2 (a) IN GENERAL.—The Packers and Stockyards Act,
3 1921, is amended—

4 (1) by redesignating section 416 (7 U.S.C. 229)
5 as section 417; and

6 (2) by inserting after section 415 (7 U.S.C.
7 228d) the following:

8 **“SEC. 416. ANNUAL REPORT.**

9 “(a) IN GENERAL.—Not later than March 1 of each
10 year, the Secretary shall submit to Congress and make
11 publicly available a report that—

12 “(1) states, for the preceding year, separately
13 for livestock and poultry and separately by enforce-
14 ment area category (financial, trade practice, or
15 competitive acts and practices), with respect to in-
16 vestigations into possible violations of this Act—

17 “(A) the number of investigations opened;

18 “(B) the number of investigations that
19 were closed or settled without a referral to the
20 General Counsel of the Department of Agri-
21 culture;

22 “(C) for investigations described in sub-
23 paragraph (B), the length of time from initi-
24 ation of the investigation to when the investiga-
25 tion was closed or settled without the filing of
26 an enforcement complaint;

1 “(D) the number of investigations that re-
2 sulted in referral to the General Counsel of the
3 Department of Agriculture for further action,
4 the number of such referrals resolved without
5 administrative enforcement action, and the
6 number of enforcement actions filed by the
7 General Counsel;

8 “(E) for referrals to the General Counsel
9 that resulted in an administrative enforcement
10 action being filed, the length of time from the
11 referral to the filing of the administrative ac-
12 tion;

13 “(F) for referrals to the General Counsel
14 that resulted in an administrative enforcement
15 action being filed, the length of time from filing
16 to resolution of the administrative enforcement
17 action;

18 “(G) the number of investigations that re-
19 sulted in referral to the Department of Justice
20 for further action, and the number of civil en-
21 forcement actions filed by the Department of
22 Justice on behalf of the Secretary pursuant to
23 such a referral;

24 “(H) for referrals that resulted in a civil
25 enforcement action being filed by the Depart-

1 ment of Justice, the length of time from the re-
2 ferral to the filing of the enforcement action;

3 “(I) for referrals that resulted in a civil en-
4 forcement action being filed by the Department
5 of Justice, the length of time from the filing of
6 the enforcement action to resolution; and

7 “(J) the average civil penalty imposed in
8 administrative or civil enforcement actions for
9 violations of this Act, and the total amount of
10 civil penalties imposed in all such enforcement
11 actions; and

12 “(2) includes any other additional information
13 the Secretary considers important to include in the
14 annual report.

15 “(b) **FORMAT OF INFORMATION PROVIDED.**—For
16 subparagraphs (C), (E), (F), and (H) of subsection (a)(1),
17 the Secretary may, if appropriate due to the number of
18 complaints for a given category, provide summary statis-
19 tics (including range, maximum, minimum, mean, and av-
20 erage times) and graphical representations.”.

21 (b) **SUNSET.**—Effective September 30, 2012, section
22 416 of the Packers and Stockyards Act, 1921, as added
23 by subsection (a)(2), is repealed.

1 **SEC. 11005. PRODUCTION CONTRACTS.**

2 Title II of the Packers and Stockyards Act, 1921 (7
3 U.S.C. 198 et seq.) is amended by adding at the end the
4 following:

5 **“SEC. 208. PRODUCTION CONTRACTS.**

6 **“(a) RIGHT OF CONTRACT PRODUCERS TO CANCEL**
7 **PRODUCTION CONTRACTS.—**

8 **“(1) IN GENERAL.—**A poultry grower or swine
9 production contract grower may cancel a poultry
10 growing arrangement or swine production contract
11 by mailing a cancellation notice to the live poultry
12 dealer or swine contractor not later than the later
13 of—

14 **“(A)** the date that is 3 business days after
15 the date on which the poultry growing arrange-
16 ment or swine production contract is executed;
17 or

18 **“(B)** any cancellation date specified in the
19 poultry growing arrangement or swine produc-
20 tion contract.

21 **“(2) DISCLOSURE.—**A poultry growing arrange-
22 ment or swine production contract shall clearly dis-
23 close—

24 **“(A)** the right of the poultry grower or
25 swine production contract grower to cancel the

1 poultry growing arrangement or swine produc-
2 tion contract;

3 “(B) the method by which the poultry
4 grower or swine production contract grower
5 may cancel the poultry growing arrangement or
6 swine production contract; and

7 “(C) the deadline for canceling the poultry
8 growing arrangement or swine production con-
9 tract.

10 “(b) REQUIRED DISCLOSURE OF ADDITIONAL CAP-
11 ITAL INVESTMENTS IN PRODUCTION CONTRACTS.—

12 “(1) IN GENERAL.—A poultry growing arrange-
13 ment or swine production contract shall contain on
14 the first page a statement identified as ‘Additional
15 Capital Investments Disclosure Statement’, which
16 shall conspicuously state that additional large capital
17 investments may be required of the poultry grower
18 or swine production contract grower during the term
19 of the poultry growing arrangement or swine produc-
20 tion contract.

21 “(2) APPLICATION.—Paragraph (1) shall apply
22 to any poultry growing arrangement or swine pro-
23 duction contract entered into, amended, altered,
24 modified, renewed, or extended after the date of the
25 enactment of this section.

1 **“SEC. 209. CHOICE OF LAW AND VENUE.**

2 “(a) LOCATION OF FORUM.—The forum for resolving
3 any dispute among the parties to a poultry growing ar-
4 rangement or swine production or marketing contract that
5 arises out of the arrangement or contract shall be located
6 in the Federal judicial district in which the principle part
7 of the performance takes place under the arrangement or
8 contract.

9 “(b) CHOICE OF LAW.—A poultry growing arrange-
10 ment or swine production or marketing contract may
11 specify which State’s law is to apply to issues governed
12 by State law in any dispute arising out of the arrangement
13 or contract, except to the extent that doing so is prohibited
14 by the law of the State in which the principal part of the
15 performance takes place under the arrangement or con-
16 tract.

17 **“SEC. 210. ARBITRATION.**

18 “(a) IN GENERAL.—Any livestock or poultry contract
19 that contains a provision requiring the use of arbitration
20 to resolve any controversy that may arise under the con-
21 tract shall contain a provision that allows a producer or
22 grower, prior to entering the contract to decline to be
23 bound by the arbitration provision.

24 “(b) DISCLOSURE.—Any livestock or poultry contract
25 that contains a provision requiring the use of arbitration
26 shall contain terms that conspicuously disclose the right

1 of the contract producer or grower, prior to entering the
2 contract, to decline the requirement to use arbitration to
3 resolve any controversy that may arise under the livestock
4 or poultry contract.

5 “(c) DISPUTE RESOLUTION.—Any contract producer
6 or grower that declines a requirement of arbitration pur-
7 suant to subsection (b) has the right, to nonetheless seek
8 to resolve any controversy that may arise under the live-
9 stock or poultry contract, if, after the controversy arises,
10 both parties consent in writing to use arbitration to settle
11 the controversy.

12 “(d) APPLICATION.—Subsections (a) (b) and (c) shall
13 apply to any contract entered into, amended, altered,
14 modified, renewed, or extended after the date of the enact-
15 ment of the Food, Conservation, and Energy Act of 2008
16 .

17 “(e) UNLAWFUL PRACTICE.—Any action by or on be-
18 half of a packer, swine contractor, or live poultry dealer
19 that violates this section (including any action that has
20 the intent or effect of limiting the ability of a producer
21 or grower to freely make a choice described in subsection
22 (b)) is an unlawful practice under this Act.

23 “(f) REGULATIONS.—The Secretary shall promulgate
24 regulations to—

25 “(1) carry out this section; and

1 “(2) establish criteria that the Secretary will
2 consider in determining whether the arbitration
3 process provided in a contract provides a meaningful
4 opportunity for the grower or producer to participate
5 fully in the arbitration process.”.

6 **SEC. 11006. REGULATIONS.**

7 As soon as practicable, but not later than 2 years
8 after the date of the enactment of this Act, the Secretary
9 of Agriculture shall promulgate regulations with respect
10 to the Packers and Stockyards Act, 1921 (7 U.S.C. 181
11 et seq.) to establish criteria that the Secretary will con-
12 sider in determining—

13 (1) whether an undue or unreasonable pref-
14 erence or advantage has occurred in violation of
15 such Act;

16 (2) whether a live poultry dealer has provided
17 reasonable notice to poultry growers of any suspen-
18 sion of the delivery of birds under a poultry growing
19 arrangement;

20 (3) when a requirement of additional capital in-
21 vestments over the life of a poultry growing arrange-
22 ment or swine production contract constitutes a vio-
23 lation of such Act; and

24 (4) if a live poultry dealer or swine contractor
25 has provided a reasonable period of time for a poul-

1 try grower or a swine production contract grower to
2 remedy a breach of contract that could lead to ter-
3 mination of the poultry growing arrangement or
4 swine production contract.

5 **SEC. 11007. SENSE OF CONGRESS REGARDING**
6 **PSEUDORABIES ERADICATION PROGRAM.**

7 It is the sense of Congress that—

8 (1) the Secretary of Agriculture should recog-
9 nize the threat feral swine pose to the domestic
10 swine population and the entire livestock industry;

11 (2) keeping the United States commercial swine
12 herd free of pseudorabies is essential to maintaining
13 and growing pork export markets;

14 (3) the establishment and continued support of
15 a swine surveillance system will assist the swine in-
16 dustry in the monitoring, surveillance, and eradi-
17 cation of pseudorabies; and

18 (4) pseudorabies eradication is a high priority
19 that the Secretary should carry out under the au-
20 thorities of the Animal Health Protection Act.

21 **SEC. 11008. SENSE OF CONGRESS REGARDING THE CATTLE**
22 **FEVER TICK ERADICATION PROGRAM.**

23 It is the sense of Congress that—

1 (1) the cattle fever tick and the southern cattle
2 tick are vectors of the causal agent of babesiosis, a
3 severe and often fatal disease of cattle; and

4 (2) implementing a national strategic plan for
5 the cattle fever tick eradication program is a high
6 priority that the Secretary of Agriculture should
7 carry out in order to—

8 (A) prevent the entry of cattle fever ticks
9 into the United States;

10 (B) enhance and maintain an effective sur-
11 veillance program to rapidly detect any cattle
12 fever tick incursions; and

13 (C) research, identify, and procure the
14 tools and knowledge necessary to prevent and
15 eradicate cattle fever ticks in the United States.

16 **SEC. 11009. NATIONAL SHEEP INDUSTRY IMPROVEMENT**
17 **CENTER.**

18 (a) **FUNDING.**—Section 375(e)(6) of the Consolidated
19 Farm and Rural Development Act (7 U.S.C. 2008j(e)(6))
20 is amended by striking subparagraphs (B) and (C) and
21 inserting the following:

22 “(B) **MANDATORY FUNDING.**—Of the
23 funds of the Commodity Credit Corporation, the
24 Secretary shall use to carry out this section

1 \$1,000,000 for fiscal year 2008, to remain
2 available until expended.

3 “(C) AUTHORIZATION OF APPROPRIA-
4 TIONS.—There is authorized to be appropriated
5 to the Secretary to carry out this section
6 \$10,000,000 for each of fiscal years 2008
7 through 2012.”.

8 (b) REPEAL OF REQUIREMENT TO PRIVATIZE RE-
9 VOLVING FUND.—

10 (1) IN GENERAL.—Section 375 of the Consoli-
11 dated Farm and Rural Development Act (7 U.S.C.
12 2008j) is amended by striking subsection (j).

13 (2) EFFECTIVE DATE.—The amendment made
14 by paragraph (1) takes effect on May 1, 2007.

15 **SEC. 11010. TRICHINAE CERTIFICATION PROGRAM.**

16 (a) VOLUNTARY TRICHINAE CERTIFICATION.—

17 (1) ESTABLISHMENT.—Not later than 90 days
18 after the date of the enactment of this Act, the Sec-
19 retary of Agriculture shall establish a voluntary
20 trichinae certification program. Such program shall
21 include the facilitation of the export of pork prod-
22 ucts and certification services related to such prod-
23 ucts.

24 (2) REGULATIONS.—The Secretary shall issue
25 final regulations to implement the program under

1 paragraph (1) not later than 90 days after the date
2 of the enactment of this Act.

3 (3) REPORT.—If final regulations are not pub-
4 lished in accordance with paragraph (2) within 90
5 days of the date of the enactment of this Act, the
6 Secretary shall submit to the Committee on Agri-
7 culture of the House of Representatives and the
8 Committee on Agriculture, Nutrition, and Forestry
9 of the Senate a report containing—

10 (A) an explanation of why the final regula-
11 tions have not been issued in accordance with
12 paragraph (2); and

13 (B) the date on which the Secretary ex-
14 pects to issue such final regulations.

15 (b) FUNDING.—Subject to the availability of appro-
16 priations under subsection (d)(1)(A) of section 10405 of
17 the Animal Health Protection Act (7 U.S.C. 8304), as
18 added by subsection (c), the Secretary shall use not less
19 than \$6,200,000 of the funds made available under such
20 subsection to carry out subsection (a).

21 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
22 10405 of the Animal Health Protection Act (7 U.S.C.
23 8304) is amended by adding at the end the following new
24 subsection:

25 “(d) AUTHORIZATION OF APPROPRIATIONS.—

1 “(1) IN GENERAL.—There is authorized to be
2 appropriated—

3 “(A) \$1,500,000 for each of fiscal years
4 2008 through 2012 to carry out section 11010
5 of the Food, Conservation, and Energy Act of
6 2008; and

7 “(B) such sums as may be necessary for
8 each of fiscal years 2008 through 2012 to carry
9 out this section.

10 “(2) AVAILABILITY.—Funds appropriated
11 under paragraph (1) shall remain available until ex-
12 pended.”.

13 **SEC. 11011. LOW PATHOGENIC DISEASES.**

14 The Animal Health Protection Act (7 U.S.C. 8301
15 et seq.) is amended—

16 (1) in section 10407(d)(2)(C) (7 U.S.C.
17 8306(d)(2)(C)), by striking “of longer than 60
18 days”;

19 (2) in section 10409(b) (7 U.S.C. 8308(b))—

20 (A) by redesignating paragraph (2) as
21 paragraph (3);

22 (B) by inserting after paragraph (1) the
23 following new paragraph:

24 “(2) SPECIFIC COOPERATIVE PROGRAMS.—The
25 Secretary shall compensate industry participants and

1 State agencies that cooperate with the Secretary in
2 carrying out operations and measures under sub-
3 section (a) for 100 percent of eligible costs relating
4 to cooperative programs involving Federal, State,
5 and industry participants to control diseases of low
6 pathogenicity in accordance with regulations issued
7 by the Secretary.”; and

8 (C) in paragraph (3) (as so redesignated),
9 by striking “of longer than 60 days”; and

10 (3) in section 10417(b)(3) (7 U.S.C.
11 8316(b)(3)), by striking “of longer than 60 days”.

12 **SEC. 11012. ANIMAL PROTECTION.**

13 (a) WILLFUL VIOLATIONS.—Section 10414(b)(1)(A)
14 of the Animal Health Protection Act (7 U.S.C.
15 8316(b)(1)(A)) is amended by striking clause (iii) and in-
16 serting the following:

17 “(iii) for all violations adjudicated in
18 a single proceeding—

19 “(I) \$500,000 if the violations do
20 not include a willful violation; or

21 “(II) \$1,000,000 if the violations
22 include 1 or more willful violations.”.

23 (b) SUBPOENA AUTHORITY.—Section 10415(a)(2) of
24 the Animal Health Protection Act (7 U.S.C. 8314) is
25 amended

1 (1) by striking subparagraph (A) and inserting
2 the following:

3 “(A) IN GENERAL.—The Secretary shall
4 have the power to subpoena the attendance and
5 testimony of any witness, the production of all
6 evidence (including books, papers, documents,
7 electronically stored information, and other tan-
8 gible things that constitute or contain evi-
9 dence), or to require the person to whom the
10 subpoena is directed to permit the inspection of
11 premises relating to the administration or en-
12 forcement of this title or any matter under in-
13 vestigation in connection with this title.”;

14 (2) in subparagraph (B), by striking “documen-
15 tary”; and

16 (3) in subparagraph (C)—

17 (A) in clause (i), by striking “testimony of
18 any witness and the production of documentary
19 evidence” and inserting “testimony of any wit-
20 ness, the production of evidence, or the inspec-
21 tion of premises”; and

22 (B) in clause (ii), by striking “question or
23 to produce documentary evidence” and inserting
24 “question, produce evidence, or permit the in-
25 spection of premises”.

1 **SEC. 11013. NATIONAL AQUATIC ANIMAL HEALTH PLAN.**

2 (a) IN GENERAL.—The Secretary of Agriculture may
3 enter into a cooperative agreement with an eligible entity
4 to carry out a project under a national aquatic animal
5 health plan under the authority of the Secretary under
6 section 10411 of the Animal Health Protection Act (7
7 U.S.C. 8310) for the purpose of detecting, controlling, or
8 eradicating diseases of aquaculture species and promoting
9 species-specific best management practices.

10 (b) COOPERATIVE AGREEMENTS BETWEEN ELIGI-
11 BLE ENTITIES AND THE SECRETARY.—

12 (1) DUTIES.—As a condition of entering into a
13 cooperative agreement with the Secretary under this
14 section, an eligible entity shall agree to—

15 (A) assume responsibility for the non-Fed-
16 eral share of the cost of carrying out the project
17 under the national aquatic health plan, as de-
18 termined by the Secretary in accordance with
19 paragraph (2); and

20 (B) act in accordance with applicable dis-
21 ease and species specific best management prac-
22 tices relating to activities to be carried out
23 under such project.

24 (2) NON-FEDERAL SHARE.—The Secretary
25 shall determine the non-Federal share of the cost of
26 carrying out a project under the national aquatic

1 health plan on a case-by-case basis for each such
2 project. Such non-Federal share may be provided in
3 cash or in-kind.

4 (c) **APPLICABILITY OF OTHER LAWS.**—In carrying
5 out this section, the Secretary may make use of the au-
6 thorities under the Animal Health Protection Act (7
7 U.S.C. 8301 et seq.), including the authority to carry out
8 operations and measures to detect, control, and eradicate
9 pests and diseases and the authority to pay claims arising
10 out of the destruction of any animal, article, or means of
11 conveyance.

12 (d) **AUTHORIZATION OF APPROPRIATIONS.**—There is
13 authorized to be appropriated such sums as may be nec-
14 essary to carry out this section for each of fiscal years
15 2008 through 2012.

16 (e) **ELIGIBLE ENTITY DEFINED.**—In this section, the
17 term “eligible entity” means a State, a political subdivi-
18 sion of a State, Indian tribe, or other appropriate entity,
19 as determined by the Secretary of Agriculture.

20 **SEC. 11014. STUDY ON BIOENERGY OPERATIONS.**

21 (a) **STUDY.**—The Secretary of Agriculture shall con-
22 duct a study to evaluate the role of animal manure as a
23 source of fertilizer and its potential additional uses. Such
24 study shall include—

1 (1) a determination of the extent to which ani-
2 mal manure is utilized as fertilizer in agricultural
3 operations by type (including species and agronomic
4 practices employed) and size;

5 (2) an evaluation of the potential impact on
6 consumers and on agricultural operations (by size)
7 resulting from limitations being placed on the utili-
8 zation of animal manure as fertilizer; and

9 (3) an evaluation of the effects on agriculture
10 production contributable to the increased competi-
11 tion for animal manure use due to bioenergy produc-
12 tion, including as a feedstock or a replacement for
13 fossil fuels.

14 (b) REPORT.—Not later than one year after the date
15 of the enactment of this Act, the Secretary shall submit
16 to the Committee on Agriculture of the House of Rep-
17 resentatives and the Committee on Agriculture, Nutrition,
18 and Forestry of the Senate the results of the study con-
19 ducted under subsection (a).

1 **SEC. 11015. INTERSTATE SHIPMENT OF MEAT AND POUL-**
2 **TRY INSPECTED BY FEDERAL AND STATE**
3 **AGENCIES FOR CERTAIN SMALL ESTABLISH-**
4 **MENTS.**

5 (a) MEAT AND MEAT PRODUCTS.—The Federal Meat
6 Inspection Act (21 U.S.C. 601 et seq.) is amended by add-
7 ing at the end the following:

8 **“TITLE V—INSPECTIONS BY**
9 **FEDERAL AND STATE AGENCIES**

10 **“SEC. 501. INTERSTATE SHIPMENT OF MEAT INSPECTED BY**
11 **FEDERAL AND STATE AGENCIES FOR CER-**
12 **TAIN SMALL ESTABLISHMENTS.**

13 “(a) DEFINITIONS.—

14 “(1) APPROPRIATE STATE AGENCY.—The term
15 ‘appropriate State agency’ means a State agency de-
16 scribed in section 301(b).

17 “(2) DESIGNATED PERSONNEL.—The term
18 ‘designated personnel’ means inspection personnel of
19 a State agency that have undergone all necessary in-
20 spection training and certification to assist the Sec-
21 retary in the administration and enforcement of this
22 Act, including rules and regulations issued under
23 this Act.

24 “(3) ELIGIBLE ESTABLISHMENT.—The term
25 ‘eligible establishment’ means an establishment that
26 is in compliance with—

1 “(A) the State inspection program of the
2 State in which the establishment is located; and

3 “(B) this Act, including rules and regula-
4 tions issued under this Act.

5 “(4) MEAT ITEM.—The term ‘meat item’
6 means—

7 “(A) a portion of meat; and

8 “(B) a meat food product.

9 “(5) SELECTED ESTABLISHMENT.—The term
10 ‘selected establishment’ means an eligible establish-
11 ment that is selected by the Secretary, in coordina-
12 tion with the appropriate State agency of the State
13 in which the eligible establishment is located, under
14 subsection (b) to ship carcasses, portions of car-
15 casses, and meat items in interstate commerce.

16 “(b) AUTHORITY OF SECRETARY TO ALLOW SHIP-
17 MENTS.—

18 “(1) IN GENERAL.—Subject to paragraph (2),
19 the Secretary, in coordination with the appropriate
20 State agency of the State in which an establishment
21 is located, may select the establishment to ship car-
22 casses, portions of carcasses, and meat items in
23 interstate commerce, and place on each carcass, por-
24 tion of a carcass, and meat item shipped in inter-

1 state commerce a Federal mark, stamp, tag, or label
2 of inspection, if—

3 “(A) the carcass, portion of carcass, or
4 meat item qualifies for the mark, stamp, tag, or
5 label of inspection under the requirements of
6 this Act;

7 “(B) the establishment is an eligible estab-
8 lishment; and

9 “(C) inspection services for the establish-
10 ment are provided by designated personnel.

11 “(2) PROHIBITED ESTABLISHMENTS.—In car-
12 rying out paragraph (1), the Secretary, in coordina-
13 tion with an appropriate State agency, shall not se-
14 lect an establishment that—

15 “(A) on average, employs more than 25
16 employees (including supervisory and non-
17 supervisory employees), as defined by the Sec-
18 retary;

19 “(B) as of the date of the enactment of
20 this section, ships in interstate commerce car-
21 casses, portions of carcasses, or meat items that
22 are inspected by the Secretary in accordance
23 with this Act;

24 “(C)(i) is a Federal establishment;

1 “(ii) was a Federal establishment that was
2 reorganized on a later date under the same
3 name or a different name or person by the per-
4 son, firm, or corporation that controlled the es-
5 tablishment as of the date of the enactment of
6 this section; or

7 “(iii) was a State establishment as of the
8 date of the enactment of this section that—

9 “(I) as of the date of the enactment
10 of this section, employed more than 25 em-
11 ployees; and

12 “(II) was reorganized on a later date
13 by the person, firm, or corporation that
14 controlled the establishment as of the date
15 of the enactment of this section;

16 “(D) is in violation of this Act;

17 “(E) is located in a State that does not
18 have a State inspection program; or

19 “(F) is the subject of a transition carried
20 out in accordance with a procedure developed
21 by the Secretary under paragraph (3)(A).

22 “(3) ESTABLISHMENTS THAT EMPLOY MORE
23 THAN 25 EMPLOYEES.—

24 “(A) DEVELOPMENT OF PROCEDURE.—

25 The Secretary may develop a procedure to tran-

1 sition to a Federal establishment any establish-
2 ment under this section that, on average, con-
3 sistently employs more than 25 employees.

4 “(B) ELIGIBILITY OF CERTAIN ESTABLISH-
5 MENTS.—

6 “(i) IN GENERAL.—A State establish-
7 ment that employs more than 25 employ-
8 ees but less than 35 employees as of the
9 date of the enactment of this section may
10 be selected as a selected establishment
11 under this subsection.

12 “(ii) PROCEDURES.—A State estab-
13 lishment shall be subject to the procedures
14 established under subparagraph (A) begin-
15 ning on the date that is 3 years after the
16 effective date described in subsection (j).

17 “(c) REIMBURSEMENT OF STATE COSTS.—The Sec-
18 retary shall reimburse a State for costs related to the in-
19 spection of selected establishments in the State in accord-
20 ance with Federal requirements in an amount of not less
21 than 60 percent of eligible State costs.

22 “(d) COORDINATION BETWEEN FEDERAL AND
23 STATE AGENCIES.—

24 “(1) IN GENERAL.—The Secretary shall des-
25 ignate an employee of the Federal Government as

1 State coordinator for each appropriate State agen-
2 cy—

3 “(A) to provide oversight and enforcement
4 of this title; and

5 “(B) to oversee the training and inspection
6 activities of designated personnel of the State
7 agency.

8 “(2) SUPERVISION.—A State coordinator shall
9 be under the direct supervision of the Secretary.

10 “(3) DUTIES OF STATE COORDINATOR.—

11 “(A) IN GENERAL.—A State coordinator
12 shall visit selected establishments with a fre-
13 quency that is appropriate to ensure that se-
14 lected establishments are operating in a manner
15 that is consistent with this Act (including regu-
16 lations and policies under this Act).

17 “(B) QUARTERLY REPORTS.—A State co-
18 ordinator shall, on a quarterly basis, submit to
19 the Secretary a report that describes the status
20 of each selected establishment that is under the
21 jurisdiction of the State coordinator with re-
22 spect to the level of compliance of each selected
23 establishment with the requirements of this Act.

24 “(C) IMMEDIATE NOTIFICATION REQUIRE-
25 MENT.—If a State coordinator determines that

1 any selected establishment that is under the ju-
2 risdiction of the State coordinator is in violation
3 of any requirement of this Act, the State coor-
4 dinator shall—

5 “(i) immediately notify the Secretary
6 of the violation; and

7 “(ii) deselect the selected establish-
8 ment or suspend inspection at the selected
9 establishment.

10 “(4) PERFORMANCE EVALUATIONS.—Perform-
11 ance evaluations of State coordinators designated
12 under this subsection shall be conducted by the Sec-
13 retary as part of the Federal agency management
14 control system.

15 “(e) AUDITS.—

16 “(1) PERIODIC AUDITS CONDUCTED BY INSPEC-
17 TOR GENERAL OF THE DEPARTMENT OF AGRI-
18 CULTURE.—Not later than 2 years after the effec-
19 tive date described in subsection (j), and not less
20 often than every 3 years thereafter, the Inspector
21 General of the Department of Agriculture shall con-
22 duct an audit of each activity taken by the Secretary
23 under this section for the period covered by the
24 audit to determine compliance with this section.

1 “(2) AUDIT CONDUCTED BY COMPTROLLER
2 GENERAL OF THE UNITED STATES.—Not earlier
3 than 3 years, nor later than 5 years, after the date
4 of the enactment of this section, the Comptroller
5 General of the United States shall conduct an audit
6 of the implementation of this section to determine—

7 “(A) the effectiveness of the implementa-
8 tion of this section; and

9 “(B) the number of selected establishments
10 selected by the Secretary to ship carcasses, por-
11 tions of carcasses, or meat items under this sec-
12 tion.

13 “(f) TECHNICAL ASSISTANCE DIVISION.—

14 “(1) ESTABLISHMENT.—Not later than 180
15 days after the effective date described in subsection
16 (j), the Secretary shall establish in the Food Safety
17 and Inspection Service of the Department of Agri-
18 culture a technical assistance division to coordinate
19 the initiatives of any other appropriate agency of the
20 Department of Agriculture to provide—

21 “(A) outreach, education, and training to
22 very small or certain small establishments (as
23 defined by the Secretary); and

24 “(B) grants to appropriate State agencies
25 to provide outreach, technical assistance, edu-

1 cation, and training to very small or certain
2 small establishments (as defined by the Sec-
3 retary).

4 “(2) PERSONNEL.—The technical assistance di-
5 vision shall be comprised of individuals that, as de-
6 termined by the Secretary—

7 “(A) are of a quantity sufficient to carry
8 out the duties of the technical assistance divi-
9 sion; and

10 “(B) possess appropriate qualifications and
11 expertise relating to the duties of the technical
12 assistance division.

13 “(g) TRANSITION GRANTS.—The Secretary may pro-
14 vide grants to appropriate State agencies to assist the ap-
15 propriate State agencies in helping establishments covered
16 by title III to transition to selected establishments.

17 “(h) VIOLATIONS.—Any selected establishment that
18 the Secretary determines to be in violation of any require-
19 ment of this Act shall be transitioned to a Federal estab-
20 lishment in accordance with a procedure developed by the
21 Secretary under subsection (b)(3)(A).

22 “(i) EFFECT.—Nothing in this section limits the ju-
23 risdiction of the Secretary with respect to the regulation
24 of meat and meat products under this Act.

25 “(j) EFFECTIVE DATE.—

1 “(1) IN GENERAL.—This section takes effect on
2 the date on which the Secretary, after providing a
3 period of public comment (including through the
4 conduct of public meetings or hearings), promulgates
5 final regulations to carry out this section.

6 “(2) REQUIREMENT.—Not later than 18
7 months after the date of the enactment of this sec-
8 tion, the Secretary shall promulgate final regulations
9 in accordance with paragraph (1).”.

10 (b) POULTRY AND POULTRY PRODUCTS.—The Poul-
11 try Products Inspection Act (21 U.S.C. 451 et seq.) is
12 amended by adding at the end the following:

13 **“SEC. 31. INTERSTATE SHIPMENT OF POULTRY INSPECTED**
14 **BY FEDERAL AND STATE AGENCIES FOR CER-**
15 **TAIN SMALL ESTABLISHMENTS.**

16 “(a) DEFINITIONS.—

17 “(1) APPROPRIATE STATE AGENCY.—The term
18 ‘appropriate State agency’ means a State agency de-
19 scribed in section 5(a)(1).

20 “(2) DESIGNATED PERSONNEL.—The term
21 ‘designated personnel’ means inspection personnel of
22 a State agency that have undergone all necessary in-
23 spection training and certification to assist the Sec-
24 retary in the administration and enforcement of this

1 Act, including rules and regulations issued under
2 this Act.

3 “(3) ELIGIBLE ESTABLISHMENT.—The term
4 ‘eligible establishment’ means an establishment that
5 is in compliance with—

6 “(A) the State inspection program of the
7 State in which the establishment is located; and

8 “(B) this Act, including rules and regula-
9 tions issued under this Act.

10 “(4) POULTRY ITEM.—The term ‘poultry item’
11 means—

12 “(A) a portion of poultry; and

13 “(B) a poultry product.

14 “(5) SELECTED ESTABLISHMENT.—The term
15 ‘selected establishment’ means an eligible establish-
16 ment that is selected by the Secretary, in coordina-
17 tion with the appropriate State agency of the State
18 in which the eligible establishment is located, under
19 subsection (b) to ship poultry items in interstate
20 commerce.

21 “(b) AUTHORITY OF SECRETARY TO ALLOW SHIP-
22 MENTS.—

23 “(1) IN GENERAL.—Subject to paragraph (2),
24 the Secretary, in coordination with the appropriate
25 State agency of the State in which an establishment

1 is located, may select the establishment to ship poultry
2 items in interstate commerce, and place on each
3 poultry item shipped in interstate commerce a Federal
4 mark, stamp, tag, or label of inspection, if—

5 “(A) the poultry item qualifies for the Federal
6 mark, stamp, tag, or label of inspection
7 under the requirements of this Act;

8 “(B) the establishment is an eligible estab-
9 lishment; and

10 “(C) inspection services for the establish-
11 ment are provided by designated personnel.

12 “(2) PROHIBITED ESTABLISHMENTS.—In car-
13 rying out paragraph (1), the Secretary, in coordina-
14 tion with an appropriate State agency, shall not se-
15 lect an establishment that—

16 “(A) on average, employs more than 25
17 employees (including supervisory and non-
18 supervisory employees), as defined by the Sec-
19 retary;

20 “(B) as of the date of the enactment of
21 this section, ships in interstate commerce car-
22 casses, portions of carcasses, or poultry items
23 that are inspected by the Secretary in accord-
24 ance with this Act;

25 “(C)(i) is a Federal establishment;

1 “(ii) was a Federal establishment as of the
2 date of the enactment of this section, and was
3 reorganized on a later date under the same
4 name or a different name or person by the per-
5 son, firm, or corporation that controlled the es-
6 tablishment as of the date of the enactment of
7 this section; or

8 “(iii) was a State establishment as of the
9 date of the enactment of this section that—

10 “(I) as of the date of the enactment
11 of this section, employed more than 25 em-
12 ployees; and

13 “(II) was reorganized on a later date
14 by the person, firm, or corporation that
15 controlled the establishment as of the date
16 of the enactment of this section;

17 “(D) is in violation of this Act;

18 “(E) is located in a State that does not
19 have a State inspection program; or

20 “(F) is the subject of a transition carried
21 out in accordance with a procedure developed
22 by the Secretary under paragraph (3)(A).

23 “(3) ESTABLISHMENTS THAT EMPLOY MORE
24 THAN 25 EMPLOYEES.—

1 “(A) DEVELOPMENT OF PROCEDURE.—

2 The Secretary may develop a procedure to tran-
3 sition to a Federal establishment any establish-
4 ment under this section that, on average, con-
5 sistently employs more than 25 employees.

6 “(B) ELIGIBILITY OF CERTAIN ESTABLISH-
7 MENTS.—

8 “(i) IN GENERAL.—A State establish-
9 ment that employs more than 25 employ-
10 ees but less than 35 employees as of the
11 date of the enactment of this section may
12 be selected as a selected establishment
13 under this subsection.

14 “(ii) PROCEDURES.—A State estab-
15 lishment shall be subject to the procedures
16 established under subparagraph (A) begin-
17 ning on the date that is 3 years after the
18 effective date described in subsection (i).

19 “(c) REIMBURSEMENT OF STATE COSTS.—The Sec-
20 retary shall reimburse a State for costs related to the in-
21 spection of selected establishments in the State in accord-
22 ance with Federal requirements in an amount of not less
23 than 60 percent of eligible State costs.

24 “(d) COORDINATION BETWEEN FEDERAL AND
25 STATE AGENCIES.—

1 “(1) IN GENERAL.—The Secretary shall des-
2 ignate an employee of the Federal Government as
3 State coordinator for each appropriate State agen-
4 cy—

5 “(A) to provide oversight and enforcement
6 of this section; and

7 “(B) to oversee the training and inspection
8 activities of designated personnel of the State
9 agency.

10 “(2) SUPERVISION.—A State coordinator shall
11 be under the direct supervision of the Secretary.

12 “(3) DUTIES OF STATE COORDINATOR.—

13 “(A) IN GENERAL.—A State coordinator
14 shall visit selected establishments with a fre-
15 quency that is appropriate to ensure that se-
16 lected establishments are operating in a manner
17 that is consistent with this Act (including regu-
18 lations and policies under this Act).

19 “(B) QUARTERLY REPORTS.—A State co-
20 ordinator shall, on a quarterly basis, submit to
21 the Secretary a report that describes the status
22 of each selected establishment that is under the
23 jurisdiction of the State coordinator with re-
24 spect to the level of compliance of each selected
25 establishment with the requirements of this Act.

1 “(C) IMMEDIATE NOTIFICATION REQUIRE-
2 MENT.—If a State coordinator determines that
3 any selected establishment that is under the ju-
4 risdiction of the State coordinator is in violation
5 of any requirement of this Act, the State coor-
6 dinator shall—

7 “(i) immediately notify the Secretary
8 of the violation; and

9 “(ii) deselect the selected establish-
10 ment or suspend inspection at the selected
11 establishment.

12 “(4) PERFORMANCE EVALUATIONS.—Perform-
13 ance evaluations of State coordinators designated
14 under this subsection shall be conducted by the Sec-
15 retary as part of the Federal agency management
16 control system.

17 “(e) AUDITS.—

18 “(1) PERIODIC AUDITS CONDUCTED BY INSPEC-
19 TOR GENERAL OF THE DEPARTMENT OF AGRIC-
20 CULTURE.—Not later than 2 years after the effec-
21 tive date described in subsection (i), and not less
22 often than every 3 years thereafter, the Inspector
23 General of the Department of Agriculture shall con-
24 duct an audit of each activity taken by the Secretary

1 under this section for the period covered by the
2 audit to determine compliance with this section.

3 “(2) AUDIT CONDUCTED BY COMPTROLLER
4 GENERAL OF THE UNITED STATES.—Not earlier
5 than 3 years, nor later than 5 years, after the date
6 of the enactment of this section, the Comptroller
7 General of the United States shall conduct an audit
8 of the implementation of this section to determine—

9 “(A) the effectiveness of the implementa-
10 tion of this section; and

11 “(B) the number of selected establishments
12 selected by the Secretary to ship poultry items
13 under this section.

14 “(f) TRANSITION GRANTS.—The Secretary may pro-
15 vide grants to appropriate State agencies to assist the ap-
16 propriate State agencies in helping establishments covered
17 by this Act to transition to selected establishments.

18 “(g) VIOLATIONS.—Any selected establishment that
19 the Secretary determines to be in violation of any require-
20 ment of this Act shall be transitioned to a Federal estab-
21 lishment in accordance with a procedure developed by the
22 Secretary under subsection (b)(3)(A).

23 “(h) EFFECT.—Nothing in this section limits the ju-
24 risdiction of the Secretary with respect to the regulation
25 of poultry and poultry products under this Act.

1 “(i) EFFECTIVE DATE.—

2 “(1) IN GENERAL.—This section takes effect on
3 the date on which the Secretary, after providing a
4 period of public comment (including through the
5 conduct of public meetings or hearings), promulgates
6 final regulations to carry out this section.

7 “(2) REQUIREMENT.—Not later than 18
8 months after the date of the enactment of this sec-
9 tion, the Secretary shall promulgate final regulations
10 in accordance with paragraph (1).”.

11 **SEC. 11016. INSPECTION AND GRADING.**

12 (a) GRADING.—Section 203 of the Agricultural Mar-
13 keting Act of 1946 (7 U.S.C. 1622) is amended—

14 (1) by redesignating subsection (n) as sub-
15 section (o); and

16 (2) by inserting after subsection (m) the fol-
17 lowing new subsection:

18 “(n) GRADING PROGRAM.—To establish within the
19 Department of Agriculture a voluntary fee based grading
20 program for—

21 “(1) catfish (as defined by the Secretary under
22 paragraph (2) of section 1(w) of the Federal Meat
23 Inspection Act (21 U.S.C. 601(w))); and

24 “(2) any additional species of farm-raised fish
25 or farm-raised shellfish—

1 “(A) for which the Secretary receives a pe-
2 tition requesting such voluntary fee based grad-
3 ing; and

4 “(B) that the Secretary considers appro-
5 priate.”.

6 (b) INSPECTION.—

7 (1) IN GENERAL.—The Federal Meat Inspec-
8 tion Act is amended—

9 (A) in section 1(w) (21 U.S.C. 601(w)) —

10 (i) by striking “and” at the end of
11 paragraph (1);

12 (ii) by redesignating paragraph (2) as
13 paragraph (3); and

14 (iii) by inserting after paragraph (1)
15 the following new paragraph:

16 “(2) catfish, as defined by the Secretary; and”;

17 (B) by striking section 6 (21 U.S.C. 606)

18 and inserting the following new section:

19 “SEC. 6. (a) IN GENERAL.—For the purposes herein-

20 before set forth the Secretary shall cause to be made, by

21 inspectors appointed for that purpose, an examination and

22 inspection of all meat food products prepared for com-

23 merce in any slaughtering, meat-canning, salting, packing,

24 rendering, or similar establishment, and for the purposes

25 of any examination and inspection and inspectors shall

1 have access at all times, by day or night, whether the es-
2 tablishment be operated or not, to every part of said estab-
3 lishment; and said inspectors shall mark, stamp, tag, or
4 label as ‘Inspected and passed’ all such products found
5 to be not adulterated; and said inspectors shall label,
6 mark, stamp, or tag as ‘Inspected and condemned’ all such
7 products found adulterated, and all such condemned meat
8 food products shall be destroyed for food purposes, as
9 hereinbefore provided, and the Secretary may remove in-
10 spectors from any establishment which fails to so destroy
11 such condemned meat food products: *Provided*, That sub-
12 ject to the rules and regulations of the Secretary the provi-
13 sions of this section in regard to preservatives shall not
14 apply to meat food products for export to any foreign
15 country and which are prepared or packed according to
16 the specifications or directions of the foreign purchaser,
17 when no substance is used in the preparation or packing
18 thereof in conflict with the laws of the foreign country to
19 which said article is to be exported; but if said article shall
20 be in fact sold or offered for sale for domestic use or con-
21 sumption then this proviso shall not exempt said article
22 from the operation of all the other provisions of this chap-
23 ter.

24 “(b) CATFISH.—In the case of an examination and
25 inspection under subsection (a) of a meat food product

1 derived from catfish, the Secretary shall take into account
2 the conditions under which the catfish is raised and trans-
3 ported to a processing establishment.”; and

4 (C) by adding at the end of title I the fol-
5 lowing new section:

6 “SEC. 25. Notwithstanding any other provision of
7 this Act, the requirements of sections 3, 4, 5, 10(b), and
8 23 shall not apply to catfish.”.

9 (2) EFFECTIVE DATE.—

10 (A) IN GENERAL.—The amendments made
11 by paragraph (1) shall not apply until the date
12 on which the Secretary of Agriculture issues
13 final regulations (after providing a period of
14 public comment, including through the conduct
15 of public meetings or hearings, in accordance
16 with chapter 5 of title 5, United States Code)
17 to carry out such amendments.

18 (B) REGULATIONS.—Not later than 18
19 months after the date of the enactment of this
20 Act, the Secretary of Agriculture, in consulta-
21 tion with the Commissioner of Food and Drugs,
22 shall issue final regulations to carry out the
23 amendments made by paragraph (1).

24 (3) BUDGET REQUEST.—Not later than 30
25 days after the date of the enactment of this Act, the

1 Secretary of Agriculture shall submit to Congress an
2 estimate of the costs of implementing the amend-
3 ments made by paragraph (1), including the esti-
4 mated—

5 (A) staff years;

6 (B) number of establishments;

7 (C) volume expected to be produced at
8 such establishments; and

9 (D) any other information used in esti-
10 mating the costs of implementing such amend-
11 ments.

12 **SEC. 11017. FOOD SAFETY IMPROVEMENT.**

13 (a) FEDERAL MEAT INSPECTION ACT.—Title I of the
14 Federal Meat Inspection Act is further amended by insert-
15 ing after section 11 (21 U.S.C. 611) the following:

16 **“SEC. 12. NOTIFICATION.**

17 “Any establishment subject to inspection under this
18 Act that believes, or has reason to believe, that an adulter-
19 ated or misbranded meat or meat food product received
20 by or originating from the establishment has entered into
21 commerce shall promptly notify the Secretary with regard
22 to the type, amount, origin, and destination of the meat
23 or meat food product.

1 **“SEC. 13. PLANS AND REASSESSMENTS.**

2 “The Secretary shall require that each establishment
3 subject to inspection under this Act shall, at a minimum—

4 “(1) prepare and maintain current procedures
5 for the recall of all meat or meat food products pro-
6 duced and shipped by the establishment;

7 “(2) document each reassessment of the process
8 control plans of the establishment; and

9 “(3) upon request, make the procedures and re-
10 assessed process control plans available to inspectors
11 appointed by the Secretary for review and copying.”.

12 (b) **POULTRY PRODUCTS INSPECTION ACT.**—Section
13 10 of the Poultry Products Inspection Act (21 U.S.C.
14 459) is amended—

15 (1) by striking the section heading and all that
16 follows through “**SEC. 10.** No establishment” and
17 inserting the following:

18 **“SEC. 10. COMPLIANCE BY ALL ESTABLISHMENTS.**

19 “(a) **IN GENERAL.**—No establishment”; and

20 (2) by adding at the end the following:

21 “(b) **NOTIFICATION.**—Any establishment subject to
22 inspection under this Act that believes, or has reason to
23 believe, that an adulterated or misbranded poultry or poul-
24 try product received by or originating from the establish-
25 ment has entered into commerce shall promptly notify the

1 Secretary with regard to the type, amount, origin, and
2 destination of the poultry or poultry product.

3 “(c) PLANS AND REASSESSMENTS.—The Secretary
4 shall require that each establishment subject to inspection
5 under this Act shall, at a minimum—

6 “(1) prepare and maintain current procedures
7 for the recall of all poultry or poultry products pro-
8 duced and shipped by the establishment;

9 “(2) document each reassessment of the process
10 control plans of the establishment; and

11 “(3) upon request, make the procedures and re-
12 assessed process control plans available to inspectors
13 appointed by the Secretary for review and copying.”.

14 **TITLE XII—CROP INSURANCE**
15 **AND DISASTER ASSISTANCE**
16 **PROGRAMS**

17 **Subtitle A—Crop Insurance and**
18 **Agricultural Disaster Assistance**

19 **SEC. 12001. DEFINITION OF ORGANIC CROP.**

20 Section 502(b) of the Federal Crop Insurance Act (7
21 U.S.C. 1502(b)) is amended—

22 (1) by redesignating paragraphs (7) and (8) as
23 paragraphs (8) and (9), respectively; and

24 (2) by inserting after paragraph (6) the fol-
25 lowing:

1 “(7) ORGANIC CROP.—The term ‘organic crop’
2 means an agricultural commodity that is organically
3 produced consistent with section 2103 of the Or-
4 ganic Foods Production Act of 1990 (7 U.S.C.
5 6502).”.

6 **SEC. 12002. GENERAL POWERS.**

7 (a) IN GENERAL.—Section 506 of the Federal Crop
8 Insurance Act (7 U.S.C. 1506) is amended—

9 (1) in the first sentence of subsection (d), by
10 striking “The Corporation” and inserting “Subject
11 to section 508(j)(2)(A), the Corporation”; and

12 (2) by striking subsection (n).

13 (b) CONFORMING AMENDMENTS.—

14 (1) Section 506 of the Federal Crop Insurance
15 Act (7 U.S.C. 1506) is amended by redesignating
16 subsections (o), (p), and (q) as subsections (n), (o),
17 and (p), respectively.

18 (2) Section 521 of the Federal Crop Insurance
19 Act (7 U.S.C. 1521) is amended by striking the last
20 sentence.

21 **SEC. 12003. REDUCTION IN LOSS RATIO.**

22 (a) PROJECTED LOSS RATIO.—Subsection (n)(2) of
23 section 506 of the Federal Crop Insurance Act (7 U.S.C.
24 1506) (as redesignated by section 12002(b)(1)) is amend-
25 ed—

1 (1) in the paragraph heading, by striking “AS
2 OF OCTOBER 1, 1998”;

3 (2) by striking “, on and after October 1,
4 1998,”; and

5 (3) by striking “1.075” and inserting “1.0”.

6 (b) PREMIUMS REQUIRED.—Section 508(d)(1) of the
7 Federal Crop Insurance Act (7 U.S.C. 1508(d)(1)) is
8 amended by striking “not greater than 1.1” and all that
9 follows and inserting “not greater than—

10 “(A) 1.1 through September 30, 1998;

11 “(B) 1.075 for the period beginning Octo-
12 ber 1, 1998, and ending on the day before the
13 date of enactment of the Food, Conservation,
14 and Energy Act of 2008; and

15 “(C) 1.0 on and after the date of enact-
16 ment of that Act.”.

17 **SEC. 12004. PREMIUMS ADJUSTMENTS.**

18 Section 508(a) of the Federal Crop Insurance Act (7
19 U.S.C. 1508(a)) is amended by adding at the end the fol-
20 lowing:

21 “(9) PREMIUM ADJUSTMENTS.—

22 “(A) PROHIBITION.—Except as provided
23 in subparagraph (B), no person shall pay,
24 allow, or give, or offer to pay, allow, or give, di-
25 rectly or indirectly, either as an inducement to

1 procure insurance or after insurance has been
2 procured, any rebate, discount, abatement,
3 credit, or reduction of the premium named in
4 an insurance policy or any other valuable con-
5 sideration or inducement not specified in the
6 policy.

7 “(B) EXCEPTIONS.—Subparagraph (A)
8 does not apply with respect to—

9 “(i) a payment authorized under sub-
10 section (b)(5)(B);

11 “(ii) a performance-based discount au-
12 thorized under subsection (d)(3); or

13 “(iii) a patronage dividend, or similar
14 payment, that is paid—

15 “(I) by an entity that was ap-
16 proved by the Corporation to make
17 such payments for the 2005, 2006, or
18 2007 reinsurance year, in accordance
19 with subsection (b)(5)(B) as in effect
20 on the day before the date of enact-
21 ment of this paragraph; and

22 “(II) in a manner consistent with
23 the payment plan approved in accord-
24 ance with that subsection for the enti-

1 ty by the Corporation for the applica-
2 ble reinsurance year.”.

3 **SEC. 12005. CONTROLLED BUSINESS INSURANCE.**

4 Section 508(a) of the Federal Crop Insurance Act (7
5 U.S.C. 1508(a)) (as amended by section 12004) is amend-
6 ed by adding at the end the following:

7 “(10) COMMISSIONS.—

8 “(A) DEFINITION OF IMMEDIATE FAM-
9 ILY.—In this paragraph, the term ‘immediate
10 family’ means an individual’s father, mother,
11 stepfather, stepmother, brother, sister, step-
12 brother, stepsister, son, daughter, stepson, step-
13 daughter, grandparent, grandson, grand-
14 daughter, father-in-law, mother-in-law, brother-
15 in-law, sister-in-law, son-in-law, daughter-in-
16 law, the spouse of the foregoing, and the indi-
17 vidual’s spouse.

18 “(B) PROHIBITION.—No individual (in-
19 cluding a subagent) may receive directly, or in-
20 directly through an entity, any compensation
21 (including any commission, profit sharing,
22 bonus, or any other direct or indirect benefit)
23 for the sale or service of a policy or plan of in-
24 surance offered under this title if—

1 “(i) the individual has a substantial
2 beneficial interest, or a member of the in-
3 dividual’s immediate family has a substan-
4 tial beneficial interest, in the policy or plan
5 of insurance; and

6 “(ii) the total compensation to be paid
7 to the individual with respect to the sale or
8 service of the policies or plans of insurance
9 that meet the condition described in clause
10 (i) exceeds 30 percent or the percentage
11 specified in State law, whichever is less, of
12 the total of all compensation received di-
13 rectly or indirectly by the individual for the
14 sale or service of all policies and plans of
15 insurance offered under this title for the
16 reinsurance year.

17 “(C) REPORTING.—Not later than 90 days
18 after the annual settlement date of the reinsur-
19 ance year, any individual that received directly
20 or indirectly any compensation for the service
21 or sale of any policy or plan of insurance of-
22 fered under this title in the prior reinsurance
23 year shall certify to applicable approved insur-
24 ance providers that the compensation that the

1 individual received was in compliance with this
2 paragraph.

3 “(D) SANCTIONS.—The procedural re-
4 quirements and sanctions prescribed in section
5 515(h) shall apply to the prosecution of a viola-
6 tion of this paragraph.

7 “(E) APPLICABILITY.—

8 “(i) IN GENERAL.—Sanctions for vio-
9 lations under this paragraph shall only
10 apply to the individuals or entities directly
11 responsible for the certification required
12 under subparagraph (C) or the failure to
13 comply with the requirements of this para-
14 graph.

15 “(ii) PROHIBITION.—No sanctions
16 shall apply with respect to the policy or
17 plans of insurance upon which compensa-
18 tion is received, including the reinsurance
19 for those policies or plans.”.

20 **SEC. 12006. ADMINISTRATIVE FEE.**

21 (a) IN GENERAL.—Section 508(b)(5) of the Federal
22 Crop Insurance Act (7 U.S.C. 1508(b)(5)) is amended—

23 (1) by striking subparagraph (A) and inserting
24 the following:

1 “(A) BASIC FEE.—Each producer shall
2 pay an administrative fee for catastrophic risk
3 protection in the amount of \$300 per crop per
4 county.”; and

5 (2) in subparagraph (B)—

6 (A) by striking “**PAYMENT ON BEHALF**
7 **OF PRODUCERS**” and inserting “**PAYMENT**
8 **OF CATASTROPHIC RISK PROTECTION FEE**
9 **ON BEHALF OF PRODUCERS**”;

10 (B) in clause (i)—

11 (i) by striking “or other payment”;
12 and

13 (ii) by striking “with catastrophic risk
14 protection or additional coverage” and in-
15 sserting “through the payment of cata-
16 strophic risk protection administrative
17 fees”;

18 (C) by striking clauses (ii) and (vi);

19 (D) by redesignating clauses (iii), (iv), and
20 (v) as clauses (ii), (iii), and (iv), respectively;

21 (E) in clause (iii) (as so redesignated), by
22 striking “A policy or plan of insurance” and in-
23 sserting “Catastrophic risk protection coverage”;
24 and

25 (F) in clause (iv) (as so redesignated)—

1 (i) by striking “or other arrangement
2 under this subparagraph”; and

3 (ii) by striking “additional”.

4 (b) REPEAL.—Section 748 of the Agriculture, Rural
5 Development, Food and Drug Administration, and Re-
6 lated Agencies Appropriations Act, 1999 (7 U.S.C. 1508
7 note; Public Law 105–277) is repealed.

8 **SEC. 12007. TIME FOR PAYMENT.**

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

11 (1) in subsection (b)(5)(C), by striking “the
12 date that premium” and inserting “the same date on
13 which the premium”;

14 (2) in subsection (c)(10), by adding at the end
15 the following:

16 “(C) TIME FOR PAYMENT.—Subsection
17 (b)(5)(C) shall apply with respect to the collec-
18 tion date for the administrative fee.”; and

19 (3) in subsection (d), by adding at the end the
20 following:

21 “(4) BILLING DATE FOR PREMIUMS.—Effective
22 beginning with the 2012 reinsurance year, the Cor-
23 poration shall establish August 15 as the billing date
24 for premiums.”.

1 **SEC. 12008. CATASTROPHIC COVERAGE REIMBURSEMENT**
2 **RATE.**

3 Section 508(b)(11) of the Federal Crop Insurance
4 Act (7 U.S.C. 1508(b)(11)) is amended by striking “8 per-
5 cent” and inserting “6 percent”.

6 **SEC. 12009. GRAIN SORGHUM PRICE ELECTION.**

7 Section 508(c)(5) of the Federal Crop Insurance Act
8 (7 U.S.C. 1508(c)(5)) is amended by adding at the end
9 the following:

10 “(D) GRAIN SORGHUM PRICE ELECTION.—

11 “(i) IN GENERAL.—The Corporation,
12 in conjunction with the Secretary (referred
13 to in this subparagraph as the ‘Corpora-
14 tion’), shall—

15 “(I) not later than 60 days after
16 the date of enactment of this subpara-
17 graph, make available all methods and
18 data, including data from the Eco-
19 nomic Research Service, used by the
20 Corporation to develop the expected
21 market prices for grain sorghum
22 under the production and revenue-
23 based plans of insurance of the Cor-
24 poration; and

25 “(II) request applicable data
26 from the grain sorghum industry.

1 “(ii) EXPERT REVIEWERS.—

2 “(I) IN GENERAL.—Not later
3 than 120 days after the date of enact-
4 ment of this subparagraph, the Cor-
5 poration shall contract individually
6 with 5 expert reviewers described in
7 subclause (II) to develop and rec-
8 ommend a methodology for deter-
9 mining an expected market price for
10 sorghum for both the production and
11 revenue-based plans of insurance to
12 more accurately reflect the actual
13 price at harvest.

14 “(II) REQUIREMENTS.—The ex-
15 pert reviewers under subclause (I)
16 shall be comprised of agricultural
17 economists with experience in grain
18 sorghum and corn markets, of
19 whom—

20 “(aa) 2 shall be agricultural
21 economists of institutions of
22 higher education;

23 “(bb) 2 shall be economists
24 from within the Department; and

1 “(cc) 1 shall be an econo-
2 mist nominated by the grain sor-
3 ghum industry.

4 “(iii) RECOMMENDATIONS.—

5 “(I) IN GENERAL.—Not later
6 than 90 days after the date of con-
7 tracting with the expert reviewers
8 under clause (ii), the expert reviewers
9 shall submit, and the Corporation
10 shall make available to the public, the
11 recommendations of the expert review-
12 ers.

13 “(II) CONSIDERATION.—The
14 Corporation shall consider the rec-
15 ommendations under subclause (I)
16 when determining the appropriate
17 pricing methodology to determine the
18 expected market price for grain sor-
19 ghum under both the production and
20 revenue-based plans of insurance.

21 “(III) PUBLICATION.—Not later
22 than 60 days after the date on which
23 the Corporation receives the rec-
24 ommendations of the expert reviewers,
25 the Corporation shall publish the pro-

1 posed pricing methodology for both
2 the production and revenue-based
3 plans of insurance for notice and com-
4 ment and, during the comment period,
5 conduct at least 1 public meeting to
6 discuss the proposed pricing meth-
7 odologies.

8 “(iv) APPROPRIATE PRICING METHOD-
9 OLOGY.—

10 “(I) IN GENERAL.—Not later
11 than 180 days after the close of the
12 comment period in clause (iii)(III),
13 but effective not later than the 2010
14 crop year, the Corporation shall im-
15 plement a pricing methodology for
16 grain sorghum under the production
17 and revenue-based plans of insurance
18 that is transparent and replicable.

19 “(II) INTERIM METHODOLOGY.—
20 Until the date on which the new pric-
21 ing methodology is implemented, the
22 Corporation may continue to use the
23 pricing methodology that the Corpora-
24 tion determines best establishes the
25 expected market price.

1 “(III) AVAILABILITY.—On an an-
2 nual basis, the Corporation shall make
3 available the pricing methodology and
4 data used to determine the expected
5 market prices for grain sorghum
6 under the production and revenue-
7 based plans of insurance, including
8 any changes to the methodology used
9 to determine the expected market
10 prices for grain sorghum from the
11 previous year.”.

12 **SEC. 12010. PREMIUM REDUCTION AUTHORITY.**

13 Subsection 508(e) of the Federal Crop Insurance Act
14 (7 U.S.C. 1508(e)) is amended—

15 (1) in paragraph (2), by striking “paragraph
16 (4)” and inserting “paragraph (3)”;

17 (2) by striking paragraph (3); and

18 (3) by redesignating paragraphs (4) and (5) as
19 paragraphs (3) and (4), respectively.

20 **SEC. 12011. ENTERPRISE AND WHOLE FARM UNITS.**

21 Section 508(e) of Federal Crop Insurance Act (7
22 U.S.C. 1508(e)) (as amended by section 12010) is amend-
23 ed by adding at the end the following:

24 “(5) ENTERPRISE AND WHOLE FARM UNITS.—

1 “(A) IN GENERAL.—The Corporation may
2 carry out a pilot program under which the Cor-
3 poration pays a portion of the premiums for
4 plans or policies of insurance for which the in-
5 surable unit is defined on a whole farm or en-
6 terprise unit basis that is higher than would
7 otherwise be paid in accordance with paragraph
8 (2).

9 “(B) AMOUNT.—The percentage of the
10 premium paid by the Corporation to a policy-
11 holder for a policy with an enterprise or whole
12 farm unit under this paragraph shall, to the
13 maximum extent practicable, provide the same
14 dollar amount of premium subsidy per acre that
15 would otherwise have been paid by the Corpora-
16 tion under paragraph (2) if the policyholder had
17 purchased a basic or optional unit for the crop
18 for the crop year.

19 “(C) LIMITATION.—The amount of the
20 premium paid by the Corporation under this
21 paragraph may not exceed 80 percent of the
22 total premium for the enterprise or whole farm
23 unit policy.”.

1 **SEC. 12012. PAYMENT OF PORTION OF PREMIUM FOR AREA**
2 **REVENUE PLANS.**

3 Section 508(e) of the Federal Crop Insurance Act (7
4 U.S.C. 1508(e)) (as amended by section 12011) is amend-
5 ed—

6 (1) in paragraph (2), in the matter preceding
7 subparagraph (A), by striking “paragraph (4)” and
8 inserting “paragraphs (4), (6), and (7)”; and

9 (2) by adding at the end the following:

10 “(6) PREMIUM SUBSIDY FOR AREA REVENUE
11 PLANS.—Subject to paragraph (4), in the case of a
12 policy or plan of insurance that covers losses due to
13 a reduction in revenue in an area, the amount of the
14 premium paid by the Corporation shall be as follows:

15 “(A) In the case of additional area cov-
16 erage equal to or greater than 70 percent, but
17 less than 75 percent, of the recorded county
18 yield indemnified at not greater than 100 per-
19 cent of the expected market price, the amount
20 shall be equal to the sum of—

21 “(i) 59 percent of the amount of the
22 premium established under subsection
23 (d)(2)(B)(i) for the coverage level selected;
24 and

25 “(ii) the amount determined under
26 subsection (d)(2)(B)(ii) for the coverage

1 level selected to cover operating and ad-
2 ministrative expenses.

3 “(B) In the case of additional area cov-
4 erage equal to or greater than 75 percent, but
5 less than 85 percent, of the recorded county
6 yield indemnified at not greater than 100 per-
7 cent of the expected market price, the amount
8 shall be equal to the sum of—

9 “(i) 55 percent of the amount of the
10 premium established under subsection
11 (d)(2)(B)(i) for the coverage level selected;
12 and

13 “(ii) the amount determined under
14 subsection (d)(2)(B)(ii) for the coverage
15 level selected to cover operating and ad-
16 ministrative expenses.

17 “(C) In the case of additional area cov-
18 erage equal to or greater than 85 percent, but
19 less than 90 percent, of the recorded county
20 yield indemnified at not greater than 100 per-
21 cent of the expected market price, the amount
22 shall be equal to the sum of—

23 “(i) 49 percent of the amount of the
24 premium established under subsection

1 (d)(2)(B)(i) for the coverage level selected;
2 and

3 “(ii) the amount determined under
4 subsection (d)(2)(B)(ii) for the coverage
5 level selected to cover operating and ad-
6 ministrative expenses.

7 “(D) In the case of additional area cov-
8 erage equal to or greater than 90 percent of the
9 recorded county yield indemnified at not greater
10 than 100 percent of the expected market price,
11 the amount shall be equal to the sum of—

12 “(i) 44 percent of the amount of the
13 premium established under subsection
14 (d)(2)(B)(i) for the coverage level selected;
15 and

16 “(ii) the amount determined under
17 subsection (d)(2)(B)(ii) for the coverage
18 level selected to cover operating and ad-
19 ministrative expenses.

20 “(7) PREMIUM SUBSIDY FOR AREA YIELD
21 PLANS.—Subject to paragraph (4), in the case of a
22 policy or plan of insurance that covers losses due to
23 a loss of yield or prevented planting in an area, the
24 amount of the premium paid by the Corporation
25 shall be as follows:

1 “(A) In the case of additional area cov-
2 erage equal to or greater than 70 percent, but
3 less than 80 percent, of the recorded county
4 yield indemnified at not greater than 100 per-
5 cent of the expected market price, the amount
6 shall be equal to the sum of—

7 “(i) 59 percent of the amount of the
8 premium established under subsection
9 (d)(2)(B)(i) for the coverage level selected;
10 and

11 “(ii) the amount determined under
12 subsection (d)(2)(B)(ii) for the coverage
13 level selected to cover operating and ad-
14 ministrative expenses.

15 “(B) In the case of additional area cov-
16 erage equal to or greater than 80 percent, but
17 less than 90 percent, of the recorded county
18 yield indemnified at not greater than 100 per-
19 cent of the expected market price, the amount
20 shall be equal to the sum of—

21 “(i) 55 percent of the amount of the
22 premium established under subsection
23 (d)(2)(B)(i) for the coverage level selected;
24 and

1 “(ii) the amount determined under
2 subsection (d)(2)(B)(ii) for the coverage
3 level selected to cover operating and ad-
4 ministrative expenses.

5 “(C) In the case of additional area cov-
6 erage equal to or greater than 90 percent, of
7 the recorded county yield indemnified at not
8 greater than 100 percent of the expected mar-
9 ket price, the amount shall be equal to the sum
10 of—

11 “(i) 51 percent of the amount of the
12 premium established under subsection
13 (d)(2)(B)(i) for the coverage level selected;
14 and

15 “(ii) the amount determined under
16 subsection (d)(2)(B)(ii) for the coverage
17 level selected to cover operating and ad-
18 ministrative expenses.”.

19 **SEC. 12013. DENIAL OF CLAIMS.**

20 Section 508(j)(2)(A) of the Federal Crop Insurance
21 Act (7 U.S.C. 1508(j)(2)(A)) is amended by inserting “on
22 behalf of the Corporation” after “approved provider”.

1 **SEC. 12014. SETTLEMENT OF CROP INSURANCE CLAIMS ON**
2 **FARM-STORED PRODUCTION.**

3 (a) IN GENERAL.—Section 508(j) of the Federal
4 Crop Insurance Act (7 U.S.C. 1508(j)) is amended by
5 adding at the end the following:

6 “(5) SETTLEMENT OF CLAIMS ON FARM-
7 STORED PRODUCTION.—A producer with farm-stored
8 production may, at the option of the producer, delay
9 settlement of a crop insurance claim relating to the
10 farm-stored production for up to 4 months after the
11 last date on which claims may be submitted under
12 the policy of insurance.”.

13 (b) STUDY ON THE EFFICACY OF PACK FACTORS.—

14 (1) IN GENERAL.—The Secretary shall conduct
15 a study of the efficacy and accuracy of the applica-
16 tion of pack factors regarding the measurement of
17 farm-stored production for purposes of providing
18 policies or plans of insurance under the Federal
19 Crop Insurance Act (7 U.S.C. 1501 et seq.).

20 (2) CONSIDERATIONS.—The study shall con-
21 sider—

22 (A) structural shape and size;

23 (B) time in storage;

24 (C) the impact of facility aeration systems;

25 and

1 (D) any other factors the Secretary con-
2 siders appropriate.

3 (3) REPORT.—Not later than 3 years after the
4 date of enactment of this Act, the Secretary shall
5 submit to the Committee on Agriculture of the
6 House of Representatives and the Committee on Ag-
7 riculture, Nutrition, and Forestry of the Senate a
8 report that includes the findings of the study and
9 any related policy recommendations.

10 **SEC. 12015. TIME FOR REIMBURSEMENT.**

11 Section 508(k)(4) of the Federal Crop Insurance Act
12 (7 U.S.C. 1508(k)(4)) is amended by adding at the end
13 the following:

14 “(D) TIME FOR REIMBURSEMENT.—Effec-
15 tive beginning with the 2012 reinsurance year,
16 the Corporation shall reimburse approved insur-
17 ance providers and agents for the allowable ad-
18 ministrative and operating costs of the pro-
19 viders and agents as soon as practicable after
20 October 1 (but not later than October 31) after
21 the reinsurance year for which reimbursements
22 are earned.”.

1 **SEC. 12016. REIMBURSEMENT RATE.**

2 Section 508(k)(4) of the Federal Crop Insurance Act
3 (7 U.S.C. 1508(k)(4)) (as amended by section 12015) is
4 amended—

5 (1) in subparagraph (A), by striking “Except as
6 provided in subparagraph (B)” and inserting “Ex-
7 cept as otherwise provided in this paragraph”; and

8 (2) by adding at the end the following:

9 “(E) REIMBURSEMENT RATE REDUC-
10 TION.—In the case of a policy of additional cov-
11 erage that received a rate of reimbursement for
12 administrative and operating costs for the 2008
13 reinsurance year, for each of the 2009 and sub-
14 sequent reinsurance years, the reimbursement
15 rate for administrative and operating costs shall
16 be 2.3 percentage points below the rates in ef-
17 fect as of the date of enactment of the Food,
18 Conservation, and Energy Act of 2008 for all
19 crop insurance policies used to define loss ratio,
20 except that only ½ of the reduction shall apply
21 in a reinsurance year to the total premium writ-
22 ten in a State in which the State loss ratio is
23 greater than 1.2.

24 “(F) REIMBURSEMENT RATE FOR AREA
25 POLICIES AND PLANS OF INSURANCE.—Not-
26 withstanding subparagraphs (A) through (E),

1 for each of the 2009 and subsequent reinsur-
2 ance years, the reimbursement rate for area
3 policies and plans of insurance widely available
4 as of the date of enactment of this subpara-
5 graph shall be 12 percent of the premium used
6 to define loss ratio for that reinsurance year.”.

7 **SEC. 12017. RENEGOTIATION OF STANDARD REINSURANCE**
8 **AGREEMENT.**

9 Section 508(k) of the Federal Crop Insurance Act (7
10 U.S.C. 1508(k)) is amended by adding at the end the fol-
11 lowing:

12 “(8) RENEGOTIATION OF STANDARD REINSUR-
13 ANCE AGREEMENT.—

14 “(A) IN GENERAL.—Except as provided in
15 subparagraph (B), notwithstanding section 536
16 of the Agricultural Research, Extension, and
17 Education Reform Act of 1998 (7 U.S.C. 1506
18 note; Public Law 105–185) and section 148 of
19 the Agricultural Risk Protection Act of 2000 (7
20 U.S.C. 1506 note; Public Law 106–224), the
21 Corporation may renegotiate the financial terms
22 and conditions of each Standard Reinsurance
23 Agreement—

24 “(i) to be effective for the 2011 rein-
25 surance year beginning July 1, 2010; and

1 “(ii) once during each period of 5 re-
2 insurance years thereafter.

3 “(B) EXCEPTIONS.—

4 “(i) ADVERSE CIRCUMSTANCES.—
5 Subject to clause (ii), subparagraph (A)
6 shall not apply in any case in which the
7 approved insurance providers, as a whole,
8 experience unexpected adverse cir-
9 cumstances, as determined by the Sec-
10 retary.

11 “(ii) EFFECT OF FEDERAL LAW
12 CHANGES.—If Federal law is enacted after
13 the date of enactment of this paragraph
14 that requires revisions in the financial
15 terms of the Standard Reinsurance Agree-
16 ment, and changes in the Agreement are
17 made on a mandatory basis by the Cor-
18 poration, the changes shall not be consid-
19 ered to be a renegotiation of the Agree-
20 ment for purposes of subparagraph (A).

21 “(C) NOTIFICATION REQUIREMENT.—If
22 the Corporation renegotiates a Standard Rein-
23 surance Agreement under subparagraph
24 (A)(iii), the Corporation shall notify the Com-
25 mittee on Agriculture of the House of Rep-

1 representatives and the Committee on Agriculture,
2 Nutrition, and Forestry of the Senate of the re-
3 negotiation.

4 “(D) CONSULTATION.—The approved in-
5 surance providers may confer with each other
6 and collectively with the Corporation during any
7 renegotiation under subparagraph (A).

8 “(E) 2011 REINSURANCE YEAR.—

9 “(i) IN GENERAL.—As part of the
10 Standard Reinsurance Agreement renegoti-
11 ation authorized under subparagraph
12 (A)(i), the Corporation shall consider alter-
13 native methods to determine reimburse-
14 ment rates for administrative and oper-
15 ating costs.

16 “(ii) ALTERNATIVE METHODS.—Alter-
17 natives considered under clause (i) shall in-
18 clude—

19 “(I) methods that—

20 “(aa) are graduated and
21 base reimbursement rates in a
22 State on changes in premiums in
23 that State;

24 “(bb) are graduated and
25 base reimbursement rates in a

1 State on the loss ratio for crop
2 insurance for that State; and

3 “(cc) are graduated and
4 base reimbursement rates on in-
5 dividual policies on the level of
6 total premium for each policy;
7 and

8 “(II) any other method that
9 takes into account current financial
10 conditions of the program and ensures
11 continued availability of the program
12 to producers on a nationwide basis.”.

13 **SEC. 12018. CHANGE IN DUE DATE FOR CORPORATION PAY-**
14 **MENTS FOR UNDERWRITING GAINS.**

15 Section 508(k) of the Federal Crop Insurance Act (7
16 U.S.C. 1508(k)) (as amended by section 12017) is amend-
17 ed by adding at the end the following:

18 “(9) DUE DATE FOR PAYMENT OF UNDER-
19 WRITING GAINS.—Effective beginning with the 2011
20 reinsurance year, the Corporation shall make pay-
21 ments for underwriting gains under this title on—

22 “(A) for the 2011 reinsurance year, Octo-
23 ber 1, 2012; and

24 “(B) for each reinsurance year thereafter,
25 October 1 of the following calendar year.”.

1 **SEC. 12019. MALTING BARLEY.**

2 Section 508(m) of the Federal Crop Insurance Act
3 (7 U.S.C. 1508(m)) is amended by adding at the end the
4 following:

5 “(5) SPECIAL PROVISIONS FOR MALTING BAR-
6 LEY.—The Corporation shall promulgate special pro-
7 visions under this subsection specific to malting bar-
8 ley, taking into consideration any changes in quality
9 factors, as required by applicable market condi-
10 tions.”.

11 **SEC. 12020. CROP PRODUCTION ON NATIVE SOD.**

12 (a) FEDERAL CROP INSURANCE.—Section 508 of the
13 Federal Crop Insurance Act (7 U.S.C. 1508) is amended
14 by adding at the end the following:

15 “(o) CROP PRODUCTION ON NATIVE SOD.—

16 “(1) DEFINITION OF NATIVE SOD.—In this sub-
17 section, the term ‘native sod’ means land—

18 “(A) on which the plant cover is composed
19 principally of native grasses, grasslike plants,
20 forbs, or shrubs suitable for grazing and brows-
21 ing; and

22 “(B) that has never been tilled for the pro-
23 duction of an annual crop as of the date of en-
24 actment of this subsection.

25 “(2) INELIGIBILITY FOR BENEFITS.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B) and paragraph (3), native sod acre-
3 age that has been tilled for the production of an
4 annual crop after the date of enactment of this
5 subsection shall be ineligible during the first 5
6 crop years of planting, as determined by the
7 Secretary, for benefits under—

8 “(i) this title; and

9 “(ii) section 196 of the Federal Agri-
10 culture Improvement and Reform Act of
11 1996 (7 U.S.C. 7333).

12 “(B) DE MINIMIS ACREAGE EXEMPTION.—

13 The Secretary shall exempt areas of 5 acres or
14 less from subparagraph (A).

15 “(3) APPLICATION.—Paragraph (2) may apply
16 to native sod acreage in the Prairie Pothole National
17 Priority Area at the election of the Governor of the
18 respective State.”.

19 (b) NONINSURED CROP DISASTER ASSISTANCE.—

20 Section 196(a) of the Federal Agriculture Improvement
21 and Reform Act of 1996 (7 U.S.C. 7333(a)) is amended
22 by adding at the end the following:

23 “(4) PROGRAM INELIGIBILITY RELATING TO
24 CROP PRODUCTION ON NATIVE SOD.—

1 “(A) DEFINITION OF NATIVE SOD.—In
2 this paragraph, the term ‘native sod’ means
3 land—

4 “(i) on which the plant cover is com-
5 posed principally of native grasses, grass-
6 like plants, forbs, or shrubs suitable for
7 grazing and browsing; and

8 “(ii) that has never been tilled for the
9 production of an annual crop as of the
10 date of enactment of this paragraph.

11 “(B) INELIGIBILITY FOR BENEFITS.—

12 “(i) IN GENERAL.—Subject to clause
13 (ii) and subparagraph (C), native sod acre-
14 age that has been tilled for the production
15 of an annual crop after the date of enact-
16 ment of this paragraph shall be ineligible
17 during the first 5 crop years of planting,
18 as determined by the Secretary, for bene-
19 fits under—

20 “(I) this section; and

21 “(II) the Federal Crop Insurance
22 Act (7 U.S.C. 1501 et seq.).

23 “(ii) DE MINIMIS ACREAGE EXEMP-
24 TION.—The Secretary shall exempt areas
25 of 5 acres or less from clause (i).

1 “(C) APPLICATION.—Subparagraph (B)
2 may apply to native sod acreage in the Prairie
3 Pothole National Priority Area at the election
4 of the Governor of the respective State.”.

5 **SEC. 12021. INFORMATION MANAGEMENT.**

6 Section 515 of the Federal Crop Insurance Act (7
7 U.S.C. 1515) is amended—

8 (a) in subsection (j)(3), by adding before the period
9 at the end the following: “, which shall be subject to com-
10 petition on a periodic basis, as determined by the Sec-
11 retary”; and

12 (b) by striking subsection (k) and inserting the fol-
13 lowing:

14 “(k) FUNDING.—

15 “(1) INFORMATION TECHNOLOGY.—To carry
16 out subsection (j)(1), the Corporation may use, from
17 amounts made available from the insurance fund es-
18 tablished under section 516(c), not more than
19 \$15,000,000 for each of fiscal years 2008 through
20 2011.

21 “(2) DATA MINING.—To carry out subsection
22 (j)(2), the Corporation may use, from amounts made
23 available from the insurance fund established under
24 section 516(c), not more than \$4,000,000 for fiscal
25 year 2009 and each subsequent fiscal year.”.

1 **SEC. 12022. RESEARCH AND DEVELOPMENT.**

2 (a) IN GENERAL.—Section 522(b) of the Federal
3 Crop Insurance Act (7 U.S.C. 1522(b)) is amended by
4 striking paragraphs (1) and (2) and inserting the fol-
5 lowing:

6 “(1) RESEARCH AND DEVELOPMENT PAY-
7 MENT.—

8 “(A) IN GENERAL.—The Corporation shall
9 provide a payment to an applicant for research
10 and development costs in accordance with this
11 subsection.

12 “(B) REIMBURSEMENT.—An applicant
13 who submits a policy under section 508(h) shall
14 be eligible for the reimbursement of reasonable
15 research and development costs directly related
16 to the policy if the policy is approved by the
17 Board for sale to producers.

18 “(2) ADVANCE PAYMENTS.—

19 “(A) IN GENERAL.—Subject to the other
20 provisions of this paragraph, the Board may
21 approve the request of an applicant for advance
22 payment of a portion of reasonable research
23 and development costs prior to submission and
24 approval of the policy by the Board under sec-
25 tion 508(h).

1 “(B) PROCEDURES.—The Board shall es-
2 tablish procedures for approving advance pay-
3 ment of reasonable research and development
4 costs to applicants.

5 “(C) CONCEPT PROPOSAL.—As a condition
6 of eligibility for advance payments, an applicant
7 shall submit a concept proposal for the policy
8 that the applicant plans to submit to the Board
9 under section 508(h), consistent with proce-
10 dures established by the Board for submissions
11 under subparagraph (B), including—

12 “(i) a summary of the qualifications
13 of the applicant, including any prior con-
14 cept proposals and submissions to the
15 Board under section 508(h) and, if appli-
16 cable, any work conducted under this sec-
17 tion;

18 “(ii) a projection of total research and
19 development costs that the applicant ex-
20 pects to incur;

21 “(iii) a description of the need for the
22 policy, the marketability of and expected
23 demand for the policy among affected pro-
24 ducers, and the potential impact of the pol-

1 icy on producers and the crop insurance
2 delivery system;

3 “(iv) a summary of data sources avail-
4 able to demonstrate that the policy can
5 reasonably be developed and actuarially ap-
6 propriate rates established; and

7 “(v) an identification of the risks the
8 proposed policy will cover and an expla-
9 nation of how the identified risks are in-
10 surable under this title.

11 “(D) REVIEW.—

12 “(i) EXPERTS.—If the requirements
13 of subparagraph (B) and (C) are met, the
14 Board may submit a concept proposal de-
15 scribed in subparagraph (C) to not less
16 than 2 independent expert reviewers,
17 whose services are appropriate for the type
18 of concept proposal submitted, to assess
19 the likelihood that the proposed policy
20 being developed will result in a viable and
21 marketable policy, as determined by the
22 Board.

23 “(ii) TIMING.—The time frames de-
24 scribed in subparagraphs (C) and (D) of
25 section 508(h)(4) shall apply to the review

1 of concept proposals under this subpara-
2 graph.

3 “(E) APPROVAL.—The Board may approve
4 up to 50 percent of the projected total research
5 and development costs to be paid in advance to
6 an applicant, in accordance with the procedures
7 developed by the Board for the making of such
8 payments, if, after consideration of the reviewer
9 reports described in subparagraph (D) and such
10 other information as the Board determines ap-
11 propriate, the Board determines that—

12 “(i) the concept, in good faith, will
13 likely result in a viable and marketable pol-
14 icy consistent with section 508(h);

15 “(ii) in the sole opinion of the Board,
16 the concept, if developed into a policy and
17 approved by the Board, would provide crop
18 insurance coverage—

19 “(I) in a significantly improved
20 form;

21 “(II) to a crop or region not tra-
22 ditionally served by the Federal crop
23 insurance program; or

1 “(III) in a form that addresses a
2 recognized flaw or problem in the pro-
3 gram;

4 “(iii) the applicant agrees to provide
5 such reports as the Corporation determines
6 are necessary to monitor the development
7 effort;

8 “(iv) the proposed budget and time-
9 table are reasonable; and

10 “(v) the concept proposal meets any
11 other requirements that the Board deter-
12 mines appropriate.

13 “(F) SUBMISSION OF POLICY.—If the
14 Board approves an advanced payment under
15 subparagraph (E), the Board shall establish a
16 date by which the applicant shall present a sub-
17 mission in compliance with section 508(h) (in-
18 cluding the procedures implemented under that
19 section) to the Board for approval.

20 “(G) FINAL PAYMENT.—

21 “(i) APPROVED POLICIES.—If a policy
22 is submitted under subparagraph (F) and
23 approved by the Board under section
24 508(h) and the procedures established by
25 the Board (including procedures estab-

1 lished under subparagraph (B)), the appli-
2 cant shall be eligible for a payment of rea-
3 sonable research and development costs in
4 the same manner as policies reimbursed
5 under paragraph (1)(B), less any pay-
6 ments made pursuant to subparagraph
7 (E).

8 “(ii) POLICIES NOT APPROVED.—If a
9 policy is submitted under subparagraph
10 (F) and is not approved by the Board
11 under section 508(h), the Corporation
12 shall—

13 “(I) not seek a refund of any
14 payments made in accordance with
15 this paragraph; and

16 “(II) not make any further re-
17 search and development cost pay-
18 ments associated with the submission
19 of the policy under this paragraph.

20 “(H) POLICY NOT SUBMITTED.—If an ap-
21 plicant receives an advance payment and fails
22 to fulfill the obligation of the applicant to the
23 Board by not submitting a completed submis-
24 sion without just cause and in accordance with
25 the procedures established under subparagraph

1 (B)), including notice and reasonable oppor-
2 tunity to respond, as determined by the Board,
3 the applicant shall return to the Board the
4 amount of the advance plus interest.

5 “(I) REPEATED SUBMISSIONS.—The Board
6 may prohibit advance payments to applicants
7 who have submitted—

8 “(i) a concept proposal or submission
9 that did not result in a marketable prod-
10 uct; or

11 “(ii) a concept proposal or submission
12 of poor quality.

13 “(J) CONTINUED ELIGIBILITY.—A deter-
14 mination that an applicant is not eligible for
15 advance payments under this paragraph shall
16 not prevent an applicant from reimbursement
17 under paragraph (1)(B).”.

18 (b) CONFORMING AMENDMENTS.—Section 522(b) of
19 the Federal Crop Insurance Act (7 U.S.C. 1522(b)) is
20 amended—

21 (1) in paragraph (3), by striking “or (2)”; and

22 (2) in paragraph (4)(A), by striking “and
23 (2)”.

1 **SEC. 12023. CONTRACTS FOR ADDITIONAL POLICIES AND**
2 **STUDIES.**

3 Section 522(c) of the Federal Crop Insurance Act (7
4 U.S.C. 1522) is amended—

5 (1) by redesignating paragraph (10) as para-
6 graph (17); and

7 (2) by inserting after paragraph (9) the fol-
8 lowing:

9 “(10) CONTRACTS FOR ORGANIC PRODUCTION
10 COVERAGE IMPROVEMENTS.—

11 “(A) CONTRACTS REQUIRED.—Not later
12 than 180 days after the date of enactment of
13 the Food, Conservation, and Energy Act of
14 2008, the Corporation shall enter into 1 or
15 more contracts for the development of improve-
16 ments in Federal crop insurance policies cov-
17 ering crops produced in compliance with stand-
18 ards issued by the Department of Agriculture
19 under the national organic program established
20 under the Organic Foods Production Act of
21 1990 (7 U.S.C. 6501 et seq.).

22 “(B) REVIEW OF UNDERWRITING RISK
23 AND LOSS EXPERIENCE.—

24 “(i) REVIEW REQUIRED.—

25 “(I) IN GENERAL.—A contract
26 under subparagraph (A) shall include

1 a review of the underwriting, risk, and
2 loss experience of organic crops cov-
3 ered by the Corporation, as compared
4 with the same crops produced in the
5 same counties and during the same
6 crop years using nonorganic methods.

7 “(II) REQUIREMENTS.—The re-
8 view shall—

9 “(aa) to the maximum ex-
10 tent practicable, be designed to
11 allow the Corporation to deter-
12 mine whether significant, con-
13 sistent, or systemic variations in
14 loss history exist between organic
15 and nonorganic production;

16 “(bb) include the widest
17 available range of data collected
18 by the Secretary and other out-
19 side sources of information; and

20 “(cc) not be limited to loss
21 history under existing crop insur-
22 ance policies.

23 “(ii) EFFECT ON PREMIUM SUR-
24 CHARGE.—Unless the review under this
25 subparagraph documents the existence of

1 significant, consistent, and systemic vari-
2 ations in loss history between organic and
3 nonorganic crops, either collectively or on
4 an individual crop basis, the Corporation
5 shall eliminate or reduce the premium sur-
6 charge that the Corporation charges for
7 coverage for organic crops, as determined
8 in accordance with the results.

9 “(iii) ANNUAL UPDATES.—Beginning
10 with the 2009 crop year, the review under
11 this subparagraph shall be updated on an
12 annual basis as data is accumulated by the
13 Secretary and other sources, so that the
14 Corporation may make determinations re-
15 garding adjustments to the surcharge in a
16 timely manner as quickly as evolving prac-
17 tices and data trends allow.

18 “(C) ADDITIONAL PRICE ELECTION.—

19 “(i) IN GENERAL.—A contract under
20 subparagraph (A) shall include the devel-
21 opment of a procedure, including any asso-
22 ciated changes in policy terms or materials
23 required for implementation of the proce-
24 dure, to offer producers of organic crops
25 an additional price election that reflects ac-

1 tual prices received by organic producers
2 for crops from the field (including appro-
3 priate retail and wholesale prices), as es-
4 tablished using data collected and main-
5 tained by the Secretary or from other
6 sources.

7 “(ii) TIMING.—The development of
8 the procedure shall be completed in a time-
9 ly manner to allow the Corporation to
10 begin offering the additional price election
11 for organic crops with sufficient data for
12 the 2010 crop year.

13 “(iii) EXPANSION.—The procedure
14 shall be expanded as quickly as practicable
15 as additional data on prices of organic
16 crops collected by the Secretary and other
17 sources of information becomes available,
18 with a goal of applying this procedure to
19 all organic crops not later than the fifth
20 full crop year that begins after the date of
21 enactment of Food, Conservation, and En-
22 ergy Act of 2008.

23 “(D) REPORTING REQUIREMENTS.—

24 “(i) IN GENERAL.—The Corporation
25 shall submit to the Committee on Agri-

1 culture of the House of Representatives
2 and the Committee on Agriculture, Nutri-
3 tion, and Forestry of the Senate an annual
4 report on progress made in developing and
5 improving Federal crop insurance for or-
6 ganic crops, including—

7 “(I) the numbers and varieties of
8 organic crops insured;

9 “(II) the development of new in-
10 surance approaches; and

11 “(III) the progress of imple-
12 menting the initiatives required under
13 this paragraph, including the rate at
14 which additional price elections are
15 adopted for organic crops.

16 “(ii) RECOMMENDATIONS.—The re-
17 port shall include such recommendations
18 as the Corporation considers appropriate
19 to improve Federal crop insurance cov-
20 erage for organic crops.

21 “(11) ENERGY CROP INSURANCE POLICY.—

22 “(A) DEFINITION OF DEDICATED ENERGY
23 CROP.—In this subsection, the term ‘dedicated
24 energy crop’ means an annual or perennial crop
25 that—

1 “(i) is grown expressly for the purpose
2 of producing a feedstock for renewable
3 biofuel, renewable electricity, or biobased
4 products; and

5 “(ii) is not typically used for food,
6 feed, or fiber.

7 “(B) AUTHORITY.—The Corporation shall
8 offer to enter into 1 or more contracts with
9 qualified entities to carry out research and de-
10 velopment regarding a policy to insure dedi-
11 cated energy crops.

12 “(C) RESEARCH AND DEVELOPMENT.—Re-
13 search and development described in subpara-
14 graph (B) shall evaluate the effectiveness of
15 risk management tools for the production of
16 dedicated energy crops, including policies and
17 plans of insurance that—

18 “(i) are based on market prices and
19 yields;

20 “(ii) to the extent that insufficient
21 data exist to develop a policy based on
22 market prices and yields, evaluate the poli-
23 cies and plans of insurance based on the
24 use of weather or rainfall indices to protect
25 the interests of crop producers; and

1 “(iii) provide protection for production
2 or revenue losses, or both.

3 “(12) AQUACULTURE INSURANCE POLICY.—

4 “(A) DEFINITION OF AQUACULTURE.—In
5 this subsection:

6 “(i) IN GENERAL.—The term ‘aqua-
7 culture’ means the propagation and
8 rearing of aquatic species in controlled or
9 selected environments, including shellfish
10 cultivation on grants or leased bottom and
11 ocean ranching.

12 “(ii) EXCLUSION.—The term ‘aqua-
13 culture’ does not include the private ocean
14 ranching of Pacific salmon for profit in
15 any State in which private ocean ranching
16 of Pacific salmon is prohibited by any law
17 (including regulations).

18 “(B) AUTHORITY.—

19 “(i) IN GENERAL.—As soon as prac-
20 ticable after the date of enactment of the
21 Food, Conservation, and Energy Act of
22 2008, the Corporation shall offer to enter
23 into 3 or more contracts with qualified en-
24 tities to carry out research and develop-
25 ment regarding a policy to insure the pro-

1 duction of aquacultural species in aqua-
2 culture operations.

3 “(ii) BIVALVE SPECIES.—At least 1 of
4 the contracts described in clause (i) shall
5 address insurance of bivalve species, in-
6 cluding—

7 “(I) American oysters
8 (crassostrea virginica);

9 “(II) hard clams (mercenaria
10 mercenaria);

11 “(III) Pacific oysters (crassostrea
12 gigas);

13 “(IV) Manila clams (tapes
14 phillipinnarium); or

15 “(V) blue mussels (mytilus
16 edulis).

17 “(iii) FRESHWATER SPECIES.—At
18 least 1 of the contracts described in clause
19 (i) shall address insurance of freshwater
20 species, including—

21 “(I) catfish (icataluridae);

22 “(II) rainbow trout
23 (oncorhynchus mykiss);

24 “(III) largemouth bass
25 (micropterus salmoides);

1 “(IV) striped bass (*morone*
2 *saxatilis*);

3 “(V) bream (*abramis brama*);

4 “(VI) shrimp (*penaeus*); or

5 “(VII) tilapia (*oreochromis*
6 *niloticus*).

7 “(iv) SALTWATER SPECIES.—At least
8 1 of the contracts described in clause (i)
9 shall address insurance of saltwater spe-
10 cies, including—

11 “(I) Atlantic salmon (*salmo*
12 *salar*); or

13 “(II) shrimp (*penaeus*).

14 “(C) RESEARCH AND DEVELOPMENT.—Re-
15 search and development described in subpara-
16 graph (B) shall evaluate the effectiveness of
17 policies and plans of insurance for the produc-
18 tion of aquacultural species in aquaculture op-
19 erations, including policies and plans of insur-
20 ance that—

21 “(i) are based on market prices and
22 yields;

23 “(ii) to the extent that insufficient
24 data exist to develop a policy based on
25 market prices and yields, evaluate how best

1 to incorporate insuring of production of
2 aquacultural species in aquaculture oper-
3 ations into existing policies covering ad-
4 justed gross revenue; and

5 “(iii) provide protection for production
6 or revenue losses, or both.

7 “(13) POULTRY INSURANCE POLICY.—

8 “(A) DEFINITION OF POULTRY.—In this
9 paragraph, the term ‘poultry’ has the meaning
10 given the term in section 2(a) of the Packers
11 and Stockyards Act, 1921 (7 U.S.C. 182(a)).

12 “(B) AUTHORITY.—The Corporation shall
13 offer to enter into 1 or more contracts with
14 qualified entities to carry out research and de-
15 velopment regarding a policy to insure commer-
16 cial poultry production.

17 “(C) RESEARCH AND DEVELOPMENT.—Re-
18 search and development described in subpara-
19 graph (B) shall evaluate the effectiveness of
20 risk management tools for the production of
21 poultry, including policies and plans of insur-
22 ance that provide protection for production or
23 revenue losses, or both, while the poultry is in
24 production.

1 “(14) APIARY POLICIES.—The Corporation
2 shall offer to enter into a contract with a qualified
3 entity to carry out research and development regard-
4 ing insurance policies that cover loss of bees.

5 “(15) ADJUSTED GROSS REVENUE POLICIES
6 FOR BEGINNING PRODUCERS.—The Corporation
7 shall offer to enter into a contract with a qualified
8 entity to carry out research and development into
9 needed modifications of adjusted gross revenue in-
10 surance policies, consistent with principles of actu-
11 arial sufficiency, to permit coverage for beginning
12 producers with no previous production history, in-
13 cluding permitting those producers to have produc-
14 tion and premium rates based on information with
15 similar farming operations.

16 “(16) SKIPROW CROPPING PRACTICES.—

17 “(A) IN GENERAL.—The Corporation shall
18 offer to enter into a contract with a qualified
19 entity to carry out research into needed modi-
20 fications of policies to insure corn and sorghum
21 produced in the Central Great Plains (as deter-
22 mined by the Agricultural Research Service)
23 through use of skiprow cropping practices.

24 “(B) RESEARCH.—Research described in
25 subparagraph (A) shall—

1 “(i) review existing research on
2 skiprow cropping practices and actual pro-
3 duction history of producers using skiprow
4 cropping practices; and

5 “(ii) evaluate the effectiveness of risk
6 management tools for producers using
7 skiprow cropping practices, including—

8 “(I) the appropriateness of rules
9 in existence as of the date of enact-
10 ment of this paragraph relating to the
11 determination of acreage planted in
12 skiprow patterns; and

13 “(II) whether policies for crops
14 produced through skiprow cropping
15 practices reflect actual production ca-
16 pabilities.”.

17 **SEC. 12024. FUNDING FROM INSURANCE FUND.**

18 Section 522(e) of the Federal Crop Insurance Act (7
19 U.S.C. 1522(e)) is amended—

20 (1) in paragraph (1), by striking
21 “\$10,000,000” and all that follows through the end
22 of the paragraph and inserting “\$7,500,000 for fis-
23 cal year 2008 and each subsequent fiscal year”;

24 (2) in paragraph (2)(A), by striking
25 “\$20,000,000 for” and all that follows through

1 “year 2004” and inserting “\$12,500,000 for fiscal
2 year 2008”; and

3 (3) in paragraph (3), by striking “the Corpora-
4 tion may use” and all that follows through the end
5 of the paragraph and inserting “the Corporation
6 may use—

7 “(A) not more than \$5,000,000 for each
8 fiscal year to improve program integrity, includ-
9 ing by—

10 “(i) increasing compliance-related
11 training;

12 “(ii) improving analysis tools and
13 technology regarding compliance;

14 “(iii) use of information technology,
15 as determined by the Corporation; and

16 “(iv) identifying and using innovative
17 compliance strategies; and

18 “(B) any excess amounts to carry out
19 other activities authorized under this section.”.

20 **SEC. 12025. PILOT PROGRAMS.**

21 (a) IN GENERAL.—Section 523 of the Federal Crop
22 Insurance Act (7 U.S.C. 1523) is amended by adding at
23 the end the following:

24 “(f) CAMELINA PILOT PROGRAM.—

1 “(1) IN GENERAL.—The Corporation shall es-
2 tablish a pilot program under which producers or
3 processors of camelina may propose for approval by
4 the Board policies or plans of insurance for
5 camelina, in accordance with section 508(h).

6 “(2) DETERMINATION BY BOARD.—The Board
7 shall approve a policy or plan of insurance proposed
8 under paragraph (1) if, as determined by the Board,
9 the policy or plan of insurance—

10 “(A) protects the interests of producers;

11 “(B) is actuarially sound; and

12 “(C) meets the requirements of this title.

13 “(3) TIMEFRAME.—The Corporation shall com-
14 mence the camelina insurance pilot program as soon
15 as practicable after the date of enactment of this
16 subsection.

17 “(g) SESAME INSURANCE PILOT PROGRAM.—

18 “(1) IN GENERAL.—In addition to any other
19 authority of the Corporation, the Corporation shall
20 establish and carry out a pilot program under which
21 a producer of nondehiscent sesame under contract
22 may elect to obtain multiperil crop insurance, as de-
23 termined by the Corporation.

1 “(2) TERMS AND CONDITIONS.—The multiperil
2 crop insurance offered under the sesame insurance
3 pilot program shall—

4 “(A) be offered through reinsurance ar-
5 rangements with private insurance companies;

6 “(B) be actuarially sound; and

7 “(C) require the payment of premiums and
8 administrative fees by a producer obtaining the
9 insurance.

10 “(3) LOCATION.—The sesame insurance pilot
11 program shall be carried out only in the State of
12 Texas.

13 “(4) DURATION.—The Corporation shall com-
14 mence the sesame insurance pilot program as soon
15 as practicable after the date of the enactment of this
16 subsection.

17 “(h) GRASS SEED INSURANCE PILOT PROGRAM.—

18 “(1) IN GENERAL.—In addition to any other
19 authority of the Corporation, the Corporation shall
20 establish and carry out a grass seed pilot program
21 under which a producer of Kentucky bluegrass or
22 perennial rye grass under contract may elect to ob-
23 tain multiperil crop insurance, as determined by the
24 Corporation.

1 “(2) TERMS AND CONDITIONS.—The multiperil
2 crop insurance offered under the grass seed insur-
3 ance pilot program shall—

4 “(A) be offered through reinsurance ar-
5 rangements with private insurance companies;

6 “(B) be actuarially sound; and

7 “(C) require the payment of premiums and
8 administrative fees by a producer obtaining the
9 insurance.

10 “(3) LOCATION.—The grass seed insurance
11 pilot program shall be carried out only in each of the
12 States of Minnesota and North Dakota.

13 “(4) DURATION.—The Corporation shall com-
14 mence the grass seed insurance pilot program as
15 soon as practicable after the date of the enactment
16 of this subsection.”.

17 (b) CONFORMING AMENDMENT.—Section
18 196(a)(2)(B) of the Federal Agriculture Improvement and
19 Reform Act of 1996 (7 U.S.C. 7333(a)(2)(B)) is amended
20 by adding “camelina,” after “sea oats,”.

21 **SEC. 12026. RISK MANAGEMENT EDUCATION FOR BEGIN-**
22 **NING FARMERS OR RANCHERS.**

23 Section 524(a) of the Federal Crop Insurance Act (7
24 U.S.C. 1524(a)) is amended—

1 (1) in paragraph (1), by striking “paragraph
2 (4)” and inserting “paragraph (5)”;

3 (2) by redesignating paragraph (4) as para-
4 graph (5); and

5 (3) by inserting after paragraph (3) the fol-
6 lowing:

7 “(4) REQUIREMENTS.—In carrying out the pro-
8 grams established under paragraphs (2) and (3), the
9 Secretary shall place special emphasis on risk man-
10 agement strategies, education, and outreach specifi-
11 cally targeted at—

12 “(A) beginning farmers or ranchers;

13 “(B) legal immigrant farmers or ranchers
14 that are attempting to become established pro-
15 ducers in the United States;

16 “(C) socially disadvantaged farmers or
17 ranchers;

18 “(D) farmers or ranchers that—

19 “(i) are preparing to retire; and

20 “(ii) are using transition strategies to
21 help new farmers or ranchers get started;
22 and

23 “(E) new or established farmers or ranch-
24 ers that are converting production and mar-
25 keting systems to pursue new markets.”.

1 **SEC. 12027. COVERAGE FOR AQUACULTURE UNDER NON-**
2 **INSURED CROP ASSISTANCE PROGRAM.**

3 Section 196(c)(2) of the Federal Agriculture Im-
4 provement and Reform Act of 1996 (7 U.S.C. 7333(c)(2))
5 is amended—

6 (1) by striking “On making” and inserting the
7 following:

8 “(A) IN GENERAL.—On making”; and

9 (2) by adding at the end the following:

10 “(B) AQUACULTURE PRODUCERS.—On
11 making a determination described in subsection
12 (a)(3) for aquaculture producers, the Secretary
13 shall provide assistance under this section to
14 aquaculture producers from all losses related to
15 drought.”.

16 **SEC. 12028. INCREASE IN SERVICE FEES FOR NONINSURED**
17 **CROP ASSISTANCE PROGRAM.**

18 Section 196(k)(1) of the Federal Agriculture Im-
19 provement and Reform Act of 1996 (7 U.S.C. 7333(k)(1))
20 is amended—

21 (1) in subparagraph (A), by striking “\$100”
22 and inserting “\$250”; and

23 (2) in subparagraph (B)—

24 (A) by striking “\$300” and inserting
25 “\$750”; and

1 (B) by striking “\$900” and inserting
2 “\$1,875”.

3 **SEC. 12029. DETERMINATION OF CERTAIN SWEET POTATO**
4 **PRODUCTION.**

5 Section 9001(d) of the U.S. Troop Readiness, Vet-
6 erans’ Care, Katrina Recovery, and Iraq Accountability
7 Appropriations Act, 2007 (Public Law 110–28; 121 Stat.
8 211) is amended—

9 (1) by redesignating paragraph (8) as para-
10 graph (9); and

11 (2) by inserting after paragraph (7) the fol-
12 lowing:

13 “(8) SWEET POTATOES.—

14 “(A) DATA.—In the case of sweet pota-
15 toes, any data obtained under a pilot program
16 carried out by the Risk Management Agency
17 shall not be considered for the purpose of deter-
18 mining the quantity of production under the
19 crop disaster assistance program established
20 under this section.

21 “(B) EXTENSION OF DEADLINE.—If this
22 paragraph is not implemented before the sign-
23 up deadline for the crop disaster assistance pro-
24 gram established under this section, the Sec-
25 retary shall extend the deadline for producers of

1 sweet potatoes to permit sign-up for the pro-
2 gram in accordance with this paragraph.”.

3 **SEC. 12030. DECLINING YIELD REPORT.**

4 Not later than 180 days after the date of enactment
5 of this Act, the Secretary shall submit to the Committee
6 on Agriculture of the House of Representatives and the
7 Committee on Agriculture, Nutrition, and Forestry of the
8 Senate a report containing details about activities and ad-
9 ministrative options of the Federal Crop Insurance Cor-
10 poration and Risk Management Agency that address
11 issues relating to—

12 (1) declining yields on the actual production
13 histories of producers; and

14 (2) declining and variable yields for perennial
15 crops, including pecans.

16 **SEC. 12031. DEFINITION OF BASIC UNIT.**

17 The Secretary shall not modify the definition of
18 “basic unit” in accordance with the proposed regulations
19 entitled “Common Crop Insurance Regulations” (72 Fed.
20 Reg. 28895; relating to common crop insurance regula-
21 tions) or any successor regulation.

22 **SEC. 12032. CROP INSURANCE MEDIATION.**

23 Section 275 of the Department of Agriculture Reor-
24 ganization Act of 1994 (7 U.S.C. 6995) is amended—

1 (1) by striking “If an officer” and inserting the
2 following:

3 “(a) IN GENERAL.—If an officer”;

4 (2) by striking “With respect to” and inserting
5 the following:

6 “(b) FARM SERVICE AGENCY.—With respect to”;

7 (3) by striking “If a mediation”; and inserting
8 the following:

9 “(c) MEDIATION.—If a mediation”; and

10 (4) in subsection (c) (as so designated)—

11 (A) by striking “participant shall be of-
12 fered” and inserting “participant shall—

13 “(1) be offered”; and

14 (B) by striking the period at the end and
15 inserting the following: “; and

16 “(2) to the maximum extent practicable, be al-
17 lowed to use both informal agency review and medi-
18 ation to resolve disputes under that title.”.

19 **SEC. 12033. SUPPLEMENTAL AGRICULTURAL DISASTER AS-**
20 **SISTANCE.**

21 (a) IN GENERAL.—The Federal Crop Insurance Act
22 (7 U.S.C. 1501 et seq.) is amended by adding at the end
23 the following:

1 **“Subtitle B—Supplemental**
2 **Agricultural Disaster Assistance**

3 **“SEC. 531. SUPPLEMENTAL AGRICULTURAL DISASTER AS-**
4 **SISTANCE.**

5 “(a) DEFINITIONS.—In this section:

6 “(1) ACTUAL PRODUCTION HISTORY YIELD.—

7 The term ‘actual production history yield’ means the
8 weighted average of the actual production history for
9 each insurable commodity or noninsurable com-
10 modity, as calculated under subtitle A or the non-
11 insured crop disaster assistance program, respec-
12 tively.

13 “(2) ADJUSTED ACTUAL PRODUCTION HISTORY
14 YIELD.—The term ‘adjusted actual production his-
15 tory yield’ means—

16 “(A) in the case of an eligible producer on
17 a farm that has at least 4 years of actual pro-
18 duction history yields for an insurable com-
19 modity that are established other than pursuant
20 to section 508(g)(4)(B), the actual production
21 history for the eligible producer without regard
22 to any yields established under that section;

23 “(B) in the case of an eligible producer on
24 a farm that has less than 4 years of actual pro-
25 duction history yields for an insurable com-

1 modity, of which 1 or more were established
2 pursuant to section 508(g)(4)(B), the actual
3 production history for the eligible producer as
4 calculated without including the lowest of the
5 yields established pursuant to section
6 508(g)(4)(B); and

7 “(C) in all other cases, the actual produc-
8 tion history of the eligible producer on a farm.

9 “(3) ADJUSTED NONINSURED CROP DISASTER
10 ASSISTANCE PROGRAM YIELD.—The term ‘adjusted
11 noninsured crop disaster assistance program yield’
12 means—

13 “(A) in the case of an eligible producer on
14 a farm that has at least 4 years of production
15 history under the noninsured crop disaster as-
16 sistance program that are not replacement
17 yields, the noninsured crop disaster assistance
18 program yield without regard to any replace-
19 ment yields;

20 “(B) in the case of an eligible producer on
21 a farm that less than 4 years of production his-
22 tory under the noninsured crop disaster assist-
23 ance program that are not replacement yields,
24 the noninsured crop disaster assistance pro-

1 gram yield as calculated without including the
2 lowest of the replacement yields; and

3 “(C) in all other cases, the production his-
4 tory of the eligible producer on the farm under
5 the noninsured crop disaster assistance pro-
6 gram.

7 “(4) COUNTER-CYCLICAL PROGRAM PAYMENT
8 YIELD.—The term ‘counter-cyclical program pay-
9 ment yield’ means the weighted average payment
10 yield established under section 1102 of the Farm Se-
11 curity and Rural Investment Act of 2002 (7 U.S.C.
12 7912), section 1102 of the Food, Conservation, and
13 Energy Act of 2008, or a successor section.

14 “(5) DISASTER COUNTY.—

15 “(A) IN GENERAL.—The term ‘disaster
16 county’ means a county included in the geo-
17 graphic area covered by a qualifying natural
18 disaster declaration.

19 “(B) INCLUSION.—The term ‘disaster
20 county’ includes—

21 “(i) a county contiguous to a county
22 described in subparagraph (A); and

23 “(ii) any farm in which, during a cal-
24 endar year, the total loss of production of
25 the farm relating to weather is greater

1 than 50 percent of the normal production
2 of the farm, as determined by the Sec-
3 retary.

4 “(6) ELIGIBLE PRODUCER ON A FARM.—

5 “(A) IN GENERAL.—The term ‘eligible pro-
6 ducer on a farm’ means an individual or entity
7 described in subparagraph (B) that, as deter-
8 mined by the Secretary, assumes the production
9 and market risks associated with the agricul-
10 tural production of crops or livestock.

11 “(B) DESCRIPTION.—An individual or en-
12 tity referred to in subparagraph (A) is—

13 “(i) a citizen of the United States;

14 “(ii) a resident alien;

15 “(iii) a partnership of citizens of the
16 United States; or

17 “(iv) a corporation, limited liability
18 corporation, or other farm organizational
19 structure organized under State law.

20 “(7) FARM.—

21 “(A) IN GENERAL.—The term ‘farm’
22 means, in relation to an eligible producer on a
23 farm, the sum of all crop acreage in all counties
24 that is planted or intended to be planted for
25 harvest by the eligible producer.

1 “(B) AQUACULTURE.—In the case of
2 aquaculture, the term ‘farm’ means, in relation
3 to an eligible producer on a farm, all fish being
4 produced in all counties that are intended to be
5 harvested for sale by the eligible producer.

6 “(C) HONEY.—In the case of honey, the
7 term ‘farm’ means, in relation to an eligible
8 producer on a farm, all bees and beehives in all
9 counties that are intended to be harvested for
10 a honey crop by the eligible producer.

11 “(8) FARM-RAISED FISH.—The term ‘farm-
12 raised fish’ means any aquatic species that is propa-
13 gated and reared in a controlled environment.

14 “(9) INSURABLE COMMODITY.—The term ‘in-
15 surable commodity’ means an agricultural com-
16 modity (excluding livestock) for which the producer
17 on a farm is eligible to obtain a policy or plan of in-
18 surance under subtitle A.

19 “(10) LIVESTOCK.—The term ‘livestock’ in-
20 cludes—

21 “(A) cattle (including dairy cattle);

22 “(B) bison;

23 “(C) poultry;

24 “(D) sheep;

25 “(E) swine;

1 “(F) horses; and

2 “(G) other livestock, as determined by the
3 Secretary.

4 “(11) NONINSURABLE COMMODITY.—The term
5 ‘noninsurable commodity’ means a crop for which
6 the eligible producers on a farm are eligible to ob-
7 tain assistance under the noninsured crop assistance
8 program.

9 “(12) NONINSURED CROP ASSISTANCE PRO-
10 GRAM.—The term ‘noninsured crop assistance pro-
11 gram’ means the program carried out under section
12 196 of the Federal Agriculture Improvement and
13 Reform Act of 1996 (7 U.S.C. 7333).

14 “(13) QUALIFYING NATURAL DISASTER DEC-
15 LARATION.—The term ‘qualifying natural disaster
16 declaration’ means a natural disaster declared by the
17 Secretary for production losses under section 321(a)
18 of the Consolidated Farm and Rural Development
19 Act (7 U.S.C. 1961(a)).

20 “(14) SECRETARY.—The term ‘Secretary’
21 means the Secretary of Agriculture.

22 “(15) SOCIALLY DISADVANTAGED FARMER OR
23 RANCHER.—The term ‘socially disadvantaged farmer
24 or rancher’ has the meaning given the term in sec-

1 tion 2501(e) of the Food, Agriculture, Conservation,
2 and Trade Act of 1990 (7 U.S.C. 2279(e)).

3 “(16) STATE.—The term ‘State’ means—

4 “(A) a State;

5 “(B) the District of Columbia;

6 “(C) the Commonwealth of Puerto Rico;

7 and

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

10 “(17) TRUST FUND.—The term ‘Trust Fund’
11 means the Agricultural Disaster Relief Trust Fund
12 established under section 902 of the Trade Act of
13 1974.

14 “(18) UNITED STATES.—The term ‘United
15 States’ when used in a geographical sense, means all
16 of the States.

17 “(b) SUPPLEMENTAL REVENUE ASSISTANCE PAY-
18 MENTS.—

19 “(1) IN GENERAL.—The Secretary shall use
20 such sums as are necessary from the Trust Fund to
21 make crop disaster assistance payments to eligible
22 producers on farms in disaster counties that have in-
23 curred crop production losses or crop quality losses,
24 or both, during the crop year.

25 “(2) AMOUNT.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), the Secretary shall provide crop dis-
3 aster assistance payments under this section to
4 an eligible producer on a farm in an amount
5 equal to 60 percent of the difference between—

6 “(i) the disaster assistance program
7 guarantee, as described in paragraph (3);
8 and

9 “(ii) the total farm revenue for a
10 farm, as described in paragraph (4).

11 “(B) LIMITATION.—The disaster assist-
12 ance program guarantee for a crop used to cal-
13 culate the payments for a farm under subpara-
14 graph (A)(i) may not be greater than 90 per-
15 cent of the sum of the expected revenue, as de-
16 scribed in paragraph (5) for each of the crops
17 on a farm, as determined by the Secretary.

18 “(3) SUPPLEMENTAL REVENUE ASSISTANCE
19 PROGRAM GUARANTEE.—

20 “(A) IN GENERAL.—Except as otherwise
21 provided in this paragraph, the supplemental
22 assistance program guarantee shall be the sum
23 obtained by adding—

1 “(i) for each insurable commodity on
2 the farm, 115 percent of the product ob-
3 tained by multiplying—

4 “(I) a payment rate for the com-
5 modity that is equal to the price elec-
6 tion for the commodity elected by the
7 eligible producer;

8 “(II) the payment acres for the
9 commodity that is equal to the num-
10 ber of acres planted, or prevented
11 from being planted, to the commodity;

12 “(III) the payment yield for the
13 commodity that is equal to the per-
14 centage of the crop insurance yield
15 elected by the producer of the higher
16 of—

17 “(aa) the adjusted actual
18 production history yield; or

19 “(bb) the counter-cyclical
20 program payment yield for each
21 crop; and

22 “(ii) for each noninsurable commodity
23 on a farm, 120 percent of the product ob-
24 tained by multiplying—

1 “(I) a payment rate for the com-
2 modity that is equal to 100 percent of
3 the noninsured crop assistance pro-
4 gram established price for the com-
5 modity;

6 “(II) the payment acres for the
7 commodity that is equal to the num-
8 ber of acres planted, or prevented
9 from being planted, to the commodity;
10 and

11 “(III) the payment yield for the
12 commodity that is equal to the higher
13 of—

14 “(aa) the adjusted non-
15 insured crop assistance program
16 yield guarantee; or

17 “(bb) the counter-cyclical
18 program payment yield for each
19 crop.

20 “(B) ADJUSTMENT INSURANCE GUAR-
21 ANTEE.—Notwithstanding subparagraph (A), in
22 the case of an insurable commodity for which a
23 plan of insurance provides for an adjustment in
24 the guarantee, such as in the case of prevented
25 planting, the adjusted insurance guarantee shall

1 be the basis for determining the disaster assist-
2 ance program guarantee for the insurable com-
3 modity.

4 “(C) ADJUSTED ASSISTANCE LEVEL.—
5 Notwithstanding subparagraph (A), in the case
6 of a noninsurable commodity for which the non-
7 insured crop assistance program provides for an
8 adjustment in the level of assistance, such as in
9 the case of unharvested crops, the adjusted as-
10 sistance level shall be the basis for determining
11 the disaster assistance program guarantee for
12 the noninsurable commodity.

13 “(D) EQUITABLE TREATMENT FOR NON-
14 YIELD BASED POLICIES.—The Secretary shall
15 establish equitable treatment for non-yield
16 based policies and plans of insurance, such as
17 the Adjusted Gross Revenue Lite insurance pro-
18 gram.

19 “(4) FARM REVENUE.—

20 “(A) IN GENERAL.—For purposes of this
21 subsection, the total farm revenue for a farm,
22 shall equal the sum obtained by adding—

23 “(i) the estimated actual value for
24 each crop produced on a farm by using the
25 product obtained by multiplying—

1 “(I) the actual crop acreage har-
2 vested by an eligible producer on a
3 farm;

4 “(II) the estimated actual yield
5 of the crop production; and

6 “(III) subject to subparagraphs
7 (B) and (C), to the extent practicable,
8 the national average market price re-
9 ceived for the marketing year, as de-
10 termined by the Secretary;

11 “(ii) 15 percent of amount of any di-
12 rect payments made to the producer under
13 sections 1103 and 1303 of the Food, Con-
14 servation, and Energy Act of 2008 or suc-
15 cessor sections;

16 “(iii) the total amount of any counter-
17 cyclical payments made to the producer
18 under sections 1104 and 1304 of the Food,
19 Conservation, and Energy Act of 2008 or
20 successor sections or of any average crop
21 revenue election payments made to the
22 producer under section 1105 of that Act;

23 “(iv) the total amount of any loan de-
24 ficiency payments, marketing loan gains,
25 and marketing certificate gains made to

1 the producer under subtitles B and C of
2 the Food, Conservation, and Energy Act of
3 2008 or successor subtitles;

4 “(v) the amount of payments for pre-
5 vented planting on a farm;

6 “(vi) the amount of crop insurance in-
7 demnities received by an eligible producer
8 on a farm for each crop on a farm;

9 “(vii) the amount of payments an eli-
10 gible producer on a farm received under
11 the noninsured crop assistance program for
12 each crop on a farm; and

13 “(viii) the value of any other natural
14 disaster assistance payments provided by
15 the Federal Government to an eligible pro-
16 ducer on a farm for each crop on a farm
17 for the same loss for which the eligible pro-
18 ducer is seeking assistance.

19 “(B) ADJUSTMENT.—The Secretary shall
20 adjust the average market price received by the
21 eligible producer on a farm—

22 “(i) to reflect the average quality dis-
23 counts applied to the local or regional mar-
24 ket price of a crop or mechanically har-
25 vested forage due to a reduction in the in-

1 intrinsic characteristics of the production re-
2 sulting from adverse weather, as deter-
3 mined annually by the State office of the
4 Farm Service Agency; and

5 “(ii) to account for a crop the value of
6 which is reduced due to excess moisture re-
7 sulting from a disaster-related condition.

8 “(C) MAXIMUM AMOUNT FOR CERTAIN
9 CROPS.—With respect to a crop for which an el-
10 igible producer on a farm receives assistance
11 under the noninsured crop assistance program,
12 the national average market price received dur-
13 ing the marketing year shall be an amount not
14 more than 100 percent of the price of the crop
15 established under the noninsured crop assist-
16 ance program.

17 “(5) EXPECTED REVENUE.—The expected rev-
18 enue for each crop on a farm shall equal the sum
19 obtained by adding—

20 “(A) the product obtained by multi-
21 plying—

22 “(i) the greatest of—

23 “(I) the adjusted actual produc-
24 tion history yield of the eligible pro-
25 ducer on a farm; and

1 “(II) the counter-cyclical pro-
2 gram payment yield;

3 “(ii) the acreage planted or prevented
4 from being planted for each crop; and

5 “(iii) 100 percent of the insurance
6 price guarantee; and

7 “(B) the product obtained by multi-
8 plying—

9 “(i) 100 percent of the adjusted non-
10 insured crop assistance program yield; and

11 “(ii) 100 percent of the noninsured
12 crop assistance program price for each of
13 the crops on a farm.

14 “(c) LIVESTOCK INDEMNITY PAYMENTS.—

15 “(1) PAYMENTS.—The Secretary shall use such
16 sums as are necessary from the Trust Fund to make
17 livestock indemnity payments to eligible producers
18 on farms that have incurred livestock death losses in
19 excess of the normal mortality due to adverse weath-
20 er, as determined by the Secretary, during the cal-
21 endar year, including losses due to hurricanes,
22 floods, blizzards, disease, wildfires, extreme heat,
23 and extreme cold.

24 “(2) PAYMENT RATES.—Indemnity payments to
25 an eligible producer on a farm under paragraph (1)

1 shall be made at a rate of 75 percent of the market
2 value of the applicable livestock on the day before
3 the date of death of the livestock, as determined by
4 the Secretary.

5 “(d) LIVESTOCK FORAGE DISASTER PROGRAM.—

6 “(1) DEFINITIONS.—In this subsection:

7 “(A) COVERED LIVESTOCK.—

8 “(i) IN GENERAL.—Except as pro-
9 vided in clause (ii), the term ‘covered live-
10 stock’ means livestock of an eligible live-
11 stock producer that, during the 60 days
12 prior to the beginning date of a qualifying
13 drought or fire condition, as determined by
14 the Secretary, the eligible livestock pro-
15 ducer—

16 “(I) owned;

17 “(II) leased;

18 “(III) purchased;

19 “(IV) entered into a contract to
20 purchase;

21 “(V) is a contract grower; or

22 “(VI) sold or otherwise disposed
23 of due to qualifying drought condi-
24 tions during—

1 “(aa) the current production
2 year; or

3 “(bb) subject to paragraph
4 (3)(B)(ii), 1 or both of the 2 pro-
5 duction years immediately pre-
6 ceding the current production
7 year.

8 “(ii) EXCLUSION.—The term ‘covered
9 livestock’ does not include livestock that
10 were or would have been in a feedlot, on
11 the beginning date of the qualifying
12 drought or fire condition, as a part of the
13 normal business operation of the eligible
14 livestock producer, as determined by the
15 Secretary.

16 “(B) DROUGHT MONITOR.—The term
17 ‘drought monitor’ means a system for
18 classifying drought severity according to a
19 range of abnormally dry to exceptional drought,
20 as defined by the Secretary.

21 “(C) ELIGIBLE LIVESTOCK PRODUCER.—

22 “(i) IN GENERAL.—The term ‘eligible
23 livestock producer’ means an eligible pro-
24 ducer on a farm that—

1 “(I) is an owner, cash or share
2 lessee, or contract grower of covered
3 livestock that provides the pastureland
4 or grazing land, including cash-leased
5 pastureland or grazing land, for the
6 livestock;

7 “(II) provides the pastureland or
8 grazing land for covered livestock, in-
9 cluding cash-leased pastureland or
10 grazing land that is physically located
11 in a county affected by drought;

12 “(III) certifies grazing loss; and

13 “(IV) meets all other eligibility
14 requirements established under this
15 subsection.

16 “(ii) EXCLUSION.—The term ‘eligible
17 livestock producer’ does not include an
18 owner, cash or share lessee, or contract
19 grower of livestock that rents or leases
20 pastureland or grazing land owned by an-
21 other person on a rate-of-gain basis.

22 “(D) NORMAL CARRYING CAPACITY.—The
23 term ‘normal carrying capacity’, with respect to
24 each type of grazing land or pastureland in a
25 county, means the normal carrying capacity, as

1 determined under paragraph (3)(D)(i), that
2 would be expected from the grazing land or
3 pastureland for livestock during the normal
4 grazing period, in the absence of a drought or
5 fire that diminishes the production of the graz-
6 ing land or pastureland.

7 “(E) NORMAL GRAZING PERIOD.—The
8 term ‘normal grazing period’, with respect to a
9 county, means the normal grazing period during
10 the calendar year for the county, as determined
11 under paragraph (3)(D)(i).

12 “(2) PROGRAM.—The Secretary shall use such
13 sums as are necessary from the Trust Fund to pro-
14 vide compensation for losses to eligible livestock pro-
15 ducers due to grazing losses for covered livestock
16 due to—

17 “(A) a drought condition, as described in
18 paragraph (3); or

19 “(B) fire, as described in paragraph (4).

20 “(3) ASSISTANCE FOR LOSSES DUE TO
21 DROUGHT CONDITIONS.—

22 “(A) ELIGIBLE LOSSES.—

23 “(i) IN GENERAL.—An eligible live-
24 stock producer may receive assistance
25 under this subsection only for grazing

1 losses for covered livestock that occur on
2 land that—

3 “(I) is native or improved
4 pastureland with permanent vegeta-
5 tive cover; or

6 “(II) is planted to a crop planted
7 specifically for the purpose of pro-
8 viding grazing for covered livestock.

9 “(ii) EXCLUSIONS.—An eligible live-
10 stock producer may not receive assistance
11 under this subsection for grazing losses
12 that occur on land used for haying or graz-
13 ing under the conservation reserve pro-
14 gram established under subchapter B of
15 chapter 1 of subtitle D of title XII of the
16 Food Security Act of 1985 (16 U.S.C.
17 3831 et seq.).

18 “(B) MONTHLY PAYMENT RATE.—

19 “(i) IN GENERAL.—Except as pro-
20 vided in clause (ii), the payment rate for
21 assistance under this paragraph for 1
22 month shall, in the case of drought, be
23 equal to 60 percent of the lesser of—

24 “(I) the monthly feed cost for all
25 covered livestock owned or leased by

1 the eligible livestock producer, as de-
2 termined under subparagraph (C); or

3 “(II) the monthly feed cost cal-
4 culated by using the normal carrying
5 capacity of the eligible grazing land of
6 the eligible livestock producer.

7 “(ii) PARTIAL COMPENSATION.—In
8 the case of an eligible livestock producer
9 that sold or otherwise disposed of covered
10 livestock due to drought conditions in 1 or
11 both of the 2 production years immediately
12 preceding the current production year, as
13 determined by the Secretary, the payment
14 rate shall be 80 percent of the payment
15 rate otherwise calculated in accordance
16 with clause (i).

17 “(C) MONTHLY FEED COST.—

18 “(i) IN GENERAL.—The monthly feed
19 cost shall equal the product obtained by
20 multiplying—

21 “(I) 30 days;

22 “(II) a payment quantity that is
23 equal to the feed grain equivalent, as
24 determined under clause (ii); and

1 “(III) a payment rate that is
2 equal to the corn price per pound, as
3 determined under clause (iii).

4 “(ii) FEED GRAIN EQUIVALENT.—For
5 purposes of clause (i)(I), the feed grain
6 equivalent shall equal—

7 “(I) in the case of an adult beef
8 cow, 15.7 pounds of corn per day; or

9 “(II) in the case of any other
10 type of weight of livestock, an amount
11 determined by the Secretary that rep-
12 resents the average number of pounds
13 of corn per day necessary to feed the
14 livestock.

15 “(iii) CORN PRICE PER POUND.—For
16 purposes of clause (i)(II), the corn price
17 per pound shall equal the quotient ob-
18 tained by dividing—

19 “(I) the higher of—

20 “(aa) the national average
21 corn price per bushel for the 12-
22 month period immediately pre-
23 ceding March 1 of the year for
24 which the disaster assistance is
25 calculated; or

1 “(bb) the national average
2 corn price per bushel for the 24-
3 month period immediately pre-
4 ceding that March 1; by

5 “(II) 56.

6 “(D) NORMAL GRAZING PERIOD AND
7 DROUGHT MONITOR INTENSITY.—

8 “(i) FSA COUNTY COMMITTEE DE-
9 TERMINATIONS.—

10 “(I) IN GENERAL.—The Sec-
11 retary shall determine the normal car-
12 rying capacity and normal grazing pe-
13 riod for each type of grazing land or
14 pastureland in the county served by
15 the applicable committee.

16 “(II) CHANGES.—No change to
17 the normal carrying capacity or nor-
18 mal grazing period established for a
19 county under subclause (I) shall be
20 made unless the change is requested
21 by the appropriate State and county
22 Farm Service Agency committees.

23 “(ii) DROUGHT INTENSITY.—

24 “(I) D2.—An eligible livestock
25 producer that owns or leases grazing

1 land or pastureland that is physically
2 located in a county that is rated by
3 the U.S. Drought Monitor as having a
4 D2 (severe drought) intensity in any
5 area of the county for at least 8 con-
6 secutive weeks during the normal
7 grazing period for the county, as de-
8 termined by the Secretary, shall be el-
9 ible to receive assistance under this
10 paragraph in an amount equal to 1
11 monthly payment using the monthly
12 payment rate determined under sub-
13 paragraph (B).

14 “(II) D3.—An eligible livestock
15 producer that owns or leases grazing
16 land or pastureland that is physically
17 located in a county that is rated by
18 the U.S. Drought Monitor as having
19 at least a D3 (extreme drought) in-
20 tensity in any area of the county at
21 any time during the normal grazing
22 period for the county, as determined
23 by the Secretary, shall be eligible to
24 receive assistance under this para-
25 graph—

1 “(aa) in an amount equal to
2 2 monthly payments using the
3 monthly payment rate deter-
4 mined under subparagraph (B);
5 or

6 “(bb) if the county is rated
7 as having a D3 (extreme
8 drought) intensity in any area of
9 the county for at least 4 weeks
10 during the normal grazing period
11 for the county, or is rated as
12 having a D4 (exceptional
13 drought) intensity in any area of
14 the county at any time during
15 the normal grazing period, in an
16 amount equal to 3 monthly pay-
17 ments using the monthly pay-
18 ment rate determined under sub-
19 paragraph (B).

20 “(4) ASSISTANCE FOR LOSSES DUE TO FIRE ON
21 PUBLIC MANAGED LAND.—

22 “(A) IN GENERAL.—An eligible livestock
23 producer may receive assistance under this
24 paragraph only if—

1 “(i) the grazing losses occur on range-
2 land that is managed by a Federal agency;
3 and

4 “(ii) the eligible livestock producer is
5 prohibited by the Federal agency from
6 grazing the normal permitted livestock on
7 the managed rangeland due to a fire.

8 “(B) PAYMENT RATE.—The payment rate
9 for assistance under this paragraph shall be
10 equal to 50 percent of the monthly feed cost for
11 the total number of livestock covered by the
12 Federal lease of the eligible livestock producer,
13 as determined under paragraph (3)(C).

14 “(C) PAYMENT DURATION.—

15 “(i) IN GENERAL.—Subject to clause
16 (ii), an eligible livestock producer shall be
17 eligible to receive assistance under this
18 paragraph for the period—

19 “(I) beginning on the date on
20 which the Federal agency excludes the
21 eligible livestock producer from using
22 the managed rangeland for grazing;
23 and

1 “(II) ending on the last day of
2 the Federal lease of the eligible live-
3 stock producer.

4 “(ii) LIMITATION.—An eligible live-
5 stock producer may only receive assistance
6 under this paragraph for losses that occur
7 on not more than 180 days per year.

8 “(5) MINIMUM RISK MANAGEMENT PURCHASE
9 REQUIREMENTS.—

10 “(A) IN GENERAL.—Except as otherwise
11 provided in this paragraph, a livestock producer
12 shall only be eligible for assistance under this
13 subsection if the livestock producer—

14 “(i) obtained a policy or plan of insur-
15 ance under subtitle A for the grazing land
16 incurring the losses for which assistance is
17 being requested; or

18 “(ii) filed the required paperwork, and
19 paid the administrative fee by the applica-
20 ble State filing deadline, for the non-
21 insured crop assistance program for the
22 grazing land incurring the losses for which
23 assistance is being requested.

24 “(B) WAIVER FOR SOCIALLY DISADVAN-
25 TAGED, LIMITED RESOURCE, OR BEGINNING

1 FARMER OR RANCHER.—In the case of an eligi-
2 ble livestock producer that is a socially dis-
3 advantaged farmer or rancher or limited re-
4 source or beginning farmer or rancher, as de-
5 termined by the Secretary, the Secretary may—

6 “(i) waive subparagraph (A); and

7 “(ii) provide disaster assistance under
8 this section at a level that the Secretary
9 determines to be equitable and appro-
10 priate.

11 “(C) WAIVER FOR 2008 CALENDAR YEAR.—

12 In the case of an eligible livestock producer that
13 suffered losses on grazing land during the 2008
14 calendar year but does not meet the require-
15 ments of subparagraph (A), the Secretary shall
16 waive subparagraph (A) if the eligible livestock
17 producer pays a fee in an amount equal to the
18 applicable noninsured crop assistance program
19 fee or catastrophic risk protection plan fee re-
20 quired under subparagraph (A) to the Secretary
21 not later than 90 days after the date of enact-
22 ment of this subtitle.

23 “(D) EQUITABLE RELIEF.—

24 “(i) IN GENERAL.—The Secretary
25 may provide equitable relief to an eligible

1 livestock producer that is otherwise ineli-
2 gible or unintentionally fails to meet the
3 requirements of subparagraph (A) for the
4 grazing land incurring the loss on a case-
5 by-case basis, as determined by the Sec-
6 retary.

7 “(ii) 2008 CALENDAR YEAR.—In the
8 case of an eligible livestock producer that
9 suffered losses on grazing land during the
10 2008 calendar year, the Secretary shall
11 take special consideration to provide equi-
12 table relief in cases in which the eligible
13 livestock producer failed to meet the re-
14 quirements of subparagraph (A) due to the
15 enactment of this subtitle after the closing
16 date of sales periods for crop insurance
17 under subtitle A and the noninsured crop
18 assistance program.

19 “(6) NO DUPLICATIVE PAYMENTS.—

20 “(A) IN GENERAL.—An eligible livestock
21 producer may elect to receive assistance for
22 grazing or pasture feed losses due to drought
23 conditions under paragraph (3) or fire under
24 paragraph (4), but not both for the same loss,
25 as determined by the Secretary.

1 “(B) RELATIONSHIP TO SUPPLEMENTAL
2 REVENUE ASSISTANCE.—An eligible livestock
3 producer that receives assistance under this
4 subsection may not also receive assistance for
5 losses to crops on the same land with the same
6 intended use under subsection (b).

7 “(e) EMERGENCY ASSISTANCE FOR LIVESTOCK,
8 HONEY BEES, AND FARM-RAISED FISH.—

9 “(1) IN GENERAL.—The Secretary shall use up
10 to \$50,000,000 per year from the Trust Fund to
11 provide emergency relief to eligible producers of live-
12 stock, honey bees, and farm-raised fish to aid in the
13 reduction of losses due to disease, adverse weather,
14 or other conditions, such as blizzards and wildfires,
15 as determined by the Secretary, that are not covered
16 under subsection (b), (c), or (d).

17 “(2) USE OF FUNDS.—Funds made available
18 under this subsection shall be used to reduce losses
19 caused by feed or water shortages, disease, or other
20 factors as determined by the Secretary.

21 “(3) AVAILABILITY OF FUNDS.—Any funds
22 made available under this subsection shall remain
23 available until expended.

24 “(f) TREE ASSISTANCE PROGRAM.—

25 “(1) DEFINITIONS.—In this subsection:

1 “(A) ELIGIBLE ORCHARDIST.—The term
2 ‘eligible orchardist’ means a person that pro-
3 duces annual crops from trees for commercial
4 purposes.

5 “(B) NATURAL DISASTER.—The term ‘nat-
6 ural disaster’ means plant disease, insect infes-
7 tation, drought, fire, freeze, flood, earthquake,
8 lightning, or other occurrence, as determined by
9 the Secretary.

10 “(C) NURSERY TREE GROWER.—The term
11 ‘nursery tree grower’ means a person who pro-
12 duces nursery, ornamental, fruit, nut, or Christ-
13 mas trees for commercial sale, as determined by
14 the Secretary.

15 “(D) TREE.—The term ‘tree’ includes a
16 tree, bush, and vine.

17 “(2) ELIGIBILITY.—

18 “(A) LOSS.—Subject to subparagraph (B),
19 the Secretary shall provide assistance—

20 “(i) under paragraph (3) to eligible
21 orchardists and nursery tree growers that
22 planted trees for commercial purposes but
23 lost the trees as a result of a natural dis-
24 aster, as determined by the Secretary; and

1 “(ii) under paragraph (3)(B) to eligi-
2 ble orchardists and nursery tree growers
3 that have a production history for commer-
4 cial purposes on planted or existing trees
5 but lost the trees as a result of a natural
6 disaster, as determined by the Secretary.

7 “(B) LIMITATION.—An eligible orchardist
8 or nursery tree grower shall qualify for assist-
9 ance under subparagraph (A) only if the tree
10 mortality of the eligible orchardist or nursery
11 tree grower, as a result of damaging weather or
12 related condition, exceeds 15 percent (adjusted
13 for normal mortality).

14 “(3) ASSISTANCE.—Subject to paragraph (4),
15 the assistance provided by the Secretary to eligible
16 orchardists and nursery tree growers for losses de-
17 scribed in paragraph (2) shall consist of—

18 “(A)(i) reimbursement of 70 percent of the
19 cost of replanting trees lost due to a natural
20 disaster, as determined by the Secretary, in ex-
21 cess of 15 percent mortality (adjusted for nor-
22 mal mortality); or

23 “(ii) at the option of the Secretary, suffi-
24 cient seedlings to reestablish a stand; and

1 “(B) reimbursement of 50 percent of the
2 cost of pruning, removal, and other costs in-
3 curred by an eligible orchardist or nursery tree
4 grower to salvage existing trees or, in the case
5 of tree mortality, to prepare the land to replant
6 trees as a result of damage or tree mortality
7 due to a natural disaster, as determined by the
8 Secretary, in excess of 15 percent damage or
9 mortality (adjusted for normal tree damage and
10 mortality).

11 “(4) LIMITATIONS ON ASSISTANCE.—

12 “(A) DEFINITIONS OF LEGAL ENTITY AND
13 PERSON.—In this paragraph, the terms ‘legal
14 entity’ and ‘person’ have the meaning given
15 those terms in section 1001(a) of the Food Se-
16 curity Act of 1985 (7 U.S.C. 1308(a) (as
17 amended by section 1603 of the Food, Con-
18 servation, and Energy Act of 2008).

19 “(B) AMOUNT.—The total amount of pay-
20 ments received, directly or indirectly, by a per-
21 son or legal entity (excluding a joint venture or
22 general partnership) under this subsection may
23 not exceed \$100,000 for any crop year, or an
24 equivalent value in tree seedlings.

1 “(C) ACRES.—The total quantity of acres
2 planted to trees or tree seedlings for which a
3 person or legal entity shall be entitled to receive
4 payments under this subsection may not exceed
5 500 acres.

6 “(g) RISK MANAGEMENT PURCHASE REQUIRE-
7 MENT.—

8 “(1) IN GENERAL.—Except as otherwise pro-
9 vided in this section, the eligible producers on a
10 farm shall not be eligible for assistance under this
11 section (other than subsection (c)) if the eligible pro-
12 ducers on the farm—

13 “(A) in the case of each insurable com-
14 modity of the eligible producers on the farm,
15 did not obtain a policy or plan of insurance
16 under subtitle A (excluding a crop insurance
17 pilot program under that subtitle); or

18 “(B) in the case of each noninsurable com-
19 modity of the eligible producers on the farm,
20 did not file the required paperwork, and pay the
21 administrative fee by the applicable State filing
22 deadline, for the noninsured crop assistance
23 program.

24 “(2) MINIMUM.—To be considered to have ob-
25 tained insurance under paragraph (1)(A), an eligible

1 producer on a farm shall have obtained a policy or
2 plan of insurance with not less than 50 percent yield
3 coverage at 55 percent of the insurable price for
4 each crop grazed, planted, or intended to be planted
5 for harvest on a whole farm.

6 “(3) WAIVER FOR SOCIALLY DISADVANTAGED,
7 LIMITED RESOURCE, OR BEGINNING FARMER OR
8 RANCHER.—With respect to eligible producers that
9 are socially disadvantaged farmers or ranchers or
10 limited resource or beginning farmers or ranchers,
11 as determined by the Secretary, the Secretary
12 may—

13 “(A) waive paragraph (1); and

14 “(B) provide disaster assistance under this
15 section at a level that the Secretary determines
16 to be equitable and appropriate.

17 “(4) WAIVER FOR 2008 CROP YEAR.—In the
18 case of an eligible producer that suffered losses in
19 an insurable commodity or noninsurable commodity
20 during the 2008 crop year but does not meet the re-
21 quirements of paragraph (1), the Secretary shall
22 waive paragraph (1) if the eligible producer pays a
23 fee in an amount equal to the applicable noninsured
24 crop assistance program fee or catastrophic risk pro-
25 tection plan fee required under paragraph (1) to the

1 Secretary not later than 90 days after the date of
2 enactment of this subtitle.

3 “(5) EQUITABLE RELIEF.—

4 “(A) IN GENERAL.—The Secretary may
5 provide equitable relief to eligible producers on
6 a farm that are otherwise ineligible or uninten-
7 tionally fail to meet the requirements of para-
8 graph (1) for 1 or more crops on a farm on a
9 case-by-case basis, as determined by the Sec-
10 retary.

11 “(B) 2008 CROP YEAR.—In the case of eli-
12 gible producers on a farm that suffered losses
13 in an insurable commodity or noninsurable com-
14 modity during the 2008 crop year, the Sec-
15 retary shall take special consideration to pro-
16 vide equitable relief in cases in which the eligi-
17 ble producers failed to meet the requirements of
18 paragraph (1) due to the enactment of this sub-
19 title after the closing date of sales periods for
20 crop insurance under subtitle A and the non-
21 insured crop assistance program.

22 “(h) PAYMENT LIMITATIONS.—

23 “(1) DEFINITIONS OF LEGAL ENTITY AND PER-
24 SON.—In this subsection, the terms ‘legal entity’ and
25 ‘person’ have the meaning given those terms in sec-

1 tion 1001(a) of the Food Security Act of 1985 (7
2 U.S.C. 1308(a) (as amended by section 1603 of the
3 Food, Conservation, and Energy Act of 2008).

4 “(2) AMOUNT.—The total amount of disaster
5 assistance payments received, directly or indirectly,
6 by a person or legal entity (excluding a joint venture
7 or general partnership) under this section (excluding
8 payments received under subsection (f)) may not ex-
9 ceed \$100,000 for any crop year.

10 “(3) AGI LIMITATION.—Section 1001D of the
11 Food Security Act of 1985 (7 U.S.C. 1308–3a) or
12 any successor provision shall apply with respect to
13 assistance provided under this section.

14 “(4) DIRECT CONTRIBUTION.—Subsections (e)
15 and (f) of section 1001 of the Food Security Act of
16 1985 (7 U.S.C. 1308) or any successor provisions
17 relating to direct attribution shall apply with respect
18 to assistance provided under this section.

19 “(i) PERIOD OF EFFECTIVENESS.—This section shall
20 be effective only for losses that are incurred as the result
21 of a disaster, adverse weather, or other environmental con-
22 dition that occurs on or before September 30, 2011, as
23 determined by the Secretary.

24 “(j) NO DUPLICATIVE PAYMENTS.—In implementing
25 any other program which makes disaster assistance pay-

1 ments (except for indemnities made under subtitle A and
2 section 196 of the Federal Agriculture Improvement and
3 Reform Act of 1996), the Secretary shall prevent dupli-
4 cative payments with respect to the same loss for which a
5 person receives a payment under subsections (b), (c), (d),
6 (e), or (f).

7 “(k) APPLICATION.—

8 “(1) IN GENERAL.—Subject to paragraph (2)
9 and notwithstanding any provision of subtitle A,
10 subtitle A shall not apply to this subtitle.

11 “(2) CROSS REFERENCES.—Paragraph (1) shall
12 not apply to a specific reference in this subtitle to
13 a provision of subtitle A.”.

14 (b) TRANSITION.—For purposes of the 2008 crop
15 year, the Secretary shall carry out subsections (f)(4) and
16 (h) of section 531 of the Federal Crop Insurance Act (as
17 added by subsection (a)) in accordance with the terms and
18 conditions of sections 1001 through 1001D of the Food
19 Security Act of 1985 (16 U.S.C. 1308 et seq.), as in effect
20 on September 30, 2007.

21 (c) CONFORMING AMENDMENTS.—

22 (1) Section 501 of the Federal Crop Insurance
23 Act (7 U.S.C. 1501) is amended by striking the sec-
24 tion heading and enumerator and inserting the fol-
25 lowing:

1 **“Subtitle A—Federal Crop**
2 **Insurance Act**

3 **“SEC. 501. SHORT TITLE AND APPLICATION OF OTHER PRO-**
4 **VISIONS.”.**

5 (2) Subtitle A of the Federal Crop Insurance
6 Act (as designated under paragraph (1)) is amend-
7 ed—

8 (A) by striking “This title” each place it
9 appears and inserting “This subtitle”; and

10 (B) by striking “this title” each place it
11 appears and inserting “this subtitle”.

12 **SEC. 12034. FISHERIES DISASTER ASSISTANCE.**

13 Of the funds of the Commodity Credit Corporation,
14 the Secretary of Agriculture shall transfer to the Secretary
15 of Commerce \$170,000,000 for fiscal year 2008 for the
16 National Marine Fisheries Service to distribute to com-
17 mercial and recreational members of the fishing commu-
18 nities affected by the salmon fishery failure in the States
19 of California, Oregon, and Washington designated under
20 section 312(a) of the Magnuson-Stevens Fishery Con-
21 servation and Management Act (16 U.S.C. 1861a(a)) on
22 May 1, 2008, in accordance with that section.

1 **Subtitle B—Small Business**
2 **Disaster Loan Program**

3 **SEC. 12051. SHORT TITLE.**

4 This subtitle may be cited as the “Small Business
5 Disaster Response and Loan Improvements Act of 2008”.

6 **SEC. 12052. DEFINITIONS.**

7 In this subtitle—

8 (1) the terms “Administration” and “Adminis-
9 trator” mean the Small Business Administration
10 and the Administrator thereof, respectively;

11 (2) the term “disaster area” means an area af-
12 fected by a natural or other disaster, as determined
13 for purposes of paragraph (1) or (2) of section 7(b)
14 of the Small Business Act (15 U.S.C. 636(b)), dur-
15 ing the period of such declaration;

16 (3) the term “disaster loan program of the Ad-
17 ministration” means assistance under section 7(b) of
18 the Small Business Act (15 U.S.C. 636(b)), as
19 amended by this Act;

20 (4) the term “disaster update period” means
21 the period beginning on the date on which the Presi-
22 dent declares a major disaster (including any major
23 disaster relating to which the Administrator declares
24 eligibility for additional disaster assistance under
25 paragraph (9) of section 7(b) of the Small Business

1 Act (15 U.S.C. 636(b)), as added by this Act) and
2 ending on the date on which such declaration termi-
3 nates;

4 (5) the term “major disaster” has the meaning
5 given that term in section 102 of the Robert T.
6 Stafford Disaster Relief and Emergency Assistance
7 Act (42 U.S.C. 5122);

8 (6) the term “small business concern” has the
9 meaning given that term under section 3 of the
10 Small Business Act (15 U.S.C. 632); and

11 (7) the term “State” means any State of the
12 United States, the District of Columbia, the Com-
13 monwealth of Puerto Rico, the Northern Mariana Is-
14 lands, the Virgin Islands, Guam, American Samoa,
15 and any territory or possession of the United States.

16 **PART I—DISASTER PLANNING AND RESPONSE**

17 **SEC. 12061. ECONOMIC INJURY DISASTER LOANS TO NON-**
18 **PROFITS.**

19 (a) IN GENERAL.—Section 7(b)(2) of the Small Busi-
20 ness Act (15 U.S.C. 636(b)(2)) is amended—

21 (1) in the matter preceding subparagraph (A)—

22 (A) by inserting after “small business con-
23 cern” the following: “, private nonprofit organi-
24 zation,”; and

1 (B) by inserting after “the concern” the
2 following: “, the organization,”; and

3 (2) in subparagraph (D) by inserting after
4 “small business concerns” the following: “, private
5 nonprofit organizations,”.

6 (b) CONFORMING AMENDMENT.—Section 7(c)(5)(C)
7 of the Small Business Act (15 U.S.C. 636(c)(5)(C)) is
8 amended by inserting after “business” the following: “,
9 private nonprofit organization,”.

10 **SEC. 12062. COORDINATION OF DISASTER ASSISTANCE PRO-**
11 **GRAMS WITH FEMA.**

12 The Small Business Act (15 U.S.C. 631 et seq.) is
13 amended—

14 (1) by redesignating section 37 as section 44;
15 and

16 (2) by inserting after section 36 the following:

17 **“SEC. 37. COORDINATION OF DISASTER ASSISTANCE PRO-**
18 **GRAMS WITH FEMA.**

19 “(a) COORDINATION REQUIRED.—The Administrator
20 shall ensure that the disaster assistance programs of the
21 Administration are coordinated, to the maximum extent
22 practicable, with the disaster assistance programs of the
23 Federal Emergency Management Agency.

24 “(b) REGULATIONS REQUIRED.—The Administrator,
25 in consultation with the Administrator of the Federal

1 Emergency Management Agency, shall establish regula-
2 tions to ensure that each application for disaster assist-
3 ance is submitted as quickly as practicable to the Adminis-
4 tration or directed to the appropriate agency under the
5 circumstances.

6 “(c) COMPLETION; REVISION.—The initial regula-
7 tions shall be completed not later than 270 days after the
8 date of the enactment of the Small Business Disaster Re-
9 sponse and Loan Improvements Act of 2008. Thereafter,
10 the regulations shall be revised on an annual basis.

11 “(d) REPORT.—The Administrator shall include a re-
12 port on the regulations whenever the Administration sub-
13 mits the report required by section 43.”

14 **SEC. 12063. PUBLIC AWARENESS OF DISASTER DECLARA-**
15 **TION AND APPLICATION PERIODS.**

16 (a) IN GENERAL.—Section 7(b) of the Small Busi-
17 ness Act (15 U.S.C. 636(b)) is amended by inserting im-
18 mediately after paragraph (3), the following:

19 “(4) COORDINATION WITH FEMA.—

20 “(A) IN GENERAL.—Notwithstanding any
21 other provision of law, for any disaster declared
22 under this subsection or major disaster (includ-
23 ing any major disaster relating to which the
24 Administrator declares eligibility for additional
25 disaster assistance under paragraph (9)), the

1 Administrator, in consultation with the Admin-
2 istrator of the Federal Emergency Management
3 Agency, shall ensure, to the maximum extent
4 practicable, that all application periods for dis-
5 aster relief under this Act correspond with ap-
6 plication deadlines established under the Robert
7 T. Stafford Disaster Relief and Emergency As-
8 sistance Act (42 U.S.C. 5121 et seq.), or as ex-
9 tended by the President.

10 “(B) DEADLINES.—Notwithstanding any
11 other provision of law, not later than 10 days
12 before the closing date of an application period
13 for a major disaster (including any major dis-
14 aster relating to which the Administrator de-
15 clares eligibility for additional disaster assist-
16 ance under paragraph (9)), the Administrator,
17 in consultation with the Administrator of the
18 Federal Emergency Management Agency, shall
19 submit to the Committee on Small Business
20 and Entrepreneurship of the Senate and the
21 Committee on Small Business of the House of
22 Representatives a report that includes—

23 “(i) the deadline for submitting appli-
24 cations for assistance under this Act relat-
25 ing to that major disaster;

1 “(ii) information regarding the num-
2 ber of loan applications and disbursements
3 processed by the Administrator relating to
4 that major disaster for each day during the
5 period beginning on the date on which that
6 major disaster was declared and ending on
7 the date of that report; and

8 “(iii) an estimate of the number of
9 potential applicants that have not sub-
10 mitted an application relating to that
11 major disaster.

12 “(5) PUBLIC AWARENESS OF DISASTERS.—If a
13 disaster is declared under this subsection or the Ad-
14 ministrator declares eligibility for additional disaster
15 assistance under paragraph (9), the Administrator
16 shall make every effort to communicate through
17 radio, television, print, and web-based outlets, all
18 relevant information needed by disaster loan appli-
19 cants, including—

20 “(A) the date of such declaration;

21 “(B) cities and towns within the area of
22 such declaration;

23 “(C) loan application deadlines related to
24 such disaster;

1 “(D) all relevant contact information for
2 victim services available through the Adminis-
3 tration (including links to small business devel-
4 opment center websites);

5 “(E) links to relevant Federal and State
6 disaster assistance websites, including links to
7 websites providing information regarding assist-
8 ance available from the Federal Emergency
9 Management Agency;

10 “(F) information on eligibility criteria for
11 Administration loan programs, including where
12 such applications can be found; and

13 “(G) application materials that clearly
14 state the function of the Administration as the
15 Federal source of disaster loans for homeowners
16 and renters.”.

17 (b) **MARKETING AND OUTREACH.**—Not later than 90
18 days after the date of enactment of this Act, the Adminis-
19 trator shall create a marketing and outreach plan that—

20 (1) encourages a proactive approach to the dis-
21 aster relief efforts of the Administration;

22 (2) makes clear the services provided by the Ad-
23 ministration, including contact information, applica-
24 tion information, and timelines for submitting appli-

1 cations, the review of applications, and the disburse-
2 ment of funds;

3 (3) describes the different disaster loan pro-
4 grams of the Administration, including how they are
5 made available and the eligibility requirements for
6 each loan program;

7 (4) provides for regional marketing, focusing on
8 disasters occurring in each region before the date of
9 enactment of this Act, and likely scenarios for disas-
10 ters in each such region; and

11 (5) ensures that the marketing plan is made
12 available at small business development centers and
13 on the website of the Administration.

14 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

15 (1) IN GENERAL.—Section 3 of the Small Busi-
16 ness Act (15 U.S.C. 632) is amended by adding at
17 the end the following:

18 “(s) MAJOR DISASTER.—In this Act, the term ‘major
19 disaster’ has the meaning given that term in section 102
20 of the Robert T. Stafford Disaster Relief and Emergency
21 Assistance Act (42 U.S.C. 5122).”.

22 (2) TECHNICAL CORRECTION.—Section 7(b)(2)
23 of the Small Business Act (15 U.S.C. 636(b)(2)) is
24 amended by striking “Disaster Relief and Emer-
25 gency Assistance Act” and inserting “Robert T.

1 Stafford Disaster Relief and Emergency Assistance
2 Act (42 U.S.C. 5121 et seq.)”.

3 **SEC. 12064. CONSISTENCY BETWEEN ADMINISTRATION**
4 **REGULATIONS AND STANDARD OPERATING**
5 **PROCEDURES.**

6 (a) IN GENERAL.—The Administrator shall, prompt-
7 ly following the date of enactment of this Act, conduct
8 a study of whether the standard operating procedures of
9 the Administration for loans offered under section 7(b) of
10 the Small Business Act (15 U.S.C. 636(b)) are consistent
11 with the regulations of the Administration for admin-
12 istering the disaster loan program.

13 (b) REPORT.—Not later than 180 days after the date
14 of enactment of this Act, the Administrator shall submit
15 to Congress a report containing all findings and rec-
16 ommendations of the study conducted under subsection
17 (a).

18 **SEC. 12065. INCREASING COLLATERAL REQUIREMENTS.**

19 Section 7(c)(6) of the Small Business Act (15 U.S.C.
20 636(c)(6)) is amended by striking “\$10,000 or less” and
21 inserting “\$14,000 or less (or such higher amount as the
22 Administrator determines appropriate in the event of a
23 major disaster)”.

1 **SEC. 12066. PROCESSING DISASTER LOANS.**

2 (a) **AUTHORITY FOR QUALIFIED PRIVATE CONTRAC-**
3 **TORS TO PROCESS DISASTER LOANS.**—Section 7(b) of the
4 Small Business Act (15 U.S.C. 636(b)) is amended by in-
5 serting immediately after paragraph (5), as added by this
6 Act, the following:

7 “(6) **AUTHORITY FOR QUALIFIED PRIVATE CON-**
8 **TRACTORS.**—

9 “(A) **DISASTER LOAN PROCESSING.**—The
10 Administrator may enter into an agreement
11 with a qualified private contractor, as deter-
12 mined by the Administrator, to process loans
13 under this subsection in the event of a major
14 disaster (including any major disaster relating
15 to which the Administrator declares eligibility
16 for additional disaster assistance under para-
17 graph (9)), under which the Administrator shall
18 pay the contractor a fee for each loan proc-
19 essed.

20 “(B) **LOAN LOSS VERIFICATION SERV-**
21 **ICES.**—The Administrator may enter into an
22 agreement with a qualified lender or loss
23 verification professional, as determined by the
24 Administrator, to verify losses for loans under
25 this subsection in the event of a major disaster
26 (including any major disaster relating to which

1 the Administrator declares eligibility for addi-
2 tional disaster assistance under paragraph (9)),
3 under which the Administrator shall pay the
4 lender or verification professional a fee for each
5 loan for which such lender or verification pro-
6 fessional verifies losses.”.

7 (b) COORDINATION OF EFFORTS BETWEEN THE AD-
8 MINISTRATOR AND THE INTERNAL REVENUE SERVICE TO
9 EXPEDITE LOAN PROCESSING.—The Administrator and
10 the Commissioner of Internal Revenue shall, to the max-
11 imum extent practicable, ensure that all relevant and al-
12 lowable tax records for loan approval are shared with loan
13 processors in an expedited manner, upon request by the
14 Administrator.

15 **SEC. 12067. INFORMATION TRACKING AND FOLLOW-UP SYS-**
16 **TEM.**

17 The Small Business Act is amended by inserting after
18 section 37, as added by this Act, the following:

19 **“SEC. 38. INFORMATION TRACKING AND FOLLOW-UP SYS-**
20 **TEM FOR DISASTER ASSISTANCE.**

21 “(a) SYSTEM REQUIRED.—The Administrator shall
22 develop, implement, or maintain a centralized information
23 system to track communications between personnel of the
24 Administration and applicants for disaster assistance. The
25 system shall ensure that whenever an applicant for dis-

1 aster assistance communicates with such personnel on a
2 matter relating to the application, the following informa-
3 tion is recorded:

4 “(1) The method of communication.

5 “(2) The date of communication.

6 “(3) The identity of the personnel.

7 “(4) A summary of the subject matter of the
8 communication.

9 “(b) FOLLOW-UP REQUIRED.—The Administrator
10 shall ensure that an applicant for disaster assistance re-
11 ceives, by telephone, mail, or electronic mail, follow-up
12 communications from the Administration at all critical
13 stages of the application process, including the following:

14 “(1) When the Administration determines that
15 additional information or documentation is required
16 to process the application.

17 “(2) When the Administration determines
18 whether to approve or deny the loan.

19 “(3) When the primary contact person man-
20 aging the loan application has changed.”.

21 **SEC. 12068. INCREASED DEFERMENT PERIOD.**

22 (a) IN GENERAL.—Section 7 of the Small Business
23 Act (15 U.S.C. 636) is amended—

24 (1) by redesignating subsections (c) and (d) as
25 subsections (d) and (e), respectively; and

1 (2) by inserting after subsection (e), as so re-
2 designated, the following:

3 “(f) ADDITIONAL REQUIREMENTS FOR 7(b)
4 LOANS.—

5 “(1) INCREASED DEFERMENT AUTHORIZED.—

6 “(A) IN GENERAL.—In making loans
7 under subsection (b), the Administrator may
8 provide, to the person receiving the loan, an op-
9 tion to defer repayment on the loan.

10 “(B) PERIOD.—The period of a deferment
11 under subparagraph (A) may not exceed 4
12 years.”.

13 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
14 The Small Business Act (15 U.S.C. 631 et seq.) is amend-
15 ed—

16 (1) in section 4(c)—

17 (A) in paragraph (1), by striking “7(c)(2)”
18 and inserting “7(d)(2)”; and

19 (B) in paragraph (2)—

20 (i) by striking “7(c)(2)” and inserting
21 “7(d)(2)”; and

22 (ii) by striking “7(e),”; and

23 (2) in section 7(b), in the undesignated matter
24 following paragraph (3)—

1 (A) by striking “That the provisions of
2 paragraph (1) of subsection (c)” and inserting
3 “That the provisions of paragraph (1) of sub-
4 section (d)”;

5 (B) by striking “Notwithstanding the pro-
6 visions of any other law the interest rate on the
7 Administration’s share of any loan made under
8 subsection (b) except as provided in subsection
9 (c),” and inserting “Notwithstanding any other
10 provision of law, and except as provided in sub-
11 section (d), the interest rate on the Administra-
12 tion’s share of any loan made under subsection
13 (b)”.

14 **SEC. 12069. DISASTER PROCESSING REDUNDANCY.**

15 The Small Business Act (15 U.S.C. 631 et seq.) is
16 amended by inserting after section 38, as added by this
17 Act, the following:

18 **“SEC. 39. DISASTER PROCESSING REDUNDANCY.**

19 “(a) IN GENERAL.—The Administrator shall ensure
20 that the Administration has in place a facility for disaster
21 loan processing that, whenever the Administration’s pri-
22 mary facility for disaster loan processing becomes unavail-
23 able, is able to take over all disaster loan processing from
24 that primary facility within 2 days.

1 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as may be
3 necessary to carry out this section.”.

4 **SEC. 12070. NET EARNINGS CLAUSES PROHIBITED.**

5 Section 7 of the Small Business Act (15 U.S.C. 636)
6 is amended by inserting after subsection (f), as added by
7 this Act, the following:

8 “(g) NET EARNINGS CLAUSES PROHIBITED FOR 7(b)
9 LOANS.—In making loans under subsection (b), the Ad-
10 ministrator shall not require the borrower to pay any non-
11 amortized amount for the first five years after repayment
12 begins.”.

13 **SEC. 12071. ECONOMIC INJURY DISASTER LOANS IN CASES**
14 **OF ICE STORMS AND BLIZZARDS.**

15 Section 3(k)(2) of the Small Business Act (15 U.S.C.
16 632(k)(2)) is amended—

- 17 (1) in subparagraph (A) by striking “and”;
- 18 (2) in subparagraph (B) by striking the period
19 at the end and inserting “; and”; and
- 20 (3) by adding at the end the following:
- 21 “(C) ice storms and blizzards.”.

22 **SEC. 12072. DEVELOPMENT AND IMPLEMENTATION OF**
23 **MAJOR DISASTER RESPONSE PLAN.**

24 (a) IN GENERAL.—Not later than 3 months after the
25 date of enactment of this Act, the Administrator shall—

1 (1) by rule, amend the 2006 Atlantic hurricane
2 season disaster response plan of the Administration
3 (in this section referred to as the “disaster response
4 plan”) to apply to major disasters; and

5 (2) submit a report to the Committee on Small
6 Business and Entrepreneurship of the Senate and
7 the Committee on Small Business of the House of
8 Representatives detailing the amendments to the dis-
9 aster response plan.

10 (b) CONTENTS.—The report required under sub-
11 section (a)(2) shall include—

12 (1) any updates or modifications made to the
13 disaster response plan since the report regarding the
14 disaster response plan submitted to Congress on
15 July 14, 2006;

16 (2) a description of how the Administrator
17 plans to use and integrate District Office personnel
18 of the Administration in the response to a major dis-
19 aster, including information on the use of personnel
20 for loan processing and loan disbursement;

21 (3) a description of the disaster scalability
22 model of the Administration and on what basis or
23 function the plan is scaled;

24 (4) a description of how the agency-wide Dis-
25 aster Oversight Council is structured, which offices

1 comprise its membership, and whether the Associate
2 Deputy Administrator for Entrepreneurial Develop-
3 ment of the Administration is a member;

4 (5) a description of how the Administrator
5 plans to coordinate the disaster efforts of the Ad-
6 ministration with State and local government offi-
7 cials, including recommendations on how to better
8 incorporate State initiatives or programs, such as
9 State-administered bridge loan programs, into the
10 disaster response of the Administration;

11 (6) recommendations, if any, on how the Ad-
12 ministration can better coordinate its disaster re-
13 sponse operations with the operations of other Fed-
14 eral, State, and local entities;

15 (7) any surge plan for the disaster loan pro-
16 gram of the Administration in effect on or after Au-
17 gust 29, 2005 (including surge plans for loss
18 verification, loan processing, mailroom, customer
19 service or call center operations, and a continuity of
20 operations plan);

21 (8) the number of full-time equivalent employ-
22 ees and job descriptions for the planning and dis-
23 aster response staff of the Administration;

1 (9) the in-service and preservice training proce-
2 dures for disaster response staff of the Administra-
3 tion;

4 (10) information on the logistical support plans
5 of the Administration (including equipment and
6 staffing needs, and detailed information on how such
7 plans will be scalable depending on the size and
8 scope of the major disaster;

9 (11) a description of the findings and rec-
10 ommendations of the Administrator, if any, based on
11 a review of the response of the Administration to
12 Hurricane Katrina of 2005, Hurricane Rita of 2005,
13 and Hurricane Wilma of 2005; and

14 (12) a plan for how the Administrator, in con-
15 sultation with the Administrator of the Federal
16 Emergency Management Agency, will coordinate the
17 provision of accommodations and necessary re-
18 sources for disaster assistance personnel to effec-
19 tively perform their responsibilities in the aftermath
20 of a major disaster.

21 (c) BIENNIAL DISASTER SIMULATION EXERCISE.—

22 (1) EXERCISE REQUIRED.—The Administrator
23 shall conduct a disaster simulation exercise at least
24 once every 2 fiscal years. The exercise shall include
25 the participation of, at a minimum, not less than 50

1 percent of the individuals in the disaster reserve
2 corps and shall test, at maximum capacity, all of the
3 information technology and telecommunications sys-
4 tems of the Administration that are vital to the ac-
5 tivities of the Administration during such a disaster.

6 (2) REPORT.—The Administrator shall include
7 a report on the disaster simulation exercises con-
8 ducted under paragraph (1) each time the Adminis-
9 tration submits a report required under section 43
10 of the Small Business Act, as added by this Act.

11 **SEC. 12073. DISASTER PLANNING RESPONSIBILITIES.**

12 (a) ASSIGNMENT OF SMALL BUSINESS ADMINISTRA-
13 TION DISASTER PLANNING RESPONSIBILITIES.—The dis-
14 aster planning function of the Administration shall be as-
15 signed to an individual appointed by the Administrator
16 who—

17 (1) is not an employee of the Office of Disaster
18 Assistance of the Administration;

19 (2) has proven management ability;

20 (3) has substantial knowledge in the field of
21 disaster readiness and emergency response; and

22 (4) has demonstrated significant experience in
23 the area of disaster planning.

24 (b) RESPONSIBILITIES.—The individual assigned the
25 disaster planning function of the Administration shall re-

1 port directly and solely to the Administrator and shall be
2 responsible for—

3 (1) creating, maintaining, and implementing the
4 comprehensive disaster response plan of the Admin-
5 istration described in section 12072;

6 (2) ensuring there are in-service and pre-service
7 training procedures for the disaster response staff of
8 the Administration;

9 (3) coordinating and directing the training exer-
10 cises of the Administration relating to disasters, in-
11 cluding disaster simulation exercises and disaster ex-
12 ercises coordinated with other government depart-
13 ments and agencies; and

14 (4) other responsibilities relevant to disaster
15 planning and readiness, as determined by the Ad-
16 ministrator.

17 (c) COORDINATION.—In carrying out the responsibil-
18 ities described in subsection (b), the individual assigned
19 the disaster planning function of the Administration shall
20 coordinate with—

21 (1) the Office of Disaster Assistance of the Ad-
22 ministration;

23 (2) the Administrator of the Federal Emer-
24 gency Management Agency; and

1 (3) other Federal, State, and local disaster
2 planning offices, as necessary.

3 (d) RESOURCES.—The Administrator shall ensure
4 that the individual assigned the disaster planning function
5 of the Administration has adequate resources to carry out
6 the duties under this section.

7 (e) REPORT.—Not later than 30 days after the date
8 of enactment of this Act, the Administrator shall submit
9 to the Committee on Small Business and Entrepreneur-
10 ship of the Senate and the Committee on Small Business
11 of the House of Representatives a report containing—

12 (1) a description of the actions of the Adminis-
13 trator to assign an individual the disaster planning
14 function of the Administration;

15 (2) information detailing the background and
16 expertise of the individual assigned; and

17 (3) information on the status of the implemen-
18 tation of the responsibilities described in subsection

19 (b).

20 **SEC. 12074. ASSIGNMENT OF EMPLOYEES OF THE OFFICE**
21 **OF DISASTER ASSISTANCE AND DISASTER**
22 **CADRE.**

23 (a) IN GENERAL.—Section 7(b) of the Small Busi-
24 ness Act (15 U.S.C. 636(b)) is amended by inserting im-

1 mediately after paragraph (6), as added by this Act, the
2 following:

3 “(7) DISASTER ASSISTANCE EMPLOYEES.—

4 “(A) IN GENERAL.—In carrying out this
5 section, the Administrator may, where prac-
6 ticable, ensure that the number of full-time
7 equivalent employees—

8 “(i) in the Office of the Disaster As-
9 sistance is not fewer than 800; and

10 “(ii) in the Disaster Cadre of the Ad-
11 ministration is not fewer than 1,000.

12 “(B) REPORT.—In carrying out this sub-
13 section, if the number of full-time employees for
14 either the Office of Disaster Assistance or the
15 Disaster Cadre of the Administration is below
16 the level described in subparagraph (A) for that
17 office, not later than 21 days after the date on
18 which that staffing level decreased below the
19 level described in subparagraph (A), the Admin-
20 istrator shall submit to the Committee on Ap-
21 propriations and the Committee on Small Busi-
22 ness and Entrepreneurship of the Senate and
23 the Committee on Appropriations and Com-
24 mittee on Small Business of the House of Rep-
25 resentatives, a report—

1 “(i) detailing staffing levels on that
2 date;

3 “(ii) requesting, if practicable and de-
4 termined appropriate by the Administrator,
5 additional funds for additional employees;
6 and

7 “(iii) containing such additional infor-
8 mation, as determined appropriate by the
9 Administrator.”.

10 **SEC. 12075. COMPREHENSIVE DISASTER RESPONSE PLAN.**

11 The Small Business Act (15 U.S.C. 631 et seq.) is
12 amended inserting after section 39, as added by this Act,
13 the following:

14 **“SEC. 40. COMPREHENSIVE DISASTER RESPONSE PLAN.**

15 “(a) PLAN REQUIRED.—The Administrator shall de-
16 velop, implement, or maintain a comprehensive written
17 disaster response plan. The plan shall include the fol-
18 lowing:

19 “(1) For each region of the Administration, a
20 description of the disasters most likely to occur in
21 that region.

22 “(2) For each disaster described under para-
23 graph (1)—

24 “(A) an assessment of the disaster;

1 “(B) an assessment of the demand for Ad-
2 ministration assistance most likely to occur in
3 response to the disaster;

4 “(C) an assessment of the needs of the Ad-
5 ministration, with respect to such resources as
6 information technology, telecommunications,
7 human resources, and office space, to meet the
8 demand referred to in subparagraph (B); and

9 “(D) guidelines pursuant to which the Ad-
10 ministration will coordinate with other Federal
11 agencies and with State and local authorities to
12 best respond to the demand referred to in sub-
13 paragraph (B) and to best use the resources re-
14 ferred to in that subparagraph.

15 “(b) COMPLETION; REVISION.—The first plan re-
16 quired by subsection (a) shall be completed not later than
17 180 days after the date of the enactment of this section.
18 Thereafter, the Administrator shall update the plan on an
19 annual basis and following any major disaster relating to
20 which the Administrator declares eligibility for additional
21 disaster assistance under section 7(b)(9).

22 “(c) KNOWLEDGE REQUIRED.—The Administrator
23 shall carry out subsections (a) and (b) through an indi-
24 vidual with substantial knowledge in the field of disaster
25 readiness and emergency response.

1 “(d) REPORT.—The Administrator shall include a re-
2 port on the plan whenever the Administration submits the
3 report required by section 43.”.

4 **SEC. 12076. PLANS TO SECURE SUFFICIENT OFFICE SPACE.**

5 The Small Business Act is amended by inserting after
6 section 40, as added by this Act, the following:

7 **“SEC. 41. PLANS TO SECURE SUFFICIENT OFFICE SPACE.**

8 “(a) PLANS REQUIRED.—The Administrator shall
9 develop long-term plans to secure sufficient office space
10 to accommodate an expanded workforce in times of dis-
11 aster.

12 “(b) REPORT.—The Administrator shall include a re-
13 port on the plans developed under subsection (a) each time
14 the Administration submits a report required under sec-
15 tion 43.”.

16 **SEC. 12077. APPLICANTS THAT HAVE BECOME A MAJOR**
17 **SOURCE OF EMPLOYMENT DUE TO CHANGED**
18 **ECONOMIC CIRCUMSTANCES.**

19 Section 7(b)(3)(E) of the Small Business Act (15
20 U.S.C. 636(b)(3)(E)) is amended by inserting after “con-
21 stitutes” the following: “, or have become due to changed
22 economic circumstances.”.

23 **SEC. 12078. DISASTER LOAN AMOUNTS.**

24 (a) INCREASED LOAN CAPS.—Section 7(b) of the
25 Small Business Act (15 U.S.C. 636(b)) is amended by in-

1 serting immediately after paragraph (7), as added by this
2 Act, the following:

3 “(8) INCREASED LOAN CAPS.—

4 “(A) AGGREGATE LOAN AMOUNTS.—Ex-
5 cept as provided in subparagraph (B), and not-
6 withstanding any other provision of law, the ag-
7 gregate loan amount outstanding and com-
8 mitted to a borrower under this subsection may
9 not exceed \$2,000,000.

10 “(B) WAIVER AUTHORITY.—The Adminis-
11 trator may, at the discretion of the Adminis-
12 trator, increase the aggregate loan amount
13 under subparagraph (A) for loans relating to a
14 disaster to a level established by the Adminis-
15 trator, based on appropriate economic indica-
16 tors for the region in which that disaster oc-
17 curred.”.

18 (b) DISASTER MITIGATION.—

19 (1) IN GENERAL.—Section 7(b)(1)(A) of the
20 Small Business Act (15 U.S.C. 636(b)(1)(A)) is
21 amended by inserting “of the aggregate costs of
22 such damage or destruction (whether or not com-
23 pensated for by insurance or otherwise)” after “20
24 per centum”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall apply with respect to a loan
3 or guarantee made after the date of enactment of
4 this Act.

5 (c) TECHNICAL AMENDMENTS.—Section 7(b) of the
6 Small Business Act (15 U.S.C. 636(b)) is amended—

7 (1) in the matter preceding paragraph (1), by
8 striking “the, Administration” and inserting “the
9 Administration”; and

10 (2) in the undesignated matter at the end—

11 (A) by striking “, (2), and (4)” and insert-
12 ing “and (2)”; and

13 (B) by striking “, (2), or (4)” and insert-
14 ing “(2)”.

15 **SEC. 12079. SMALL BUSINESS BONDING THRESHOLD.**

16 (a) IN GENERAL.—Except as provided in subsection
17 (b), and notwithstanding any other provision of law, for
18 any procurement related to a major disaster, the Adminis-
19 trator may, upon such terms and conditions as the Admin-
20 istrator may prescribe, guarantee and enter into commit-
21 ments to guarantee any surety against loss resulting from
22 a breach of the terms of a bid bond, payment bond, per-
23 formance bond, or bonds ancillary thereto, by a principal
24 on any total work order or contract amount at the time
25 of bond execution that does not exceed \$5,000,000.

1 (b) INCREASE OF AMOUNT.—Upon request of the
2 head of any Federal agency other than the Administration
3 involved in reconstruction efforts in response to a major
4 disaster, the Administrator may guarantee and enter into
5 a commitment to guarantee any security against loss
6 under subsection (a) on any total work order or contract
7 amount at the time of bond execution that does not exceed
8 \$10,000,000.

9 (c) LIMITATION ON USE OF OTHER FUNDS.—The
10 Administrator may carry out this section only with
11 amounts appropriated in advance specifically to carry out
12 this section.

13 **PART II—DISASTER LENDING**

14 **SEC. 12081. ELIGIBILITY FOR ADDITIONAL DISASTER AS-** 15 **SISTANCE.**

16 Section 7(b) of the Small Business Act (15 U.S.C.
17 636(b)) is amended by inserting immediately after para-
18 graph (8), as added by this Act, the following:

19 “(9) DECLARATION OF ELIGIBILITY FOR ADDI-
20 TIONAL DISASTER ASSISTANCE.—

21 “(A) IN GENERAL.—If the President de-
22 clares a major disaster, the Administrator may
23 declare eligibility for additional disaster assist-
24 ance in accordance with this paragraph.

1 “(B) THRESHOLD.—A major disaster for
2 which the Administrator declares eligibility for
3 additional disaster assistance under this para-
4 graph shall—

5 “(i) have resulted in extraordinary
6 levels of casualties or damage or disruption
7 severely affecting the population (including
8 mass evacuations), infrastructure, environ-
9 ment, economy, national morale, or govern-
10 ment functions in an area;

11 “(ii) be comparable to the description
12 of a catastrophic incident in the National
13 Response Plan of the Administration, or
14 any successor thereto, unless there is no
15 successor to such plan, in which case this
16 clause shall have no force or effect; and

17 “(iii) be of such size and scope that—

18 “(I) the disaster assistance pro-
19 grams under the other paragraphs
20 under this subsection are incapable of
21 providing adequate and timely assist-
22 ance to individuals or business con-
23 cerns located within the disaster area;
24 or

1 “(II) a significant number of
2 business concerns outside the disaster
3 area have suffered disaster-related
4 substantial economic injury as a result
5 of the incident.”.

6 **SEC. 12082. ADDITIONAL ECONOMIC INJURY DISASTER**
7 **LOAN ASSISTANCE.**

8 Paragraph (9) of section 7(b) of the Small Business
9 Act (15 U.S.C. 636(b)), as added by section 12081, is
10 amended by adding at the end the following:

11 “(C) ADDITIONAL ECONOMIC INJURY DIS-
12 ASTER LOAN ASSISTANCE.—

13 “(i) IN GENERAL.—If the Adminis-
14 trator declares eligibility for additional dis-
15 aster assistance under this paragraph, the
16 Administrator may make such loans under
17 this subparagraph (either directly or in co-
18 operation with banks or other lending in-
19 stitutions through agreements to partici-
20 pate on an immediate or deferred basis) as
21 the Administrator determines appropriate
22 to eligible small business concerns located
23 anywhere in the United States.

24 “(ii) PROCESSING TIME.—

1 “(I) IN GENERAL.—If the Ad-
2 ministrator determines that the aver-
3 age processing time for applications
4 for disaster loans under this subpara-
5 graph relating to a specific major dis-
6 aster is more than 15 days, the Ad-
7 ministrator shall give priority to the
8 processing of such applications sub-
9 mitted by eligible small business con-
10 cerns located inside the disaster area,
11 until the Administrator determines
12 that the average processing time for
13 such applications is not more than 15
14 days.

15 “(II) SUSPENSION OF APPLICA-
16 TIONS FROM OUTSIDE DISASTER
17 AREA.—If the Administrator deter-
18 mines that the average processing
19 time for applications for disaster loans
20 under this subparagraph relating to a
21 specific major disaster is more than
22 30 days, the Administrator shall sus-
23 pend the processing of such applica-
24 tions submitted by eligible small busi-
25 ness concerns located outside the dis-

1 aster area, until the Administrator de-
2 termines that the average processing
3 time for such applications is not more
4 than 15 days.

5 “(iii) LOAN TERMS.—A loan under
6 this subparagraph shall be made on the
7 same terms as a loan under paragraph (2).

8 “(D) DEFINITIONS.—In this paragraph—

9 “(i) the term ‘disaster area’ means
10 the area for which the applicable major
11 disaster was declared;

12 “(ii) the term ‘disaster-related sub-
13 stantial economic injury’ means economic
14 harm to a business concern that results in
15 the inability of the business concern to—

16 “(I) meet its obligations as it
17 matures;

18 “(II) meet its ordinary and nec-
19 essary operating expenses; or

20 “(III) market, produce, or pro-
21 vide a product or service ordinarily
22 marketed, produced, or provided by
23 the business concern because the busi-
24 ness concern relies on materials from

1 the disaster area or sells or markets
2 in the disaster area; and

3 “(iii) the term ‘eligible small business
4 concern’ means a small business concern—

5 “(I) that has suffered disaster-re-
6 lated substantial economic injury as a
7 result of the applicable major disaster;
8 and

9 “(II)(aa) for which not less than
10 25 percent of the market share of
11 that small business concern is from
12 business transacted in the disaster
13 area;

14 “(bb) for which not less than 25
15 percent of an input into a production
16 process of that small business concern
17 is from the disaster area; or

18 “(cc) that relies on a provider lo-
19 cated in the disaster area for a service
20 that is not readily available else-
21 where.”.

22 **SEC. 12083. PRIVATE DISASTER LOANS.**

23 (a) IN GENERAL.—Section 7 of the Small Business
24 Act (15 U.S.C. 636) is amended by inserting after sub-
25 section (b) the following:

1 “(c) PRIVATE DISASTER LOANS.—

2 “(1) DEFINITIONS.—In this subsection—

3 “(A) the term ‘disaster area’ means any
4 area for which the President declared a major
5 disaster relating to which the Administrator de-
6 clares eligibility for additional disaster assist-
7 ance under subsection (b)(9), during the period
8 of that major disaster declaration;

9 “(B) the term ‘eligible individual’ means
10 an individual who is eligible for disaster assist-
11 ance under subsection (b)(1) relating to a
12 major disaster relating to which the Adminis-
13 trator declares eligibility for additional disaster
14 assistance under subsection (b)(9);

15 “(C) the term ‘eligible small business con-
16 cern’ means a business concern that is—

17 “(i) a small business concern, as de-
18 fined under this Act; or

19 “(ii) a small business concern, as de-
20 fined in section 103 of the Small Business
21 Investment Act of 1958;

22 “(D) the term ‘preferred lender’ means a
23 lender participating in the Preferred Lender
24 Program;

1 “(E) the term ‘Preferred Lender Program’
2 has the meaning given that term in subsection
3 (a)(2)(C)(ii); and

4 “(F) the term ‘qualified private lender’
5 means any privately-owned bank or other lend-
6 ing institution that—

7 “(i) is not a preferred lender; and

8 “(ii) the Administrator determines
9 meets the criteria established under para-
10 graph (10).

11 “(2) PROGRAM REQUIRED.—The Administrator
12 shall carry out a program, to be known as the Pri-
13 vate Disaster Assistance program, under which the
14 Administration may guarantee timely payment of
15 principal and interest, as scheduled, on any loan
16 made to an eligible small business concern located in
17 a disaster area and to an eligible individual.

18 “(3) USE OF LOANS.—A loan guaranteed by
19 the Administrator under this subsection may be used
20 for any purpose authorized under subsection (b).

21 “(4) ONLINE APPLICATIONS.—

22 “(A) ESTABLISHMENT.—The Adminis-
23 trator may establish, directly or through an
24 agreement with another entity, an online appli-

1 cation process for loans guaranteed under this
2 subsection.

3 “(B) OTHER FEDERAL ASSISTANCE.—The
4 Administrator may coordinate with the head of
5 any other appropriate Federal agency so that
6 any application submitted through an online ap-
7 plication process established under this para-
8 graph may be considered for any other Federal
9 assistance program for disaster relief.

10 “(C) CONSULTATION.—In establishing an
11 online application process under this paragraph,
12 the Administrator shall consult with appro-
13 priate persons from the public and private sec-
14 tors, including private lenders.

15 “(5) MAXIMUM AMOUNTS.—

16 “(A) GUARANTEE PERCENTAGE.—The Ad-
17 ministrator may guarantee not more than 85
18 percent of a loan under this subsection.

19 “(B) LOAN AMOUNT.—The maximum
20 amount of a loan guaranteed under this sub-
21 section shall be \$2,000,000.

22 “(6) TERMS AND CONDITIONS.—A loan guaran-
23 teed under this subsection shall be made under the
24 same terms and conditions as a loan under sub-
25 section (b).

1 “(7) LENDERS.—

2 “(A) IN GENERAL.—A loan guaranteed
3 under this subsection made to—

4 “(i) a qualified individual may be
5 made by a preferred lender; and

6 “(ii) a qualified small business con-
7 cern may be made by a qualified private
8 lender or by a preferred lender that also
9 makes loans to qualified individuals.

10 “(B) COMPLIANCE.—If the Administrator
11 determines that a preferred lender knowingly
12 failed to comply with the underwriting stand-
13 ards for loans guaranteed under this subsection
14 or violated the terms of the standard operating
15 procedure agreement between that preferred
16 lender and the Administration, the Adminis-
17 trator shall do 1 or more of the following:

18 “(i) Exclude the preferred lender from
19 participating in the program under this
20 subsection.

21 “(ii) Exclude the preferred lender
22 from participating in the Preferred Lender
23 Program for a period of not more than 5
24 years.

25 “(8) FEES.—

1 “(A) IN GENERAL.—The Administrator
2 may not collect a guarantee fee under this sub-
3 section.

4 “(B) ORIGINATION FEE.—The Adminis-
5 trator may pay a qualified private lender or
6 preferred lender an origination fee for a loan
7 guaranteed under this subsection in an amount
8 agreed upon in advance between the qualified
9 private lender or preferred lender and the Ad-
10 ministrator.

11 “(9) DOCUMENTATION.—A qualified private
12 lender or preferred lender may use its own loan doc-
13 umentation for a loan guaranteed by the Adminis-
14 trator under this subsection, to the extent author-
15 ized by the Administrator. The ability of a lender to
16 use its own loan documentation for a loan guaran-
17 teed under this subsection shall not be considered
18 part of the criteria for becoming a qualified private
19 lender under the regulations promulgated under
20 paragraph (10).

21 “(10) IMPLEMENTATION REGULATIONS.—

22 “(A) IN GENERAL.—Not later than 1 year
23 after the date of enactment of the Small Busi-
24 ness Disaster Response and Loan Improve-
25 ments Act of 2008, the Administrator shall

1 issue final regulations establishing permanent
2 criteria for qualified private lenders.

3 “(B) REPORT TO CONGRESS.—Not later
4 than 6 months after the date of enactment of
5 the Small Business Disaster Response and
6 Loan Improvements Act of 2008, the Adminis-
7 trator shall submit a report on the progress of
8 the regulations required by subparagraph (A) to
9 the Committee on Small Business and Entre-
10 preneurship of the Senate and the Committee
11 on Small Business of the House of Representa-
12 tives.

13 “(11) AUTHORIZATION OF APPROPRIATIONS.—

14 “(A) IN GENERAL.—Amounts necessary to
15 carry out this subsection shall be made avail-
16 able from amounts appropriated to the Admin-
17 istration to carry out subsection (b).

18 “(B) AUTHORITY TO REDUCE INTEREST
19 RATES AND OTHER TERMS AND CONDITIONS.—
20 Funds appropriated to the Administration to
21 carry out this subsection, may be used by the
22 Administrator to meet the loan terms and con-
23 ditions specified in paragraph (6).

24 “(12) PURCHASE OF LOANS.—The Adminis-
25 trator may enter into an agreement with a qualified

1 private lender or preferred lender to purchase any
2 loan guaranteed under this subsection.”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to any major disaster declared on
5 or after the date of enactment of this Act.

6 **SEC. 12084. IMMEDIATE DISASTER ASSISTANCE PROGRAM.**

7 The Small Business Act is amended by inserting after
8 section 41, as added by this Act, the following:

9 **“SEC. 42. IMMEDIATE DISASTER ASSISTANCE PROGRAM.**

10 “(a) PROGRAM REQUIRED.—The Administrator shall
11 carry out a program, to be known as the Immediate Dis-
12 aster Assistance program, under which the Administration
13 participates on a deferred (guaranteed) basis in 85 per-
14 cent of the balance of the financing outstanding at the
15 time of disbursement of the loan if such balance is less
16 than or equal to \$25,000 for businesses affected by a dis-
17 aster.

18 “(b) ELIGIBILITY REQUIREMENT.—To receive a loan
19 guaranteed under subsection (a), the applicant shall also
20 apply for, and meet basic eligibility standards for, a loan
21 under subsection (b) or (c) of section 7.

22 “(c) USE OF PROCEEDS.—A person who receives a
23 loan under subsection (b) or (c) of section 7 shall use the
24 proceeds of that loan to repay all loans guaranteed under

1 subsection (a), if any, before using the proceeds for any
2 other purpose.

3 “(d) LOAN TERMS.—

4 “(1) NO PREPAYMENT PENALTY.—There shall
5 be no prepayment penalty on a loan guaranteed
6 under subsection (a).

7 “(2) REPAYMENT.—A person who receives a
8 loan guaranteed under subsection (a) and who is dis-
9 approved for a loan under subsection (b) or (c) of
10 section 7, as the case may be, shall repay the loan
11 guaranteed under subsection (a) not later than the
12 date established by the Administrator, which may
13 not be earlier than 10 years after the date on which
14 the loan guaranteed under subsection is disbursed.

15 “(e) APPROVAL OR DISAPPROVAL.—The Adminis-
16 trator shall ensure that each applicant for a loan under
17 the program receives a decision approving or disapproving
18 of the application within 36 hours after the Administra-
19 tion receives the application.”.

20 **SEC. 12085. EXPEDITED DISASTER ASSISTANCE LOAN PRO-**
21 **GRAM.**

22 (a) DEFINITION.—In this section, the term “pro-
23 gram” means the expedited disaster assistance business
24 loan program established under subsection (b).

1 (b) CREATION OF PROGRAM.—The Administrator
2 shall take such administrative action as is necessary to
3 establish and implement an expedited disaster assistance
4 business loan program under which the Administration
5 may, on an expedited basis, guarantee timely payment of
6 principal and interest, as scheduled on any loan made to
7 an eligible small business concern under paragraph (9) of
8 section 7(b) of the Small Business Act (15 U.S.C. 636(b)),
9 as added by this Act.

10 (c) CONSULTATION REQUIRED.—In establishing the
11 program, the Administrator shall consult with—

12 (1) appropriate personnel of the Administration
13 (including District Office personnel of the Adminis-
14 tration);

15 (2) appropriate technical assistance providers
16 (including small business development centers);

17 (3) appropriate lenders and credit unions;

18 (4) the Committee on Small Business and En-
19 trepreneurship of the Senate; and

20 (5) the Committee on Small Business of the
21 House of Representatives.

22 (d) RULES.—

23 (1) IN GENERAL.—Not later than 1 year after
24 the date of enactment of this Act, the Administrator
25 shall issue rules in final form establishing and imple-

1 menting the program in accordance with this sec-
2 tion. Such rules shall apply as provided for in this
3 section, beginning 90 days after their issuance in
4 final form.

5 (2) CONTENTS.—The rules promulgated under
6 paragraph (1) shall—

7 (A) identify whether appropriate uses of
8 funds under the program may include—

9 (i) paying employees;

10 (ii) paying bills and other financial
11 obligations;

12 (iii) making repairs;

13 (iv) purchasing inventory;

14 (v) restarting or operating a small
15 business concern in the community in
16 which it was conducting operations prior to
17 the applicable major disaster, or to a
18 neighboring area, county, or parish in the
19 disaster area; or

20 (vi) covering additional costs until the
21 small business concern is able to obtain
22 funding through insurance claims, Federal
23 assistance programs, or other sources; and

1 (B) set the terms and conditions of any
2 loan made under the program, subject to para-
3 graph (3).

4 (3) TERMS AND CONDITIONS.—A loan guaran-
5 teed by the Administration under this section—

6 (A) shall be for not more than \$150,000;

7 (B) shall be a short-term loan, not to ex-
8 ceed 180 days, except that the Administrator
9 may extend such term as the Administrator de-
10 termines necessary or appropriate on a case-by-
11 case basis;

12 (C) shall have an interest rate not to ex-
13 ceed 300 basis points above the interest rate es-
14 tablished by the Board of Governors of the Fed-
15 eral Reserve System that 1 bank charges an-
16 other for reserves that are lent on an overnight
17 basis on the date the loan is made;

18 (D) shall have no prepayment penalty;

19 (E) may only be made to a borrower that
20 meets the requirements for a loan under section
21 7(b) of the Small Business Act (15 U.S.C.
22 636(b)), as amended by this Act;

23 (F) may be refinanced as part of any sub-
24 sequent disaster assistance provided under sec-

1 tion 7(b) of the Small Business Act (15 U.S.C.
2 636(b)), as amended by this Act;

3 (G) may receive expedited loss verification
4 and loan processing, if the applicant is—

5 (i) a major source of employment in
6 the disaster area (which shall be deter-
7 mined in the same manner as under sec-
8 tion 7(b)(3)(B) of the Small Business Act
9 (15 U.S.C. 636(b)(3)(B))); or

10 (ii) vital to recovery efforts in the re-
11 gion (including providing debris removal
12 services, manufactured housing, or building
13 materials); and

14 (H) shall be subject to such additional
15 terms as the Administrator determines nec-
16 essary or appropriate.

17 (e) REPORT TO CONGRESS.—Not later than 5
18 months after the date of enactment of this Act, the Ad-
19 ministrator shall report to the Committee on Small Busi-
20 ness and Entrepreneurship of the Senate and the Com-
21 mittee on Small Business of the House of Representatives
22 on the progress of the Administrator in establishing the
23 program.

1 (f) AUTHORIZATION.—There are authorized to be ap-
2 propriated to the Administrator such sums as are nec-
3 essary to carry out this section.

4 **SEC. 12086. GULF COAST DISASTER LOAN REFINANCING**
5 **PROGRAM.**

6 (a) IN GENERAL.—The Administrator may carry out
7 a program to refinance Gulf Coast disaster loans (in this
8 section referred to as the “program”).

9 (b) TERMS.—The terms of a Gulf Coast disaster loan
10 refinanced under the program shall be identical to the
11 terms of the original loan, except that the Administrator
12 may provide an option to defer repayment on the loan.
13 A deferment under the program shall end not later than
14 4 years after the date on which the initial disbursement
15 under the original loan was made.

16 (c) AMOUNT.—The amount of a Gulf Coast disaster
17 loan refinanced under the program shall not exceed the
18 amount of the original loan.

19 (d) DISCLOSURE OF ACCRUED INTEREST.—If the
20 Administrator provides an option to defer repayment
21 under the program, the Administrator shall disclose the
22 accrued interest that must be paid under the option.

23 (e) DEFINITION.—In this section, the term “Gulf
24 Coast disaster loan” means a loan—

1 (1) made under section 7(b) of the Small Busi-
2 ness Act (15 U.S.C. 636(b));

3 (2) in response to Hurricane Katrina of 2005,
4 Hurricane Rita of 2005, or Hurricane Wilma of
5 2005; and

6 (3) to a small business concern located in a
7 county or parish designated by the Administrator as
8 a disaster area by reason of a hurricane described
9 in paragraph (2) under disaster declaration 10176,
10 10177, 10178, 10179, 10180, 10181, 10203, 10204,
11 10205, 10206, 10222, or 10223.

12 (f) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated such sums as may be
14 necessary to carry out this section.

15 **PART III—MISCELLANEOUS**

16 **SEC. 12091. REPORTS ON DISASTER ASSISTANCE.**

17 (a) MONTHLY ACCOUNTING REPORT TO CON-
18 GRESS.—

19 (1) REPORTING REQUIREMENTS.—Not later
20 than the fifth business day of each month during the
21 applicable period for a major disaster, the Adminis-
22 trator shall submit to the Committee on Small Busi-
23 ness and Entrepreneurship and the Committee on
24 Appropriations of the Senate and to the Committee
25 on Small Business and the Committee on Appropria-

1 tions of the House of Representatives a report on
2 the operation of the disaster loan program author-
3 ized under section 7 of the Small Business Act (15
4 U.S.C. 636) for that major disaster during the pre-
5 ceding month.

6 (2) CONTENTS.—Each report submitted under
7 paragraph (1) shall include—

8 (A) the daily average lending volume, in
9 number of loans and dollars, and the percent by
10 which each category has increased or decreased
11 since the previous report under paragraph (1);

12 (B) the weekly average lending volume, in
13 number of loans and dollars, and the percent by
14 which each category has increased or decreased
15 since the previous report under paragraph (1);

16 (C) the amount of funding spent over the
17 month for loans, both in appropriations and
18 program level, and the percent by which each
19 category has increased or decreased since the
20 previous report under paragraph (1);

21 (D) the amount of funding available for
22 loans, both in appropriations and program level,
23 and the percent by which each category has in-
24 creased or decreased since the previous report

1 under paragraph (1), noting the source of any
2 additional funding;

3 (E) an estimate of how long the available
4 funding for such loans will last, based on the
5 spending rate;

6 (F) the amount of funding spent over the
7 month for staff, along with the number of staff,
8 and the percent by which each category has in-
9 creased or decreased since the previous report
10 under paragraph (1);

11 (G) the amount of funding spent over the
12 month for administrative costs, and the percent
13 by which such spending has increased or de-
14 creased since the previous report under para-
15 graph (1);

16 (H) the amount of funding available for
17 salaries and expenses combined, and the per-
18 cent by which such funding has increased or de-
19 creased since the previous report under para-
20 graph (1), noting the source of any additional
21 funding; and

22 (I) an estimate of how long the available
23 funding for salaries and expenses will last,
24 based on the spending rate.

1 (b) WEEKLY DISASTER UPDATES TO CONGRESS FOR
2 PRESIDENTIALLY DECLARED DISASTERS.—

3 (1) IN GENERAL.—Each week during a disaster
4 update period, the Administration shall submit to
5 the Committee on Small Business and Entrepre-
6 neurship of the Senate and to the Committee on
7 Small Business of the House of Representatives a
8 report on the operation of the disaster loan program
9 of the Administration for the area in which the
10 President declared a major disaster.

11 (2) CONTENTS.—Each report submitted under
12 paragraph (1) shall include—

13 (A) the number of Administration staff
14 performing loan processing, field inspection,
15 and other duties for the declared disaster, and
16 the allocations of such staff in the disaster field
17 offices, disaster recovery centers, workshops,
18 and other Administration offices nationwide;

19 (B) the daily number of applications re-
20 ceived from applicants in the relevant area, as
21 well as a breakdown of such figures by State;

22 (C) the daily number of applications pend-
23 ing application entry from applicants in the rel-
24 evant area, as well as a breakdown of such fig-
25 ures by State;

1 (D) the daily number of applications with-
2 drawn by applicants in the relevant area, as
3 well as a breakdown of such figures by State;

4 (E) the daily number of applications sum-
5 marily declined by the Administration from ap-
6 plicants in the relevant area, as well as a break-
7 down of such figures by State;

8 (F) the daily number of applications de-
9 clined by the Administration from applicants in
10 the relevant area, as well as a breakdown of
11 such figures by State;

12 (G) the daily number of applications in
13 process from applicants in the relevant area, as
14 well as a breakdown of such figures by State;

15 (H) the daily number of applications ap-
16 proved by the Administration from applicants in
17 the relevant area, as well as a breakdown of
18 such figures by State;

19 (I) the daily dollar amount of applications
20 approved by the Administration from applicants
21 in the relevant area, as well as a breakdown of
22 such figures by State;

23 (J) the daily amount of loans dispersed,
24 both partially and fully, by the Administration

1 to applicants in the relevant area, as well as a
2 breakdown of such figures by State;

3 (K) the daily dollar amount of loans dis-
4 bursed, both partially and fully, from the rel-
5 evant area, as well as a breakdown of such fig-
6 ures by State;

7 (L) the number of applications approved,
8 including dollar amount approved, as well as
9 applications partially and fully disbursed, in-
10 cluding dollar amounts, since the last report
11 under paragraph (1); and

12 (M) the declaration date, physical damage
13 closing date, economic injury closing date, and
14 number of counties included in the declaration
15 of a major disaster.

16 (c) PERIODS WHEN ADDITIONAL DISASTER ASSIST-
17 ANCE IS MADE AVAILABLE.—

18 (1) IN GENERAL.—During any period for which
19 the Administrator declares eligibility for additional
20 disaster assistance under paragraph (9) of section
21 7(b) of the Small Business Act (15 U.S.C. 632(b)),
22 as amended by this Act, the Administrator shall, on
23 a monthly basis, submit to the Committee on Small
24 Business and Entrepreneurship of the Senate and to
25 the Committee on Small Business of the House of

1 Representatives a report on the disaster assistance
2 operations of the Administration with respect to the
3 applicable major disaster.

4 (2) CONTENTS.—Each report submitted under
5 paragraph (1) shall specify—

6 (A) the number of applications for disaster
7 assistance distributed;

8 (B) the number of applications for disaster
9 assistance received;

10 (C) the average time for the Administra-
11 tion to approve or disapprove an application for
12 disaster assistance;

13 (D) the amount of disaster loans approved;

14 (E) the average time for initial disburse-
15 ment of disaster loan proceeds; and

16 (F) the amount of disaster loan proceeds
17 disbursed.

18 (d) NOTICE OF THE NEED FOR SUPPLEMENTAL
19 FUNDS.—On the same date that the Administrator noti-
20 fies any committee of the Senate or the House of Rep-
21 resentatives that supplemental funding is necessary for
22 the disaster loan program of the Administration in any
23 fiscal year, the Administrator shall notify in writing the
24 Committee on Small Business and Entrepreneurship of
25 the Senate and the Committee on Small Business of the

1 House of Representatives regarding the need for supple-
2 mental funds for that loan program.

3 (e) REPORT ON CONTRACTING.—

4 (1) IN GENERAL.—Not later than 6 months
5 after the date on which the President declares a
6 major disaster, and every 6 months thereafter until
7 the date that is 18 months after the date on which
8 the major disaster was declared, the Administrator
9 shall submit a report to the Committee on Small
10 Business and Entrepreneurship of the Senate and to
11 the Committee on Small Business of the House of
12 Representatives regarding Federal contracts award-
13 ed as a result of that major disaster.

14 (2) CONTENTS.—Each report submitted under
15 paragraph (1) shall include—

16 (A) the total number of contracts awarded
17 as a result of that major disaster;

18 (B) the total number of contracts awarded
19 to small business concerns as a result of that
20 major disaster;

21 (C) the total number of contracts awarded
22 to women and minority-owned businesses as a
23 result of that major disaster; and

1 (D) the total number of contracts awarded
2 to local businesses as a result of that major dis-
3 aster.

4 (f) REPORT ON LOAN APPROVAL RATE.—

5 (1) IN GENERAL.—Not later than 6 months
6 after the date of enactment of this Act, the Adminis-
7 trator shall submit a report to the Committee on
8 Small Business and Entrepreneurship of the Senate
9 and the Committee on Small Business of the House
10 of Representatives detailing how the Administration
11 can improve the processing of applications under the
12 disaster loan program of the Administration.

13 (2) CONTENTS.—The report submitted under
14 paragraph (1) shall include—

15 (A) recommendations, if any, regarding—

16 (i) staffing levels during a major dis-
17 aster;

18 (ii) how to improve the process for
19 processing, approving, and disbursing
20 loans under the disaster loan program of
21 the Administration, to ensure that the
22 maximum assistance is provided to victims
23 in a timely manner;

24 (iii) the viability of using alternative
25 methods for assessing the ability of an ap-

1 plicant to repay a loan, including the credit
2 score of the applicant on the day before
3 the date on which the disaster for which
4 the applicant is seeking assistance was de-
5 clared;

6 (iv) methods, if any, for the Adminis-
7 tration to expedite loss verification and
8 loan processing of disaster loans during a
9 major disaster for businesses affected by,
10 and located in the area for which the
11 President declared, the major disaster that
12 are a major source of employment in the
13 area or are vital to recovery efforts in the
14 region (including providing debris removal
15 services, manufactured housing, or building
16 materials);

17 (v) legislative changes, if any, needed
18 to implement findings from the Accelerated
19 Disaster Response Initiative of the Admin-
20 istration; and

21 (vi) a description of how the Adminis-
22 tration plans to integrate and coordinate
23 the response to a major disaster with the
24 technical assistance programs of the Ad-
25 ministration; and

1 (B) the plans of the Administrator for im-
2 plementing any recommendation made under
3 subparagraph (A).

4 (g) REPORTS ON DISASTER ASSISTANCE.—The
5 Small Business Act is amended by inserting after section
6 42, as added by this Act, the following:

7 **“SEC. 43. ANNUAL REPORTS ON DISASTER ASSISTANCE.**

8 “Not later than 45 days after the end of a fiscal year,
9 the Administrator shall submit to the Committee on Small
10 Business and Entrepreneurship of the Senate and the
11 Committee on Small Business of the House of Representa-
12 tives a report on the disaster assistance operations of the
13 Administration for that fiscal year. The report shall—

14 “(1) specify the number of Administration per-
15 sonnel involved in such operations;

16 “(2) describe any material changes to those op-
17 erations, such as changes to technologies used or to
18 personnel responsibilities;

19 “(3) describe and assess the effectiveness of the
20 Administration in responding to disasters during
21 that fiscal year, including a description of the num-
22 ber and amounts of loans made for damage and for
23 economic injury; and

1 “(4) describe the plans of the Administration
2 for preparing to respond to disasters during the next
3 fiscal year.”.

4 **TITLE XIII—COMMODITY**
5 **FUTURES**

6 **SEC. 13001. SHORT TITLE.**

7 This title may be cited as the “CFTC Reauthoriza-
8 tion Act of 2008”.

9 **Subtitle A—General Provisions**

10 **SEC. 13101. COMMISSION AUTHORITY OVER AGREEMENTS,**
11 **CONTRACTS OR TRANSACTIONS IN FOREIGN**
12 **CURRENCY.**

13 (a) IN GENERAL.—Section 2(e)(2) of the Commodity
14 Exchange Act (7 U.S.C. 2(e)(2)) is amended by striking
15 subparagraphs (B) and (C) and inserting the following:

16 “(B) AGREEMENTS, CONTRACTS, AND
17 TRANSACTIONS IN RETAIL FOREIGN CUR-
18 RENCY.—

19 “(i) This Act applies to, and the Com-
20 mission shall have jurisdiction over, an
21 agreement, contract, or transaction in for-
22 eign currency that—

23 “(I) is a contract of sale of a
24 commodity for future delivery (or an
25 option on such a contract) or an op-

1 tion (other than an option executed or
2 traded on a national securities ex-
3 change registered pursuant to section
4 6(a) of the Securities Exchange Act of
5 1934 (15 U.S.C. 78f(a))); and

6 “(II) is offered to, or entered
7 into with, a person that is not an eli-
8 gible contract participant, unless the
9 counterparty, or the person offering to
10 be the counterparty, of the person
11 is—

12 “(aa) a financial institution;

13 “(bb)(AA) a broker or deal-
14 er registered under section 15(b)
15 (except paragraph (11) thereof)
16 or 15C of the Securities Ex-
17 change Act of 1934 (15 U.S.C.
18 78o(b), 78o-5); or

19 “(BB) an associated person
20 of a broker or dealer registered
21 under section 15(b) (except para-
22 graph (11) thereof) or 15C of the
23 Securities Exchange Act of 1934
24 (15 U.S.C. 78o(b), 78o-5) con-
25 cerning the financial or securities

1 activities of which the broker or
2 dealer makes and keeps records
3 under section 15C(b) or 17(h) of
4 the Securities Exchange Act of
5 1934 (15 U.S.C. 78o-5(b),
6 78q(h));

7 “(cc)(AA) a futures commis-
8 sion merchant that is primarily
9 or substantially engaged in the
10 business activities described in
11 section 1a(20) of this Act, is reg-
12 istered under this Act, is not a
13 person described in item (bb) of
14 this subclause, and maintains ad-
15 justed net capital equal to or in
16 excess of the dollar amount that
17 applies for purposes of clause (ii)
18 of this subparagraph; or

19 “(BB) an affiliated person
20 of a futures commission mer-
21 chant that is primarily or sub-
22 stantially engaged in the business
23 activities described in section
24 1a(20) of this Act, is registered
25 under this Act, and is not a per-

1 son described in item (bb) of this
2 subclause, if the affiliated person
3 maintains adjusted net capital
4 equal to or in excess of the dollar
5 amount that applies for purposes
6 of clause (ii) of this subpara-
7 graph and is not a person de-
8 scribed in such item (bb), and
9 the futures commission merchant
10 makes and keeps records under
11 section 4f(e)(2)(B) of this Act
12 concerning the futures and other
13 financial activities of the affili-
14 ated person;

15 “(dd) an insurance company
16 described in section 1a(12)(A)(ii)
17 of this Act, or a regulated sub-
18 sidiary or affiliate of such an in-
19 surance company;

20 “(ee) a financial holding
21 company (as defined in section 2
22 of the Bank Holding Company
23 Act of 1956);

24 “(ff) an investment bank
25 holding company (as defined in

1 section 17(i) of the Securities
2 Exchange Act of 1934 (15
3 U.S.C. 78q(i)); or

4 “(gg) a retail foreign ex-
5 change dealer that maintains ad-
6 justed net capital equal to or in
7 excess of the dollar amount that
8 applies for purposes of clause (ii)
9 of this subparagraph and is reg-
10 istered in such capacity with the
11 Commission, subject to such
12 terms and conditions as the Com-
13 mission shall prescribe, and is a
14 member of a futures association
15 registered under section 17.

16 “(ii) The dollar amount that applies
17 for purposes of this clause is—

18 “(I) \$10,000,000, beginning 120
19 days after the date of the enactment
20 of this clause;

21 “(II) \$15,000,000, beginning 240
22 days after such date of enactment;
23 and

1 “(III) \$20,000,000, beginning
2 360 days after such date of enact-
3 ment.

4 “(iii) Notwithstanding items (cc) and
5 (gg) of clause (i)(II) of this subparagraph,
6 agreements, contracts, or transactions de-
7 scribed in clause (i) of this subparagraph
8 shall be subject to subsection (a)(1)(B) of
9 this section and sections 4(b), 4b, 4e(b),
10 4o, 6(c) and 6(d) (except to the extent that
11 sections 6(c) and 6(d) prohibit manipula-
12 tion of the market price of any commodity
13 in interstate commerce, or for future deliv-
14 ery on or subject to the rules of any mar-
15 ket), 6e, 6d, 8(a), 13(a), and 13(b) if the
16 agreements, contracts, or transactions are
17 offered, or entered into, by a person that
18 is registered as a futures commission mer-
19 chant or retail foreign exchange dealer, or
20 an affiliated person of a futures commis-
21 sion merchant registered under this Act
22 that is not also a person described in any
23 of item (aa), (bb), (dd), (ee), or (ff) of
24 clause (i)(II) of this subparagraph.

1 “(iv)(I) Notwithstanding items (cc)
2 and (gg) of clause (i)(II), a person, unless
3 registered in such capacity as the Commis-
4 sion by rule, regulation, or order shall de-
5 termine and a member of a futures asso-
6 ciation registered under section 17, shall
7 not—

8 “(aa) solicit or accept orders
9 from any person that is not an eligible
10 contract participant in connection
11 with agreements, contracts, or trans-
12 actions described in clause (i) entered
13 into with or to be entered into with a
14 person who is not described in item
15 (aa), (bb), (dd), (ee), or (ff) of clause
16 (i)(II);

17 “(bb) exercise discretionary trad-
18 ing authority or obtain written au-
19 thorization to exercise discretionary
20 trading authority over any account for
21 or on behalf of any person that is not
22 an eligible contract participant in con-
23 nection with agreements, contracts, or
24 transactions described in clause (i) en-
25 tered into with or to be entered into

1 with a person who is not described in
2 item (aa), (bb), (dd), (ee), or (ff) of
3 clause (i)(II); or

4 “(ee) operate or solicit funds, se-
5 curities, or property for any pooled in-
6 vestment vehicle that is not an eligible
7 contract participant in connection
8 with agreements, contracts, or trans-
9 actions described in clause (i) entered
10 into with or to be entered into with a
11 person who is not described in item
12 (aa), (bb), (dd), (ee), or (ff) of clause
13 (i)(II).

14 “(II) Subclause (I) of this clause shall
15 not apply to—

16 “(aa) any person described in
17 any of item (aa), (bb), (dd), (ee), or
18 (ff) of clause (i)(II);

19 “(bb) any such person’s associ-
20 ated persons; or

21 “(cc) any person who would be
22 exempt from registration if engaging
23 in the same activities in connection
24 with transactions conducted on or
25 subject to the rules of a contract mar-

1 ket or a derivatives transaction execu-
2 tion facility.

3 “(III) Notwithstanding items (cc) and
4 (gg) of clause (i)(II), the Commission may
5 make, promulgate, and enforce such rules
6 and regulations as, in the judgment of the
7 Commission, are reasonably necessary to
8 effectuate any of the provisions of, or to
9 accomplish any of the purposes of, this Act
10 in connection with the activities of persons
11 subject to subclause (I).

12 “(IV) Subclause (III) of this clause
13 shall not apply to—

14 “(aa) any person described in
15 any of item (aa) through (ff) of clause
16 (i)(II);

17 “(bb) any such person’s associ-
18 ated persons; or

19 “(cc) any person who would be
20 exempt from registration if engaging
21 in the same activities in connection
22 with transactions conducted on or
23 subject to the rules of a contract mar-
24 ket or a derivatives transaction execu-
25 tion facility.

1 “(v) Notwithstanding items (cc) and
2 (gg) of clause (i)(II), the Commission may
3 make, promulgate, and enforce such rules
4 and regulations as, in the judgment of the
5 Commission, are reasonably necessary to
6 effectuate any of the provisions of, or to
7 accomplish any of the purposes of, this Act
8 in connection with agreements, contracts,
9 or transactions described in clause (i)
10 which are offered, or entered into, by a
11 person described in item (cc) or (gg) of
12 clause (i)(II).

13 “(C)(i)(I) This subparagraph shall apply to
14 any agreement, contract, or transaction in for-
15 eign currency that is—

16 “(aa) offered to, or entered into
17 with, a person that is not an eligible
18 contract participant (except that this
19 subparagraph shall not apply if the
20 counterparty, or the person offering to
21 be the counterparty, of the person
22 that is not an eligible contract partici-
23 pant is a person described in any of
24 item (aa), (bb), (dd), (ee), or (ff) of
25 subparagraph (B)(i)(II)); and

1 “(bb) offered, or entered into, on
2 a leveraged or margined basis, or fi-
3 nanced by the offeror, the
4 counterparty, or a person acting in
5 concert with the offeror or
6 counterparty on a similar basis.

7 “(II) Subclause (I) of this clause shall not
8 apply to—

9 “(aa) a security that is not a security
10 futures product; or

11 “(bb) a contract of sale that—

12 “(AA) results in actual delivery
13 within 2 days; or

14 “(BB) creates an enforceable ob-
15 ligation to deliver between a seller and
16 buyer that have the ability to deliver
17 and accept delivery, respectively, in
18 connection with their line of business.

19 “(ii)(I) Agreements, contracts, or trans-
20 actions described in clause (i) of this subpara-
21 graph shall be subject to subsection (a)(1)(B)
22 of this section and sections 4(b), 4b, 4c(b), 4o,
23 6(e) and 6(d) (except to the extent that sections
24 6(e) and 6(d) prohibit manipulation of the mar-
25 ket price of any commodity in interstate com-

1 merce, or for future delivery on or subject to
2 the rules of any market), 6c, 6d, 8(a), 13(a),
3 and 13(b).

4 “(II) Subclause (I) of this clause shall not
5 apply to—

6 “(aa) any person described in any of
7 item (aa), (bb), (dd), (ee), or (ff) of sub-
8 paragraph (B)(i)(II); or

9 “(bb) any such person’s associated
10 persons.

11 “(III) The Commission may make, promul-
12 gate, and enforce such rules and regulations as,
13 in the judgment of the Commission, are reason-
14 ably necessary to effectuate any of the provi-
15 sions of or to accomplish any of the purposes
16 of this Act in connection with agreements, con-
17 tracts, or transactions described in clause (i) of
18 this subparagraph if the agreements, contracts,
19 or transactions are offered, or entered into, by
20 a person that is not described in item (aa)
21 through (ff) of subparagraph (B)(i)(II).

22 “(iii)(I) A person, unless registered in such
23 capacity as the Commission by rule, regulation,
24 or order shall determine and a member of a fu-

1 tures association registered under section 17,
2 shall not—

3 “(aa) solicit or accept orders from any
4 person that is not an eligible contract par-
5 ticipant in connection with agreements,
6 contracts, or transactions described in
7 clause (i) of this subparagraph entered
8 into with or to be entered into with a per-
9 son who is not described in item (aa), (bb),
10 (dd), (ee), or (ff) of subparagraph
11 (B)(i)(II);

12 “(bb) exercise discretionary trading
13 authority or obtain written authorization
14 to exercise written trading authority over
15 any account for or on behalf of any person
16 that is not an eligible contract participant
17 in connection with agreements, contracts,
18 or transactions described in clause (i) of
19 this subparagraph entered into with or to
20 be entered into with a person who is not
21 described in item (aa), (bb), (dd), (ee), or
22 (ff) of subparagraph (B)(i)(II); or

23 “(cc) operate or solicit funds, securi-
24 ties, or property for any pooled investment
25 vehicle that is not an eligible contract par-

1 participant in connection with agreements,
2 contracts, or transactions described in
3 clause (i) of this subparagraph entered
4 into with or to be entered into with a per-
5 son who is not described in item (aa), (bb),
6 (dd), (ee), or (ff) of subparagraph
7 (B)(i)(II).

8 “(II) Subclause (I) of this clause shall not
9 apply to—

10 “(aa) any person described in item
11 (aa), (bb), (dd), (ee), or (ff) of subpara-
12 graph (B)(i)(II);

13 “(bb) any such person’s associated
14 persons; or

15 “(cc) any person who would be ex-
16 empt from registration if engaging in the
17 same activities in connection with trans-
18 actions conducted on or subject to the
19 rules of a contract market or a derivatives
20 transaction execution facility.

21 “(III) The Commission may make, promul-
22 gate, and enforce such rules and regulations as,
23 in the judgment of the Commission, are reason-
24 ably necessary to effectuate any of the provi-
25 sions of, or to accomplish any of the purposes

1 of, this Act in connection with the activities of
2 persons subject to subclause (I).

3 “(IV) Subclause (III) of this clause shall
4 not apply to—

5 “(aa) any person described in item
6 (aa) through (ff) of subparagraph
7 (B)(i)(II);

8 “(bb) any such person’s associated
9 persons; or

10 “(cc) any person who would be ex-
11 empt from registration if engaging in the
12 same activities in connection with trans-
13 actions conducted on or subject to the
14 rules of a contract market or a derivatives
15 transaction execution facility.

16 “(iv) Sections 4(b) and 4b shall apply to
17 any agreement, contract, or transaction de-
18 scribed in clause (i) of this subparagraph as if
19 the agreement, contract, or transaction were a
20 contract of sale of a commodity for future deliv-
21 ery.

22 “(v) This subparagraph shall not be con-
23 strued to limit any jurisdiction that the Com-
24 mission may otherwise have under any other
25 provision of this Act over an agreement, con-

1 tract, or transaction that is a contract of sale
2 of a commodity for future delivery.

3 “(vi) This subparagraph shall not be con-
4 strued to limit any jurisdiction that the Com-
5 mission or the Securities and Exchange Com-
6 mission may otherwise have under any other
7 provision of this Act with respect to security fu-
8 tures products and persons effecting trans-
9 actions in security futures products.”.

10 (b) EFFECTIVE DATE.—The following provisions of
11 the Commodity Exchange Act, as amended by subsection
12 (a) of this section, shall be effective 120 days after the
13 date of the enactment of this Act or at such other time
14 as the Commodity Futures Trading Commission shall de-
15 termine:

16 (1) Subparagraphs (B)(i)(II)(gg), (B)(iv), and
17 (C)(iii) of section 2(c)(2).

18 (2) The provisions of section
19 2(c)(2)(B)(i)(II)(cc) that set forth adjusted net cap-
20 ital requirements, and the provisions of such section
21 that require a futures commission merchant to be
22 primarily or substantially engaged in certain busi-
23 ness activities.

1 **SEC. 13102. ANTI-FRAUD AUTHORITY OVER PRINCIPAL-TO-**
2 **PRINCIPAL TRANSACTIONS.**

3 Section 4b of the Commodity Exchange Act (7 U.S.C.
4 Section 6b) is amended—

5 (1) by redesignating subsections (b) and (c) as
6 subsections (c) and (d), respectively; and

7 (2) by striking all through the end of subsection
8 (a) and inserting the following:

9 **“SEC. 4b. CONTRACTS DESIGNED TO DEFRAUD OR MIS-**
10 **LEAD.**

11 **“(a) UNLAWFUL ACTIONS.—It shall be unlawful—**

12 **“(1) for any person, in or in connection with**
13 **any order to make, or the making of, any contract**
14 **of sale of any commodity in interstate commerce or**
15 **for future delivery that is made, or to be made, on**
16 **or subject to the rules of a designated contract mar-**
17 **ket, for or on behalf of any other person; or**

18 **“(2) for any person, in or in connection with**
19 **any order to make, or the making of, any contract**
20 **of sale of any commodity for future delivery, or**
21 **other agreement, contract, or transaction subject to**
22 **paragraphs (1) and (2) of section 5a(g), that is**
23 **made, or to be made, for or on behalf of, or with,**
24 **any other person, other than on or subject to the**
25 **rules of a designated contract market—**

1 “(A) to cheat or defraud or attempt to
2 cheat or defraud the other person;

3 “(B) willfully to make or cause to be made
4 to the other person any false report or state-
5 ment or willfully to enter or cause to be entered
6 for the other person any false record;

7 “(C) willfully to deceive or attempt to de-
8 ceive the other person by any means whatsoever
9 in regard to any order or contract or the dis-
10 position or execution of any order or contract,
11 or in regard to any act of agency performed,
12 with respect to any order or contract for or, in
13 the case of paragraph (2), with the other per-
14 son; or

15 “(D)(i) to bucket an order if the order is
16 either represented by the person as an order to
17 be executed, or is required to be executed, on or
18 subject to the rules of a designated contract
19 market; or

20 “(ii) to fill an order by offset against the
21 order or orders of any other person, or willfully
22 and knowingly and without the prior consent of
23 the other person to become the buyer in respect
24 to any selling order of the other person, or be-
25 come the seller in respect to any buying order

1 of the other person, if the order is either rep-
2 resented by the person as an order to be exe-
3 cuted, or is required to be executed, on or sub-
4 ject to the rules of a designated contract mar-
5 ket unless the order is executed in accordance
6 with the rules of the designated contract mar-
7 ket.

8 “(b) CLARIFICATION.—Subsection (a)(2) of this sec-
9 tion shall not obligate any person, in or in connection with
10 a transaction in a contract of sale of a commodity for fu-
11 ture delivery, or other agreement, contract or transaction
12 subject to paragraphs (1) and (2) of section 5a(g), with
13 another person, to disclose to the other person nonpublic
14 information that may be material to the market price,
15 rate, or level of the commodity or transaction, except as
16 necessary to make any statement made to the other person
17 in or in connection with the transaction not misleading
18 in any material respect.”.

19 **SEC. 13103. CRIMINAL AND CIVIL PENALTIES.**

20 (a) ENFORCEMENT POWERS OF THE COMMISSION.—
21 Section 6(c) of the Commodity Exchange Act (7 U.S.C.
22 9, 15) is amended in clause (3) of the 10th sentence—
23 (1) by inserting “(A)” after “assess such per-
24 son”; and

1 (2) by inserting after “each such violation” the
2 following: “, or (B) in any case of manipulation or
3 attempted manipulation in violation of this sub-
4 section, subsection (d) of this section, or section
5 9(a)(2), a civil penalty of not more than the greater
6 of \$1,000,000 or triple the monetary gain to the
7 person for each such violation,”.

8 (b) NONENFORCEMENT OF RULES OF GOVERNMENT
9 OR OTHER VIOLATIONS.—Section 6b of such Act (7
10 U.S.C. 13a) is amended—

11 (1) in the first sentence, by inserting before the
12 period at the end the following: “, or, in any case
13 of manipulation or attempted manipulation in viola-
14 tion of section 6(c), 6(d), or 9(a)(2), a civil penalty
15 of not more than \$1,000,000 for each such viola-
16 tion”; and

17 (2) in the second sentence, by inserting before
18 the period at the end the following: “, except that
19 if the failure or refusal to obey or comply with the
20 order involved any offense under section 9(a)(2), the
21 registered entity, director, officer, agent, or employee
22 shall be guilty of a felony and, on conviction, shall
23 be subject to penalties under section 9(a)(2)”.

24 (c) ACTION TO ENJOIN OR RESTRAIN VIOLATIONS.—
25 Section 6c(d) of such Act (7 U.S.C. 13a–1(d)) is amended

1 by striking all that precedes paragraph (2) and inserting
2 the following:

3 “(d) CIVIL PENALTIES.—

4 “(1) IN GENERAL.—In any action brought
5 under this section, the Commission may seek and
6 the court shall have jurisdiction to impose, on a
7 proper showing, on any person found in the action
8 to have committed any violation—

9 “(A) a civil penalty in the amount of not
10 more than the greater of \$100,000 or triple the
11 monetary gain to the person for each violation;
12 or

13 “(B) in any case of manipulation or at-
14 tempted manipulation in violation of section
15 6(e), 6(d), or 9(a)(2), a civil penalty in the
16 amount of not more than the greater of
17 \$1,000,000 or triple the monetary gain to the
18 person for each violation.”.

19 (d) VIOLATIONS GENERALLY.—Section 9(a) of such
20 Act (7 U.S.C. 13(a)) is amended in the matter preceding
21 paragraph (1)—

22 (1) by striking “(or \$500,000 in the case of a
23 person who is an individual)”; and

24 (2) by striking “five years” and inserting “10
25 years”.

1 **SEC. 13104. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 12(d) of the Commodity Exchange Act (7
3 U.S.C. 16(d)) is amended to read as follows:

4 “(d) There are authorized to be appropriated such
5 sums as are necessary to carry out this Act for each of
6 the fiscal years 2008 through 2013.”.

7 **SEC. 13105. TECHNICAL AND CONFORMING AMENDMENTS.**

8 (a) Section 4a(e) of the Commodity Exchange Act (7
9 U.S.C. 6a(e)) is amended—

10 (1) by inserting “or certified by a registered en-
11 tity pursuant to section 5c(c)(1)” after “approved by
12 the Commission” ; and

13 (2) by striking “section 9(c)” and inserting
14 “section 9(a)(5)”.

15 (b) Section 4f(c)(4)(B)(i) of such Act (7 U.S.C.
16 6f(c)(4)(B)(i)) is amended by striking “compiled” and in-
17 serting “complied”.

18 (c) Section 4k of such Act (7 U.S.C. 6k) is amended
19 by redesignating the second paragraph (5) as paragraph
20 (6).

21 (d) The Commodity Exchange Act is amended—

22 (1) by redesignating the first section 4p (7
23 U.S.C. 6o–1), as added by section 121 of the Com-
24modity Futures Modernization Act of 2000, as sec-
25tion 4q; and

1 (2) by moving such section to after the second
2 section 4p, as added by section 206 of Public Law
3 93–446.

4 (e) Subsections (a)(1) and (d)(1) of section 5c of such
5 Act (7 U.S.C. 7a–2(a)(1), (d)(1)) are each amended by
6 striking “5b(d)(2)” and inserting “5b(c)(2)”.

7 (f) Sections 5c(f) and 17(r) of such Act (7 U.S.C.
8 7a–2(f), 21(r)) are each amended by striking “4d(3)” and
9 inserting “4d(e)”.

10 (g) Section 8(a)(1) of such Act (7 U.S.C. 12(a)(1))
11 is amended in the matter following subparagraph (B)—

12 (1) by striking “commenced” in the 2nd place
13 it appears; and

14 (2) by inserting “commenced” after “in a judi-
15 cial proceeding”.

16 (h) Section 9 of such Act (7 U.S.C. 13) is amended—

17 (1) in subsection (f)(1), by striking the period
18 and inserting “; or”; and

19 (2) by redesignating subsection (f) as sub-
20 section (e).

21 (i) Section 22(a)(2) of such Act (7 U.S.C. 25(a)(2))
22 is amended by striking “5b(b)(1)(E)” and inserting
23 “5b(e)(2)(H)”.

1 (j) Section 1a(33)(A) of such Act (7 U.S.C.
2 1a(33)(A)) is amended by striking “transactions” and all
3 that follows and inserting “transactions—

4 “(i) by accepting bids or offers made
5 by other participants that are open to mul-
6 tiple participants in the facility or system; or

7 “(ii) through the interaction of mul-
8 tiple bids or multiple offers within a sys-
9 tem with a pre-determined non-discre-
10 tionary automated trade matching and exe-
11 cution algorithm.”.

12 (k) Section 14(d) of such Act (7 U.S.C. 18(d)) is
13 amended—

14 (1) by inserting “(1)” before “If”; and

15 (2) by adding after and below the end the fol-
16 lowing:

17 “(2) A reparation award shall be directly en-
18 forceable in district court as if it were a judgment
19 pursuant to section 1963 of title 28, United States
20 Code. This paragraph shall operate retroactively
21 from the effective date of its enactment, and shall
22 apply to all reparation awards for which a pro-
23 ceeding described in paragraph (1) is commenced
24 within 3 years of the date of the Commission’s
25 order.”.

1 **SEC. 13106. PORTFOLIO MARGINING AND SECURITY INDEX**
2 **ISSUES.**

3 (a) The Secretary of the Treasury, the Chairman of
4 the Board of Governors of the Federal Reserve System,
5 the Chairman of the Securities and Exchange Commis-
6 sion, and the Chairman of the Commodity Futures Trad-
7 ing Commission shall work to ensure that the Securities
8 and Exchange Commission (SEC), the Commodity Fu-
9 tures Trading Commission (CFTC), or both, as appro-
10 priate, have taken the actions required under subsection
11 (b).

12 (b) The SEC, the CFTC, or both, as appropriate,
13 shall take action under their existing authorities to per-
14 mit—

15 (1) by September 30, 2009, risk-based portfolio
16 margining for security options and security futures
17 products (as defined in section 1a(32) of the Com-
18modity Exchange Act); and

19 (2) by June 30, 2009, the trading of futures on
20 certain security indexes by resolving issues related to
21 foreign security indexes.

1 **Subtitle B—Significant Price Dis-**
2 **covery Contracts on Exempt**
3 **Commercial Markets**

4 **SEC. 13201. SIGNIFICANT PRICE DISCOVERY CONTRACTS.**

5 (a) DEFINITIONS.—Section 1a of the Commodity Ex-
6 change Act (7 U.S.C. 1a) is amended—

7 (1) by redesignating paragraph (33) as para-
8 graph (34); and

9 (2) by inserting after paragraph (32) the fol-
10 lowing:

11 “(33) SIGNIFICANT PRICE DISCOVERY CON-
12 TRACT.—The term ‘significant price discovery con-
13 tract’ means an agreement, contract, or transaction
14 subject to section 2(h)(7).”.

15 (b) STANDARDS APPLICABLE TO SIGNIFICANT PRICE
16 DISCOVERY CONTRACTS.—Section 2(h) of such Act (7
17 U.S.C. 2(h)) is amended by adding at the end the fol-
18 lowing:

19 “(7) SIGNIFICANT PRICE DISCOVERY CON-
20 TRACTS.—

21 “(A) IN GENERAL.—An agreement, con-
22 tract, or transaction conducted in reliance on
23 the exemption in paragraph (3) shall be subject
24 to the provisions of subparagraphs (B) through
25 (D), under such rules and regulations as the

1 Commission shall promulgate, provided that the
2 Commission determines, in its discretion, that
3 the agreement, contract, or transaction per-
4 forms a significant price discovery function as
5 described in subparagraph (B).

6 “(B) SIGNIFICANT PRICE DISCOVERY DE-
7 TERMINATION.—In making a determination
8 whether an agreement, contract, or transaction
9 performs a significant price discovery function,
10 the Commission shall consider, as appropriate:

11 “(i) PRICE LINKAGE.—The extent to
12 which the agreement, contract, or trans-
13 action uses or otherwise relies on a daily or
14 final settlement price, or other major price
15 parameter, of a contract or contracts listed
16 for trading on or subject to the rules of a
17 designated contract market or a derivatives
18 transaction execution facility, or a signifi-
19 cant price discovery contract traded on an
20 electronic trading facility, to value a posi-
21 tion, transfer or convert a position, cash or
22 financially settle a position, or close out a
23 position.

24 “(ii) ARBITRAGE.—The extent to
25 which the price for the agreement, con-

1 tract, or transaction is sufficiently related
2 to the price of a contract or contracts list-
3 ed for trading on or subject to the rules of
4 a designated contract market or derivatives
5 transaction execution facility, or a signifi-
6 cant price discovery contract or contracts
7 trading on or subject to the rules of an
8 electronic trading facility, so as to permit
9 market participants to effectively arbitrage
10 between the markets by simultaneously
11 maintaining positions or executing trades
12 in the contracts on a frequent and recur-
13 ring basis.

14 “(iii) MATERIAL PRICE REF-
15 ERENCE.—The extent to which, on a fre-
16 quent and recurring basis, bids, offers, or
17 transactions in a commodity are directly
18 based on, or are determined by ref-
19 erencing, the prices generated by agree-
20 ments, contracts, or transactions being
21 traded or executed on the electronic trad-
22 ing facility.

23 “(iv) MATERIAL LIQUIDITY.—The ex-
24 tent to which the volume of agreements,
25 contracts, or transactions in the com-

1 modity being traded on the electronic trad-
2 ing facility is sufficient to have a material
3 effect on other agreements, contracts, or
4 transactions listed for trading on or sub-
5 ject to the rules of a designated contract
6 market, a derivatives transaction execution
7 facility, or an electronic trading facility op-
8 erating in reliance on the exemption in
9 paragraph (3).

10 “(v) OTHER MATERIAL FACTORS.—
11 Such other material factors as the Com-
12 mission specifies by rule as relevant to de-
13 termine whether an agreement, contract,
14 or transaction serves a significant price
15 discovery function.

16 “(C) CORE PRINCIPLES APPLICABLE TO
17 SIGNIFICANT PRICE DISCOVERY CONTRACTS.—

18 “(i) IN GENERAL.—An electronic
19 trading facility on which significant price
20 discovery contracts are traded or executed
21 shall, with respect to those contracts, com-
22 ply with the core principles specified in this
23 subparagraph.

24 “(ii) CORE PRINCIPLES.—The elec-
25 tronic trading facility shall have reasonable

1 discretion (including discretion to account
2 for differences between cleared and
3 uncleared significant price discovery con-
4 tracts) in establishing the manner in which
5 it complies with the following core prin-
6 ciples:

7 “(I) CONTRACTS NOT READILY
8 SUSCEPTIBLE TO MANIPULATION.—

9 The electronic trading facility shall
10 list only significant price discovery
11 contracts that are not readily suscep-
12 tible to manipulation.

13 “(II) MONITORING OF TRAD-
14 ING.—The electronic trading facility
15 shall monitor trading in significant
16 price discovery contracts to prevent
17 market manipulation, price distortion,
18 and disruptions of the delivery or
19 cash-settlement process through mar-
20 ket surveillance, compliance, and dis-
21 ciplinary practices and procedures, in-
22 cluding methods for conducting real-
23 time monitoring of trading and com-
24 prehensive and accurate trade recon-
25 structions.

1 “(III) ABILITY TO OBTAIN IN-
2 FORMATION.—The electronic trading
3 facility shall—

4 “(aa) establish and enforce
5 rules that will allow the electronic
6 trading facility to obtain any nec-
7 essary information to perform
8 any of the functions described in
9 this subparagraph;

10 “(bb) provide the informa-
11 tion to the Commission upon re-
12 quest; and

13 “(cc) have the capacity to
14 carry out such international in-
15 formation-sharing agreements as
16 the Commission may require.

17 “(IV) POSITION LIMITATIONS OR
18 ACCOUNTABILITY.—The electronic
19 trading facility shall adopt, where nec-
20 essary and appropriate, position limi-
21 tations or position accountability for
22 speculators in significant price dis-
23 covery contracts, taking into account
24 positions in other agreements, con-
25 tracts, and transactions that are

1 treated by a derivatives clearing orga-
2 nization, whether registered or not
3 registered, as fungible with such sig-
4 nificant price discovery contracts to
5 reduce the potential threat of market
6 manipulation or congestion, especially
7 during trading in the delivery month.

8 “(V) EMERGENCY AUTHORITY.—

9 The electronic trading facility shall
10 adopt rules to provide for the exercise
11 of emergency authority, in consulta-
12 tion or cooperation with the Commis-
13 sion, where necessary and appro-
14 priate, including the authority—

15 “(aa) to liquidate open posi-
16 tions in a significant price dis-
17 covery contract; and

18 “(bb) to suspend or curtail
19 trading in a significant price dis-
20 covery contract.

21 “(VI) DAILY PUBLICATION OF

22 TRADING INFORMATION.—The elec-
23 tronic trading facility shall make pub-
24 lic daily information on price, trading
25 volume, and other trading data to the

1 extent appropriate for significant
2 price discovery contracts

3 “(VII) COMPLIANCE WITH
4 RULES.—The electronic trading facil-
5 ity shall monitor and enforce compli-
6 ance with any rules of the electronic
7 trading facility applicable to signifi-
8 cant price discovery contracts, includ-
9 ing the terms and conditions of the
10 contracts and any limitations on ac-
11 cess to the electronic trading facility
12 with respect to the contracts.

13 “(VIII) CONFLICT OF INTER-
14 EST.—The electronic trading facility,
15 with respect to significant price dis-
16 covery contracts, shall—

17 “(aa) establish and enforce
18 rules to minimize conflicts of in-
19 terest in its decision-making
20 process; and

21 “(bb) establish a process for
22 resolving the conflicts of interest.

23 “(IX) ANTITRUST CONSIDER-
24 ATIONS.—Unless necessary or appro-
25 priate to achieve the purposes of this

1 Act, the electronic trading facility,
2 with respect to significant price dis-
3 covery contracts, shall endeavor to
4 avoid—

5 “(aa) adopting any rules or
6 taking any actions that result in
7 any unreasonable restraints of
8 trade; or

9 “(bb) imposing any material
10 anticompetitive burden on trad-
11 ing on the electronic trading fa-
12 cility.

13 “(D) IMPLEMENTATION.—

14 “(i) CLEARING.—The Commission
15 shall take into consideration differences be-
16 tween cleared and uncleared significant
17 price discovery contracts when reviewing
18 the implementation of the core principles
19 by an electronic trading facility.

20 “(ii) REVIEW.—As part of the Com-
21 mission’s continual monitoring and surveil-
22 lance activities, the Commission shall, not
23 less frequently than annually, evaluate, as
24 appropriate, all the agreements, contracts,
25 or transactions conducted on an electronic

1 trading facility in reliance on the exemp-
2 tion provided in paragraph (3) to deter-
3 mine whether they serve a significant price
4 discovery function as described in subpara-
5 graph (B) of this paragraph.”.

6 **SEC. 13202. LARGE TRADER REPORTING.**

7 (a) REPORTING AND RECORDKEEPING.—Section
8 4g(a) of the Commodity Exchange Act (7 U.S.C. 6g(a))
9 is amended by inserting “, and in any significant price
10 discovery contract traded or executed on an electronic
11 trading facility or any agreement, contract, or transaction
12 that is treated by a derivatives clearing organization,
13 whether registered or not registered, as fungible with a
14 significant price discovery contract” after “elsewhere”.

15 (b) REPORTS OF POSITIONS EQUAL TO OR IN EX-
16 CESS OF TRADING LIMITS.—Section 4i of such Act (7
17 U.S.C. 6i) is amended—

18 (1) by inserting “, or any significant price dis-
19 covery contract traded or executed on an electronic
20 trading facility or any agreement, contract, or trans-
21 action that is treated by a derivatives clearing orga-
22 nization, whether registered or not registered, as
23 fungible with a significant price discovery contract”
24 after “subject to the rules of any contract market or
25 derivatives transaction execution facility”; and

1 (2) in the matter following paragraph (2), by
2 inserting “or electronic trading facility” after “sub-
3 ject to the rules of any other board of trade”.

4 **SEC. 13203. CONFORMING AMENDMENTS.**

5 (a) Section 1a(12)(A)(x) of the Commodity Exchange
6 Act (7 U.S.C. 1a(12)(A)(x)) is amended by inserting
7 “(other than an electronic trading facility with respect to
8 a significant price discovery contract)” after “registered
9 entity”.

10 (b) Section 1a(29) of such Act (7 U.S.C. 1a(29)) is
11 amended—

12 (1) in subparagraph (C), by striking “and” at
13 the end;

14 (2) in subparagraph (D), by striking the period
15 and inserting “; and”; and

16 (3) by adding at the end the following:

17 “(E) with respect to a contract that the
18 Commission determines is a significant price
19 discovery contract, any electronic trading facil-
20 ity on which the contract is executed or trad-
21 ed.”.

22 (c) Section 2(a)(1)(A) of such Act (7 U.S.C.
23 2(a)(1)(A)) is amended by inserting after “future deliv-
24 ery” the following: “(including significant price discovery
25 contracts)”.

1 (d) Section 2(h)(3) of such Act (7 U.S.C. 2(h)(3))
2 is amended by striking “paragraph (4)” and inserting
3 “paragraphs (4) and (7)”.

4 (e) Section 2(h)(4) of such Act (7 U.S.C. 2(h)(4))
5 is amended—

6 (1) in subparagraph (B), by inserting “and, for
7 a significant price discovery contract, requiring large
8 trader reporting,” after “proscribing fraud”;

9 (2) by striking “and” at the end of subpara-
10 graph (C); and

11 (3) by striking subparagraph (D) and inserting
12 the following:

13 “(D) such rules, regulations, and orders as
14 the Commission may issue to ensure timely
15 compliance with any of the provisions of this
16 Act applicable to a significant price discovery
17 contract traded on or executed on any electronic
18 trading facility; and

19 “(E) such other provisions of this Act as
20 are applicable by their terms to significant price
21 discovery contracts or to registered entities or
22 electronic trading facilities with respect to sig-
23 nificant price discovery contracts.”.

24 (f) Section 2(h)(5)(B)(iii)(I) of such Act (7 U.S.C.
25 2(h)(5)(B)(iii)(I)) is amended by inserting “or to make

1 the determination described in subparagraph (B) of para-
2 graph (7)” after “paragraph (4)”.

3 (g) Section 4a of such Act (7 U.S.C. 6a) is amend-
4 ed—

5 (1) in subsection (a)—

6 (A) in the first sentence, by inserting “, or
7 on electronic trading facilities with respect to a
8 significant price discovery contract” after “de-
9 rivatives transaction execution facilities”; and

10 (B) in the second sentence, by inserting “,
11 or on an electronic trading facility with respect
12 to a significant price discovery contract,” after
13 “derivatives transaction execution facility”; and

14 (2) in subsection (b)—

15 (A) in paragraph (1), by inserting “or elec-
16 tronic trading facility with respect to a signifi-
17 cant price discovery contract” after “facility or
18 facilities”; and

19 (B) in paragraph (2), by inserting “or elec-
20 tronic trading facility with respect to a signifi-
21 cant price discovery contract” after “derivatives
22 transaction execution facility”; and

23 (3) in subsection (e)—

24 (A) in the first sentence—

1 (i) by inserting “or by any electronic
2 trading facility” after “registered by the
3 Commission”;

4 (ii) by inserting “or on an electronic
5 trading facility” after “derivatives trans-
6 action execution facility” the second place
7 it appears; and

8 (iii) by inserting “or electronic trading
9 facility” before “or such board of trade”
10 each place it appears; and

11 (B) in the second sentence, by inserting
12 “or electronic trading facility with respect to a
13 significant price discovery contract” after “reg-
14 istered by the Commission”.

15 (h) Section 5a(d) of such Act (7 U.S.C. 7a(d)(1)) is
16 amended—

17 (1) by redesignating paragraphs (4) through
18 (9) as paragraphs (5) through (10); and

19 (2) by inserting after paragraph (3) the fol-
20 lowing:

21 “(4) POSITION LIMITATIONS OR ACCOUNT-
22 ABILITY.—To reduce the potential threat of market
23 manipulation or congestion, especially during trading
24 in the delivery month, the derivatives transaction
25 execution facility shall adopt position limits or posi-

1 tion accountability for speculators, where necessary
2 and appropriate for a contract, agreement or trans-
3 action with an underlying commodity that has a
4 physically deliverable supply.”.

5 (i) Section 5c(a) of such Act (7 U.S.C. 7a–2(a)) is
6 amended in paragraph (1) by inserting “, and section
7 2(h)(7) with respect to significant price discovery con-
8 tracts,” after “, and 5b(d)(2)”.

9 (j) Section 5c(b) of such Act (7 U.S.C. 7a–2(b)) is
10 amended—

11 (1) by striking paragraph (1) and inserting the
12 following:

13 “(1) IN GENERAL.—A contract market, deriva-
14 tives transaction execution facility, or electronic
15 trading facility with respect to a significant price
16 discovery contract may comply with any applicable
17 core principle through delegation of any relevant
18 function to a registered futures association or a reg-
19 istered entity that is not an electronic trading facil-
20 ity.”;

21 (2) in paragraph (2), by striking “contract
22 market or derivatives transaction execution facility”
23 and inserting “contract market, derivatives trans-
24 action execution facility, or electronic trading facil-
25 ity”; and

1 (3) in paragraph (3), by striking “contract
2 market or derivatives transaction execution facility”
3 each place it appears and inserting “contract mar-
4 ket, derivatives transaction execution facility, or
5 electronic trading facility”.

6 (k) Section 5c(d)(1) of such Act (7 U.S.C. 7a-
7 2(d)(1)) is amended by inserting “or 2(h)(7)(C) with re-
8 spect to a significant price discovery contract traded or
9 executed on an electronic trading facility,” after
10 “5b(d)(2)”.

11 (l) Section 5e of such Act (7 U.S.C. 7b) is amended
12 by inserting “, or revocation of the right of an electronic
13 trading facility to rely on the exemption set forth in sec-
14 tion 2(h)(3) with respect to a significant price discovery
15 contract,” after “revocation of designation as a registered
16 entity”.

17 (m) Section 6(b) of the Commodity Exchange Act (7
18 U.S.C. 8(b)) is amended by striking the first sentence and
19 all that follows through “hearing on the record: Provided,”
20 and inserting the following:

21 “The Commission is authorized to suspend for a pe-
22 riod not to exceed 6 months or to revoke the designation
23 or registration of any contract market or derivatives trans-
24 action execution facility, or to revoke the right of an elec-
25 tronic trading facility to rely on the exemption set forth

1 in section 2(h)(3) with respect to a significant price dis-
2 covery contract, on a showing that the contract market
3 or derivatives transaction execution facility is not enforce-
4 ing or has not enforced its rules of government, made a
5 condition of its designation or registration as set forth in
6 sections 5 through 5b or section 5f, or that the contract
7 market or derivatives transaction execution facility or elec-
8 tronic trading facility, or any director, officer, agent, or
9 employee thereof, otherwise is violating or has violated any
10 of the provisions of this Act or any of the rules, regula-
11 tions, or orders of the Commission thereunder. Such sus-
12 pension or revocation shall only be made after a notice
13 to the officers of the contract market or derivatives trans-
14 action execution facility or electronic trading facility af-
15 fected and upon a hearing on the record: Provided,”.

16 (n) Section 22(b)(1) of such Act (7 U.S.C. 25(b)(1))
17 is amended by inserting “section 2(h)(7) or” before “sec-
18 tions 5”.

19 **SEC. 13204. EFFECTIVE DATE.**

20 (a) IN GENERAL.—Except as provided in this section,
21 this subtitle shall become effective on the date of enact-
22 ment of this Act.

23 (b) SIGNIFICANT PRICE DISCOVERY STANDARDS
24 RULEMAKING.—

1 (1) The Commodity Futures Trading Commis-
2 sion shall—

3 (A) not later than 180 days after the date
4 of the enactment of this Act, issue a proposed
5 rule regarding the implementation of section
6 2(h)(7) of the Commodity Exchange Act; and

7 (B) not later than 270 days after the date
8 of enactment of this Act, issue a final rule re-
9 garding the implementation.

10 (2) In its rulemaking pursuant to paragraph
11 (1) of this subsection, the Commission shall include
12 the standards, terms, and conditions under which an
13 electronic trading facility will have the responsibility
14 to notify the Commission that an agreement, con-
15 tract, or transaction conducted in reliance on the ex-
16 emption provided in section 2(h)(3) of the Com-
17 modity Exchange Act may perform a price discovery
18 function.

19 (c) SIGNIFICANT PRICE DISCOVERY DETERMINA-
20 TIONS.—With respect to any electronic trading facility op-
21 erating on the effective date of the final rule issued pursu-
22 ant to subsection (b)(1), the Commission shall complete
23 a review of the agreements, contracts, and transactions
24 of the facility not later than 180 days after that effective
25 date to determine whether any such agreement, contract,

1 or transaction performs a significant price discovery func-
2 tion.

3 **TITLE XIV—MISCELLANEOUS**
4 **Subtitle A—Socially Disadvantaged**
5 **Producers and Limited Re-**
6 **source Producers**

7 **SEC. 14001. IMPROVED PROGRAM DELIVERY BY DEPART-**
8 **MENT OF AGRICULTURE ON INDIAN RES-**
9 **ERVATIONS.**

10 Section 2501(g)(1) of the Food, Agriculture, Con-
11 servation, and Trade Act of 1990 (7 U.S.C. 2279(g)(1))
12 is amended—

13 (1) in the first sentence—

14 (A) by striking “Agricultural Stabilization
15 and Conservation Service, Soil Conservation
16 Service, and Farmers Home Administration of-
17 fices” and inserting “Farm Service Agency and
18 Natural Resources Conservation Service”; and

19 (B) by inserting “where there has been a
20 need demonstrated” after “include”; and

21 (2) by striking the second sentence.

22 **SEC. 14002. FORECLOSURE.**

23 (a) IN GENERAL.—Section 331A of the Consolidated
24 Farm and Rural Development Act (7 U.S.C. 1981a) is
25 amended:

1 (1) by inserting “(a)” after “SEC. 331A.”; and

2 (2) by adding at the end the following:

3 “(b) MORATORIUM.—

4 “(1) IN GENERAL.—Subject to the other provi-
5 sions of this subsection, effective beginning on the
6 date of the enactment of this subsection, there shall
7 be in effect a moratorium, with respect to farmer
8 program loans made under subtitle A, B, or C, on
9 all acceleration and foreclosure proceedings insti-
10 tuted by the Department of Agriculture against any
11 farmer or rancher who—

12 “(A) has pending against the Department
13 a claim of program discrimination that is ac-
14 cepted by the Department as valid; or

15 “(B) files a claim of program discrimina-
16 tion that is accepted by the Department as
17 valid.

18 “(2) WAIVER OF INTEREST AND OFFSETS.—
19 During the period of the moratorium, the Secretary
20 shall waive the accrual of interest and offsets on all
21 farmer program loans made under subtitle A, B, or
22 C for which loan acceleration or foreclosure pro-
23 ceedings have been suspended under paragraph (1).

24 “(3) TERMINATION OF MORATORIUM.—The
25 moratorium shall terminate with respect to a claim

1 of discrimination by a farmer or rancher on the ear-
2 lier of—

3 “(A) the date the Secretary resolves the
4 claim; or

5 “(B) if the farmer or rancher appeals the
6 decision of the Secretary on the claim to a
7 court of competent jurisdiction, the date that
8 the court renders a final decision on the claim.

9 “(4) FAILURE TO PREVAIL.—If a farmer or
10 rancher does not prevail on a claim of discrimination
11 described in paragraph (1), the farmer or rancher
12 shall be liable for any interest and offsets that ac-
13 crued during the period that loan acceleration or
14 foreclosure proceedings have been suspended under
15 paragraph (1).”.

16 (b) FORECLOSURE REPORT.—

17 (1) IN GENERAL.—Not later than 1 year after
18 the date of the enactment of this Act, the Inspector
19 General of the Department of Agriculture (referred
20 to in this subsection as the “Inspector General”)
21 shall determine whether decisions of the Department
22 to implement foreclosure proceedings with respect to
23 farmer program loans made under subtitle A, B, or
24 C of the Consolidated Farm and Rural Development
25 Act (7 U.S.C. 1922 et seq.) to socially disadvan-

1 tagged farmers or ranchers during the 5-year period
2 preceding the date of the enactment of this Act were
3 consistent and in conformity with the applicable laws
4 (including regulations) governing loan foreclosures.

5 (2) REPORT.—Not later than 1 year after the
6 date of the enactment of this Act, the Inspector
7 General shall submit to the Committee on Agri-
8 culture of the House of Representatives and the
9 Committee on Agriculture, Nutrition, and Forestry
10 of the Senate a report that describes the determina-
11 tion of the Inspector General under paragraph (1).

12 **SEC. 14003. RECEIPT FOR SERVICE OR DENIAL OF SERVICE**
13 **FROM CERTAIN DEPARTMENT OF AGRICULTURE**
14 **AGENCIES.**

15 Section 2501A of the Food, Agriculture, Conserva-
16 tion, and Trade Act of 1990 (7 U.S.C. 2279–1) is amend-
17 ed by adding at the end the following new subsection:

18 “(e) RECEIPT FOR SERVICE OR DENIAL OF SERV-
19 ICE.—In any case in which a current or prospective pro-
20 ducer or landowner, in person or in writing, requests from
21 the Farm Service Agency, the Natural Resources Con-
22 servation Service, or an agency of the Rural Development
23 Mission Area any benefit or service offered by the Depart-
24 ment to agricultural producers or landowners and, at the
25 time of the request, also requests a receipt, the Secretary

1 shall issue, on the date of the request, a receipt to the
2 producer or landowner that contains—

3 “(1) the date, place, and subject of the request;

4 and

5 “(2) the action taken, not taken, or rec-
6 ommended to the producer or landowner.”.

7 **SEC. 14004. OUTREACH AND TECHNICAL ASSISTANCE FOR**
8 **SOCIALLY DISADVANTAGED FARMERS OR**
9 **RANCHERS.**

10 (a) OUTREACH AND TECHNICAL ASSISTANCE PRO-
11 GRAM.—

12 (1) PROGRAM REQUIREMENTS.—Paragraph (2)
13 of section 2501(a) of the Food, Agriculture, Con-
14 servation, and Trade Act of 1990 (7 U.S.C.
15 2279(a)) is amended to read as follows:

16 “(2) REQUIREMENTS.—The outreach and tech-
17 nical assistance program under paragraph (1) shall
18 be used exclusively—

19 “(A) to enhance coordination of the out-
20 reach, technical assistance, and education ef-
21 forts authorized under agriculture programs;
22 and

23 “(B) to assist the Secretary in—

1 “(i) reaching current and prospective
2 socially disadvantaged farmers or ranchers
3 in a linguistically appropriate manner; and

4 “(ii) improving the participation of
5 those farmers and ranchers in Department
6 programs, as reported under section
7 2501A.”.

8 (2) GRANTS AND CONTRACTS UNDER PRO-
9 GRAM.—Section 2501(a)(3) of the Food, Agri-
10 culture, Conservation, and Trade Act of 1990 (7
11 U.S.C. 2279(a)(3)) is amended—

12 (A) in subparagraph (A), by striking “enti-
13 ty to provide information” and inserting “entity
14 that has demonstrated an ability to carry out
15 the requirements described in paragraph (2) to
16 provide outreach”; and

17 (B) by adding at the end the following new
18 subparagraph:

19 “(D) REPORT.—The Secretary shall sub-
20 mit to the Committee on Agriculture of the
21 House of Representatives and the Committee
22 on Agriculture, Nutrition, and Forestry of the
23 Senate, and make publicly available, an annual
24 report that includes a list of the following:

1 “(i) The recipients of funds made
2 available under the program.

3 “(ii) The activities undertaken and
4 services provided.

5 “(iii) The number of current and pro-
6 spective socially disadvantaged farmers or
7 ranchers served and outcomes of such serv-
8 ice.

9 “(iv) The problems and barriers iden-
10 tified by entities in trying to increase par-
11 ticipation by current and prospective so-
12 cially disadvantaged farmers or ranchers.”.

13 (3) FUNDING AND LIMITATION ON USE OF
14 FUNDS.—Section 2501(a)(4) of the Food, Agri-
15 culture, Conservation, and Trade Act of 1990 (7
16 U.S.C. 2279(a)(4)) is amended—

17 (A) by striking subparagraph (A) and in-
18 serting the following new subparagraph:

19 “(A) IN GENERAL.—Of the funds of the
20 Commodity Credit Corporation, the Secretary
21 shall make available to carry out this section—

22 “(i) \$15,000,000 for fiscal year 2009;

23 and

24 “(ii) \$20,000,000 for each of fiscal
25 years 2010 through 2012.”.

1 (B) by adding at the end the following new
2 subparagraph:

3 “(C) LIMITATION ON USE OF FUNDS FOR
4 ADMINISTRATIVE EXPENSES.—Not more than 5
5 percent of the amounts made available under
6 subparagraph (A) for a fiscal year may be used
7 for expenses related to administering the pro-
8 gram under this section.”.

9 (b) ELIGIBLE ENTITY DEFINED.—Section
10 2501(e)(5)(A)(ii) of the Food, Agriculture, Conservation,
11 and Trade Act of 1990 (7 U.S.C. 2279(e)(5)(A)(ii)) is
12 amended by striking “work with socially disadvantaged
13 farmers or ranchers during the 2-year period” and insert-
14 ing “work with, and on behalf of, socially disadvantaged
15 farmers or ranchers during the 3-year period”.

16 **SEC. 14005. ACCURATE DOCUMENTATION IN THE CENSUS**
17 **OF AGRICULTURE AND CERTAIN STUDIES.**

18 Section 2501 of the Food, Agriculture, Conservation,
19 and Trade Act of 1990 (7 U.S.C. 2279) is amended by
20 adding at the end the following:

21 “(h) ACCURATE DOCUMENTATION.—The Secretary
22 shall ensure, to the maximum extent practicable, that the
23 Census of Agriculture and studies carried out by the Eco-
24 nomic Research Service accurately document the number,

1 location, and economic contributions of socially disadvan-
2 tagged farmers or ranchers in agricultural production.”.

3 **SEC. 14006. TRANSPARENCY AND ACCOUNTABILITY FOR SO-**
4 **cially Disadvantaged Farmers or**
5 **Ranchers.**

6 Section 2501A of the Food, Agriculture, Conserva-
7 tion, and Trade Act of 1990 (7 U.S.C. 2279–1) is amend-
8 ed by striking subsection (c) and inserting the following
9 new subsections:

10 “(c) COMPILATION OF PROGRAM PARTICIPATION
11 DATA.—

12 “(1) ANNUAL REQUIREMENT.—For each county
13 and State in the United States, the Secretary of Ag-
14 riculture (referred to in this section as the ‘Sec-
15 retary’) shall annually compile program application
16 and participation rate data regarding socially dis-
17 advantaged farmers or ranchers by computing for
18 each program of the Department of Agriculture that
19 serves agricultural producers and landowners—

20 “(A) raw numbers of applicants and par-
21 ticipants by race, ethnicity, and gender, subject
22 to appropriate privacy protections, as deter-
23 mined by the Secretary; and

24 “(B) the application and participation rate,
25 by race, ethnicity, and gender, as a percentage

1 of the total participation rate of all agricultural
2 producers and landowners.

3 “(2) AUTHORITY TO COLLECT DATA.—The
4 heads of the agencies of the Department of Agri-
5 culture shall collect and transmit to the Secretary
6 any data, including data on race, gender, and eth-
7 nicity, that the Secretary determines to be necessary
8 to carry out paragraph (1).

9 “(3) REPORT.—Using the technologies and sys-
10 tems of the National Agricultural Statistics Service,
11 the Secretary shall compile and present the data
12 compiled under paragraph (1) for each program de-
13 scribed in that paragraph in a manner that includes
14 the raw numbers and participation rates for—

15 “(A) the entire United States;

16 “(B) each State; and

17 “(C) each county in each State.

18 “(4) PUBLIC AVAILABILITY OF REPORT.—The
19 Secretary shall maintain and make readily available
20 to the public, via website and otherwise in electronic
21 and paper form, the report described in paragraph
22 (3).

23 “(d) LIMITATIONS ON USE OF DATA.—

24 “(1) PRIVACY PROTECTIONS.—In carrying out
25 this section, the Secretary shall not disclose the

1 names or individual data of any program partici-
2 pant.

3 “(2) AUTHORIZED USES.—The data under this
4 section shall be used exclusively for the purposes de-
5 scribed in subsection (a).

6 “(3) LIMITATION.—Except as otherwise pro-
7 vided, the data under this section shall not be used
8 for the evaluation of individual applications for as-
9 sistance.”.

10 **SEC. 14007. OVERSIGHT AND COMPLIANCE.**

11 The Secretary, acting through the Assistant Sec-
12 retary for Civil Rights of the Department of Agriculture,
13 shall use the reports described in subsection (c) of section
14 2501A of the Food, Agriculture, Conservation, and Trade
15 Act of 1990 (7 U.S.C. 2279–1), as amended by section
16 14006, in the conduct of oversight and evaluation of civil
17 rights compliance.

18 **SEC. 14008. MINORITY FARMER ADVISORY COMMITTEE.**

19 (a) ESTABLISHMENT.—Not later than 18 months
20 after the date of the enactment of this Act, the Secretary
21 of Agriculture shall establish an advisory committee, to
22 be known as the “Advisory Committee on Minority Farm-
23 ers” (in this section referred to as the “Committee”).

24 (b) DUTIES.—The Committee shall provide advice to
25 the Secretary on—

1 (1) the implementation of section 2501 of the
2 Food, Agriculture, Conservation, and Trade Act of
3 1990 (7 U.S.C. 2279);

4 (2) methods of maximizing the participation of
5 minority farmers and ranchers in Department of Ag-
6 riculture programs; and

7 (3) civil rights activities within the Department
8 as such activities relate to participants in such pro-
9 grams.

10 (c) MEMBERSHIP.—

11 (1) IN GENERAL.—The Committee shall be
12 composed of not more than 15 members, who shall
13 be appointed by the Secretary, and shall include—

14 (A) not less than four socially disadvan-
15 taged farmers or ranchers (as defined in section
16 2501(e)(2) of the Food, Agriculture, Conserva-
17 tion, and Trade Act of 1990 (7 U.S.C.
18 2279(e)(2)));

19 (B) not less than two representatives of
20 nonprofit organizations with a history of work-
21 ing with minority farmers and ranchers;

22 (C) not less than two civil rights profes-
23 sionals;

24 (D) not less than two representatives of in-
25 stitutions of higher education with dem-

1 onstrated experience working with minority
2 farmers and ranchers; and

3 (E) such other persons as the Secretary
4 considers appropriate.

5 (2) EX-OFFICIO MEMBERS.—The Secretary may
6 appoint such employees of the Department of Agri-
7 culture as the Secretary considers appropriate to
8 serve as ex-officio members of the Committee.

9 **SEC. 14009. NATIONAL APPEALS DIVISION.**

10 Section 280 of the Department of Agriculture Reor-
11 ganization Act of 1994 (7 U.S.C. 7000) is amended—

12 (1) by striking “On the return” and inserting
13 the following:

14 “(a) IN GENERAL.—On the return”; and

15 (2) by adding at the end the following:

16 “(b) REPORTS.—

17 “(1) IN GENERAL.—Not later than 180 days
18 after the date of the enactment of this subsection,
19 and every 180 days thereafter, the head of each
20 agency shall submit to the Committee on Agriculture
21 of the House of Representatives and the Committee
22 on Agriculture, Nutrition, and Forestry of the Sen-
23 ate, and publish on the website of the Department,
24 a report that includes—

1 “(A) a description of all cases returned to
2 the agency during the period covered by the re-
3 port pursuant to a final determination of the
4 Division;

5 “(B) the status of implementation of each
6 final determination; and

7 “(C) if the final determination has not
8 been implemented—

9 “(i) the reason that the final deter-
10 mination has not been implemented; and

11 “(ii) the projected date of implemen-
12 tation of the final determination.

13 “(2) UPDATES.—Each month, the head of each
14 agency shall publish on the website of the Depart-
15 ment any updates to the reports submitted under
16 paragraph (1).”.

17 **SEC. 14010. REPORT OF CIVIL RIGHTS COMPLAINTS, RESO-**
18 **LUTIONS, AND ACTIONS.**

19 Each year, the Secretary shall—

20 (1) prepare a report that describes, for each
21 agency of the Department of Agriculture—

22 (A) the number of civil rights complaints
23 filed that relate to the agency, including wheth-
24 er a complaint is a program complaint or an
25 employment complaint;

1 (B) the length of time the agency took to
2 process each civil rights complaint;

3 (C) the number of proceedings brought
4 against the agency, including the number of
5 complaints described in paragraph (1) that were
6 resolved with a finding of discrimination; and

7 (D) the number and type of personnel ac-
8 tions taken by the agency following resolution
9 of civil rights complaints;

10 (2) submit to the Committee on Agriculture of
11 the House of Representatives and the Committee on
12 Agriculture, Nutrition, and Forestry of the Senate a
13 copy of the report; and

14 (3) make the report available to the public by
15 posting the report on the website of the Department.

16 **SEC. 14011. SENSE OF CONGRESS RELATING TO CLAIMS**
17 **BROUGHT BY SOCIALLY DISADVANTAGED**
18 **FARMERS OR RANCHERS.**

19 It is the sense of Congress that all pending claims
20 and class actions brought against the Department of Agri-
21 culture by socially disadvantaged farmers or ranchers (as
22 defined in section 355(e) of the Consolidated Farm and
23 Rural Development Act (7 U.S.C. 2003(e)), including Na-
24 tive American, Hispanic, and female farmers or ranchers,
25 based on racial, ethnic, or gender discrimination in farm

1 program participation should be resolved in an expeditious
2 and just manner.

3 **SEC. 14012. DETERMINATION ON MERITS OF PIGFORD**
4 **CLAIMS.**

5 (a) DEFINITIONS.—In this section:

6 (1) CONSENT DECREE.—The term “consent de-
7 cree” means the consent decree in the case of
8 Pigford v. Glickman, approved by the United States
9 District Court for the District of Columbia on April
10 14, 1999.

11 (2) DEPARTMENT.—The term “Department”
12 means the Department of Agriculture.

13 (3) PIGFORD CLAIM.—The term “Pigford
14 claim” means a discrimination complaint, as defined
15 by section 1(h) of the consent decree and docu-
16 mented under section 5(b) of the consent decree.

17 (4) PIGFORD CLAIMANT.—The term “Pigford
18 claimant” means an individual who previously sub-
19 mitted a late-filing request under section 5(g) of the
20 consent decree.

21 (b) DETERMINATION ON MERITS.—Any Pigford
22 claimant who has not previously obtained a determination
23 on the merits of a Pigford claim may, in a civil action
24 brought in the United States District Court for the Dis-
25 trict of Columbia, obtain that determination.

1 (c) LIMITATION.—

2 (1) IN GENERAL.—Subject to paragraph (2), all
3 payments or debt relief (including any limitation on
4 foreclosure under subsection (h)) shall be made ex-
5 clusively from funds made available under subsection
6 (i).

7 (2) MAXIMUM AMOUNT.—The total amount of
8 payments and debt relief pursuant to actions com-
9 menced under subsection (b) shall not exceed
10 \$100,000,000.

11 (d) INTENT OF CONGRESS AS TO REMEDIAL NATURE
12 OF SECTION.—It is the intent of Congress that this sec-
13 tion be liberally construed so as to effectuate its remedial
14 purpose of giving a full determination on the merits for
15 each Pigford claim previously denied that determination.

16 (e) LOAN DATA.—

17 (1) REPORT TO PERSON SUBMITTING PETI-
18 TION.—

19 (A) IN GENERAL.—Not later than 120
20 days after the Secretary receives notice of a
21 complaint filed by a claimant under subsection
22 (b), the Secretary shall provide to the claimant
23 a report on farm credit loans and noncredit
24 benefits, as appropriate, made within the claim-
25 ant's county (or if no documents are found,

1 within an adjacent county as determined by the
2 claimant), by the Department during the period
3 beginning on January 1 of the year preceding
4 the period covered by the complaint and ending
5 on December 31 of the year following the pe-
6 riod.

7 (B) REQUIREMENTS.—A report under sub-
8 paragraph (A) shall contain information on all
9 persons whose application for a loan or benefit
10 was accepted, including—

11 (i) the race of the applicant;

12 (ii) the date of application;

13 (iii) the date of the loan or benefit de-
14 cision, as appropriate;

15 (iv) the location of the office making
16 the loan or benefit decision, as appropriate;

17 (v) all data relevant to the decision-
18 making process for the loan or benefit, as
19 appropriate; and

20 (vi) all data relevant to the servicing
21 of the loan or benefit, as appropriate.

22 (2) NO PERSONALLY IDENTIFIABLE INFORMA-
23 TION.—The reports provided pursuant to paragraph
24 (1) shall not contain any information that would

1 identify any person who applied for a loan from the
2 Department.

3 (3) REPORTING DEADLINE.—

4 (A) IN GENERAL.—The Secretary shall—

5 (i) provide to claimants the reports re-
6 quired under paragraph (1) as quickly as
7 practicable after the Secretary receives no-
8 tice of a complaint filed by a claimant
9 under subsection (b); and

10 (ii) devote such resources of the De-
11 partment as are necessary to make pro-
12 viding the reports expeditiously a high pri-
13 ority of the Department.

14 (B) EXTENSION.—A court may extend the
15 deadline for providing the report required in a
16 particular case under paragraph (1) if the Sec-
17 retary establishes that meeting the deadline is
18 not feasible and demonstrates a continuing ef-
19 fort and commitment to provide the required re-
20 port expeditiously.

21 (f) EXPEDITED RESOLUTIONS AUTHORIZED.—

22 (1) IN GENERAL.—Any person filing a com-
23 plaint under this section for discrimination in the
24 application for, or making or servicing of, a farm
25 loan, at the discretion of the person, may seek liq-

1 liquidated damages of \$50,000, discharge of the debt
2 that was incurred under, or affected by, the 1 or
3 more programs that were the subject of the 1 or
4 more discrimination claims that are the subject of
5 the person's complaint, and a tax payment in the
6 amount equal to 25 percent of the liquidated dam-
7 ages and loan principal discharged, in which case—

8 (A) if only such damages, debt discharge,
9 and tax payment are sought, the complainant
10 shall be able to prove the case of the complain-
11 ant by substantial evidence (as defined in sec-
12 tion 1(l) of the consent decree); and

13 (B) the court shall decide the case based
14 on a review of documents submitted by the
15 complainant and defendant relevant to the
16 issues of liability and damages.

17 (2) NONCREDIT CLAIMS.—

18 (A) STANDARD.—In any case in which a
19 claimant asserts a noncredit claim under a ben-
20 efit program of the Department, the court shall
21 determine the merits of the claim in accordance
22 with section 9(b)(i) of the consent decree.

23 (B) RELIEF.—A claimant who prevails on
24 a claim of discrimination involving a noncredit
25 benefit program of the Department shall be en-

1 titled to a payment by the Department in a
2 total amount of \$3,000, without regard to the
3 number of such claims on which the claimant
4 prevails.

5 (g) ACTUAL DAMAGES.—A claimant who files a claim
6 under this section for discrimination under subsection (b)
7 but not under subsection (f) and who prevails on the claim
8 shall be entitled to actual damages sustained by the claim-
9 ant.

10 (h) LIMITATION ON FORECLOSURES.—Notwith-
11 standing any other provision of law, during the pendency
12 of a Pigford claim, the Secretary may not begin accelera-
13 tion on or foreclosure of a loan if—

14 (1) the borrower is a Pigford claimant; and
15 (2) makes a prima facie case in an appropriate
16 administrative proceeding that the acceleration or
17 foreclosure is related to a Pigford claim.

18 (i) FUNDING.—

19 (1) IN GENERAL.—Of the funds of the Com-
20 modity Credit Corporation, the Secretary shall make
21 available for payments and debt relief in satisfaction
22 of claims against the United States under subsection
23 (b) and for any actions under subsection (g)
24 \$100,000,000 for fiscal year 2008, to remain avail-
25 able until expended.

1 (2) AUTHORIZATION OF APPROPRIATIONS.—In
2 addition to funds made available under paragraph
3 (1), there are authorized to be appropriated such
4 sums as are necessary to carry out this section.

5 (j) REPORTING REQUIREMENTS.—

6 (1) IN GENERAL.—Not later than 180 days
7 after the date of the enactment of this Act and every
8 180 days thereafter until the funds made available
9 under subsection (i) are depleted, the Secretary shall
10 submit to the Committee on the Judiciary of the
11 House of Representatives and the Committee on the
12 Judiciary of the Senate a report that describes the
13 status of available funds under subsection (i) and
14 the number of pending claims under subsection (f).

15 (2) DEPLETION OF FUNDS REPORT.—In addi-
16 tion to the reports required under paragraph (1), the
17 Secretary shall submit to the Committee on the Ju-
18 diciary of the House of Representatives and the
19 Committee on the Judiciary of the Senate a report
20 that notifies the Committees when 75 percent of the
21 funds made available under subsection (i)(1) have
22 been depleted.

23 (k) TERMINATION OF AUTHORITY.—The authority to
24 file a claim under this section terminates 2 years after
25 the date of the enactment of this Act.

1 **SEC. 14013. OFFICE OF ADVOCACY AND OUTREACH.**

2 (a) IN GENERAL.—The Department of Agriculture
3 Reorganization Act of 1994 is amended by inserting after
4 section 226A (7 U.S.C. 6933) the following:

5 **“SEC. 226B. OFFICE OF ADVOCACY AND OUTREACH.**

6 “(a) DEFINITIONS.—In this section:

7 “(1) BEGINNING FARMER OR RANCHER.—The
8 term ‘beginning farmer or rancher’ has the meaning
9 given the term in section 343(a) of the Consolidated
10 Farm and Rural Development Act (7 U.S.C.
11 1991(a)).

12 “(2) OFFICE.—The term ‘Office’ means the Of-
13 fice of Advocacy and Outreach established under this
14 section.

15 “(3) SOCIALLY DISADVANTAGED FARMER OR
16 RANCHER.—The term ‘socially disadvantaged farmer
17 or rancher’ has the meaning given the term in sec-
18 tion 2501(e) of the Food, Agriculture, Conservation,
19 and Trade Act of 1990 (7 U.S.C. 2279(e)).

20 “(b) ESTABLISHMENT AND PURPOSE.—

21 “(1) IN GENERAL.—The Secretary shall estab-
22 lish within the executive operations of the Depart-
23 ment an office to be known as the ‘Office of Advo-
24 cacy and Outreach’—

25 “(A) to improve access to programs of the
26 Department; and

1 “(B) to improve the viability and profit-
2 ability of—

3 “(i) small farms and ranches;

4 “(ii) beginning farmers or ranchers;

5 and

6 “(iii) socially disadvantaged farmers
7 or ranchers.

8 “(2) DIRECTOR.—The Office shall be headed by
9 a Director, to be appointed by the Secretary from
10 among the competitive service.

11 “(c) DUTIES.—The duties of the Office shall be to
12 ensure small farms and ranches, beginning farmers or
13 ranchers, and socially disadvantaged farmers or ranchers
14 access to, and equitable participation in, programs and
15 services of the Department by—

16 “(1) establishing and monitoring the goals and
17 objectives of the Department to increase participa-
18 tion in programs of the Department by small, begin-
19 ning, or socially disadvantaged farmers or ranchers;

20 “(2) assessing the effectiveness of Department
21 outreach programs;

22 “(3) developing and implementing a plan to co-
23 ordinate outreach activities and services provided by
24 the Department;

1 “(4) providing input to the agencies and offices
2 on programmatic and policy decisions;

3 “(5) measuring outcomes of the programs and
4 activities of the Department on small farms and
5 ranches, beginning farmers or ranchers, and socially
6 disadvantaged farmers or ranchers programs;

7 “(6) recommending new initiatives and pro-
8 grams to the Secretary; and

9 “(7) carrying out any other related duties that
10 the Secretary determines to be appropriate.

11 “(d) SOCIALLY DISADVANTAGED FARMERS
12 GROUP.—

13 “(1) ESTABLISHMENT.—The Secretary shall es-
14 tablish within the Office the Socially Disadvantaged
15 Farmers Group.

16 “(2) OUTREACH AND ASSISTANCE.—The So-
17 cially Disadvantaged Farmers Group—

18 “(A) shall carry out section 2501 of the
19 Food, Agriculture, Conservation, and Trade Act
20 of 1990 (7 U.S.C. 2279); and

21 “(B) in the case of activities described in
22 section 2501(a) of that Act, may conduct such
23 activities through other agencies and offices of
24 the Department.

1 “(3) SOCIALLY DISADVANTAGED FARMERS AND
2 FARMWORKERS.—The Socially Disadvantaged Farm-
3 ers Group shall oversee the operations of—

4 “(A) the Advisory Committee on Minority
5 Farmers established under section 14009 of the
6 Food, Conservation, and Energy Act of 2008;
7 and

8 “(B) the position of Farmworker Coordi-
9 nator established under subsection (f).

10 “(4) OTHER DUTIES.—

11 “(A) IN GENERAL.—The Socially Dis-
12 advantaged Farmers Group may carry out
13 other duties to improve access to, and participa-
14 tion in, programs of the Department by socially
15 disadvantaged farmers or ranchers, as deter-
16 mined by the Secretary.

17 “(B) OFFICE OF OUTREACH AND DIVER-
18 SITY.—The Office of Advocacy and Outreach
19 shall carry out the functions and duties of the
20 Office of Outreach and Diversity carried out by
21 the Assistant Secretary for Civil Rights as such
22 functions and duties existed immediately before
23 the date of the enactment of this section.

24 “(e) SMALL FARMS AND BEGINNING FARMERS AND
25 RANCHERS GROUP.—

1 “(1) ESTABLISHMENT.—The Secretary shall es-
2 tablish within the Office the Small Farms and Be-
3 ginning Farmers and Ranchers Group.

4 “(2) DUTIES.—

5 “(A) OVERSEE OFFICES.—The Small
6 Farms and Beginning Farmers and Ranchers
7 Group shall oversee the operations of the Office
8 of Small Farms Coordination established by
9 Departmental Regulation 9700-1 (August 3,
10 2006).

11 “(B) BEGINNING FARMER AND RANCHER
12 DEVELOPMENT PROGRAM.—The Small Farms
13 and Beginning Farmers and Ranchers Group
14 shall consult with the National Institute for
15 Food and Agriculture on the administration of
16 the beginning farmer and rancher development
17 program established under section 7405 of the
18 Farm Security and Rural Investment Act of
19 2002 (7 U.S.C. 3319f).

20 “(C) ADVISORY COMMITTEE FOR BEGIN-
21 NING FARMERS AND RANCHERS.—The Small
22 Farms and Beginning Farmers and Ranchers
23 Group shall coordinate the activities of the
24 Group with the Advisory Committee for Begin-
25 ning Farmers and Ranchers established under

1 section 5(b) of the Agricultural Credit Improve-
2 ment Act of 1992 (7 U.S.C. 1621 note; Public
3 Law 102-554).

4 “(D) OTHER DUTIES.—The Small Farms
5 and Beginning Farmers and Ranchers Group
6 may carry out other duties to improve access
7 to, and participation in, programs of the De-
8 partment by small farms and ranches and be-
9 ginning farmers or ranchers, as determined by
10 the Secretary.

11 “(f) FARMWORKER COORDINATOR.—

12 “(1) ESTABLISHMENT.—The Secretary shall es-
13 tablish within the Office the position of Farmworker
14 Coordinator (referred to in this subsection as the
15 ‘Coordinator’).

16 “(2) DUTIES.—The Secretary shall delegate to
17 the Coordinator responsibility for the following:

18 “(A) Assisting in administering the pro-
19 gram established by section 2281 of the Food,
20 Agriculture, Conservation, and Trade Act of
21 1990 (42 U.S.C. 5177a).

22 “(B) Serving as a liaison to community-
23 based nonprofit organizations that represent
24 and have demonstrated experience serving low-
25 income migrant and seasonal farmworkers.

1 “(C) Coordinating with the Department,
2 other Federal agencies, and State and local gov-
3 ernments to ensure that farmworker needs are
4 assessed and met during declared disasters and
5 other emergencies.

6 “(D) Consulting within the Office and with
7 other entities to better integrate farmworker
8 perspectives, concerns, and interests into the
9 ongoing programs of the Department.

10 “(E) Consulting with appropriate institu-
11 tions on research, program improvements, or
12 agricultural education opportunities that assist
13 low-income and migrant seasonal farmworkers.

14 “(F) Assisting farmworkers in becoming
15 agricultural producers or landowners.

16 “(3) AUTHORIZATION OF APPROPRIATIONS.—
17 There are authorized to be appropriated such sums
18 as are necessary to carry out this subsection for
19 each of fiscal years 2009 through 2012.”.

20 (b) CONFORMING AMENDMENT.—Section 296(b) of
21 the Department of Agriculture Reorganization Act of
22 1994 (7 U.S.C. 7014(b)), as amended by section 7511(b),
23 is further amended—

24 (1) in paragraph (5), by striking “; or” and in-
25 serting “;”;

1 (2) in paragraph (6), by striking the period and
2 inserting “; or”; and

3 (3) by adding at the end the following new
4 paragraph:

5 “(7) the authority of the Secretary to establish
6 in the Department the Office of Advocacy and Out-
7 reach in accordance with section 226B.”.

8 **Subtitle B—Agricultural Security**

9 **SEC. 14101. SHORT TITLE.**

10 This subtitle may be cited as the “Agricultural Secu-
11 rity Improvement Act of 2008”.

12 **SEC. 14102. DEFINITIONS.**

13 In this subtitle:

14 (1) **AGENT.**—The term “agent” means a nu-
15 clear, biological, chemical, or radiological substance
16 that causes agricultural disease or the adulteration
17 of products regulated by the Secretary of Agri-
18 culture under any provision of law.

19 (2) **AGRICULTURAL BIOSECURITY.**—The term
20 “agricultural biosecurity” means protection from an
21 agent that poses a threat to—

22 (A) plant or animal health;

23 (B) public health as it relates to the adul-
24 teration of products regulated by the Secretary

1 of Agriculture under any provision of law that
2 is caused by exposure to an agent; or

3 (C) the environment as it relates to agri-
4 culture facilities, farmland, and air and water
5 within the immediate vicinity of an area associ-
6 ated with an agricultural disease or outbreak.

7 (3) AGRICULTURAL COUNTERMEASURE.—The
8 term “agricultural countermeasure”—

9 (A) means a product, practice, or tech-
10 nology that is intended to enhance or maintain
11 the agricultural biosecurity of the United
12 States; and

13 (B) does not include a product, practice, or
14 technology used solely in response to a human
15 medical incident or public health emergency not
16 related to agriculture.

17 (4) AGRICULTURAL DISEASE.—The term “agri-
18 cultural disease” has the meaning given the term by
19 the Secretary.

20 (5) AGRICULTURAL DISEASE EMERGENCY.—
21 The term “agricultural disease emergency” means
22 an incident of agricultural disease that requires
23 prompt action to prevent significant damage to peo-
24 ple, plants, or animals.

1 (6) AGROTERRORIST ACT.—The term
2 “agroterrorist act” means an act that—

3 (A) causes or attempts to cause—

4 (i) damage to agriculture; or

5 (ii) injury to a person associated with
6 agriculture; and

7 (B) is committed or appears to be com-
8 mitted with the intent to—

9 (i) intimidate or coerce a civilian pop-
10 ulation; or

11 (ii) disrupt the agricultural industry
12 in order to influence the policy of a govern-
13 ment by intimidation or coercion.

14 (7) ANIMAL.—The term “animal” has the
15 meaning given the term in section 10403 of the Ani-
16 mal Health Protection Act of 2002 (7 U.S.C. 8302).

17 (8) DEPARTMENT.—The term “Department”
18 means the Department of Agriculture.

19 (9) DEVELOPMENT.—The term “development”
20 means—

21 (A) research leading to the identification of
22 products or technologies intended for use as ag-
23 ricultural countermeasures to protect animal
24 health;

1 (B) the formulation, production, and sub-
2 sequent modification of those products or tech-
3 nologies;

4 (C) the conduct of in vitro and in vivo
5 studies;

6 (D) the conduct of field, efficacy, and safe-
7 ty studies;

8 (E) the preparation of an application for
9 marketing approval for submission to an appli-
10 cable agency; or

11 (F) other actions taken by an applicable
12 agency in a case in which an agricultural coun-
13 termeasure is procured or used prior to
14 issuance of a license or other form of Federal
15 Government approval.

16 (10) PLANT.—The term “plant” has the mean-
17 ing given the term in section 411 of the Plant Pro-
18 tection Act of 2000 (7 U.S.C. 7702).

19 (11) QUALIFIED AGRICULTURAL COUNTER-
20 MEASURE.—The term “qualified agricultural coun-
21 termeasure” means an agricultural countermeasure
22 that the Secretary, in consultation with the Sec-
23 retary of Homeland Security, determines to be a pri-
24 ority in order to address an agricultural biosecurity
25 threat.

1 **CHAPTER 1—AGRICULTURAL SECURITY**

2 **SEC. 14111. OFFICE OF HOMELAND SECURITY.**

3 (a) **ESTABLISHMENT.**—There is established within
4 the Department the Office of Homeland Security (in this
5 section referred to as the “Office”).

6 (b) **DIRECTOR.**—The Office shall be headed by a Di-
7 rector of Homeland Security, who shall be appointed by
8 the Secretary.

9 (c) **RESPONSIBILITIES.**—The Director of Homeland
10 Security shall—

11 (1) coordinate all homeland security activities of
12 the Department, including integration and coordina-
13 tion of interagency emergency response plans for—

14 (A) agricultural disease emergencies;

15 (B) agroterrorist acts; and

16 (C) other threats to agricultural biosecu-
17 rity;

18 (2) act as the primary liaison on behalf of the
19 Department with other Federal departments and
20 agencies on the coordination of efforts and inter-
21 agency activities pertaining to agricultural biosecu-
22 rity; and

23 (3) advise the Secretary on policies, regulations,
24 processes, budget, and actions pertaining to home-
25 land security.

1 **SEC. 14112. AGRICULTURAL BIOSECURITY COMMUNICA-**
2 **TION CENTER.**

3 (a) **ESTABLISHMENT.**—The Secretary shall establish
4 a communication center within the Department to—

5 (1) collect and disseminate information and pre-
6 pare for an agricultural disease emergency,
7 agroterrorist act, or other threat to agricultural bio-
8 security; and

9 (2) coordinate activities described in paragraph
10 (1) among agencies and offices within the Depart-
11 ment.

12 (b) **RELATION TO EXISTING DHS COMMUNICATION**
13 **SYSTEMS.**—

14 (1) **CONSISTENCY AND COORDINATION.**—The
15 communication center established under subsection
16 (a) shall, to the maximum extent practicable, share
17 and coordinate the dissemination of timely informa-
18 tion with the Department of Homeland Security and
19 other communication systems of appropriate Federal
20 departments and agencies.

21 (2) **AVOIDING REDUNDANCIES.**—Paragraph (1)
22 shall not be construed to impede, conflict with, or
23 duplicate the communications activities performed by
24 the Secretary of Homeland Security under any pro-
25 vision of law.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated such sums as may be nec-
3 essary to carry out this section for each of fiscal years
4 2008 through 2012.

5 **SEC. 14113. ASSISTANCE TO BUILD LOCAL CAPACITY IN AG-**
6 **RICULTURAL BIOSECURITY PLANNING, PRE-**
7 **PAREDNESS, AND RESPONSE.**

8 (a) ADVANCED TRAINING PROGRAMS.—

9 (1) GRANT ASSISTANCE.—The Secretary shall
10 establish a competitive grant program to support the
11 development and expansion of advanced training
12 programs in agricultural biosecurity planning and
13 response for food science professionals and veteri-
14 narians.

15 (2) AUTHORIZATION OF APPROPRIATIONS.—
16 There are authorized to be appropriated to the Sec-
17 retary such sums as may be necessary to carry out
18 this subsection for each of fiscal years 2008 through
19 2012.

20 (b) ASSESSMENT OF RESPONSE CAPABILITY.—

21 (1) GRANT AND LOAN ASSISTANCE.—The Sec-
22 retary shall establish a competitive grant and low-in-
23 terest loan assistance program to assist States in as-
24 sessing agricultural disease response capability.

1 (2) AUTHORIZATION OF APPROPRIATIONS.—
2 There is authorized to be appropriated to carry out
3 this subsection \$25,000,000 for each of fiscal years
4 2008 through 2012.

5 **CHAPTER 2—OTHER PROVISIONS**

6 **SEC. 14121. RESEARCH AND DEVELOPMENT OF AGRICUL-**
7 **TURAL COUNTERMEASURES.**

8 (a) GRANT PROGRAM.—

9 (1) COMPETITIVE GRANT PROGRAM.—The Sec-
10 retary shall establish a competitive grant program to
11 encourage basic and applied research and the devel-
12 opment of qualified agricultural countermeasures.

13 (2) WAIVER IN EMERGENCIES.—The Secretary
14 may waive the requirement under paragraph (1)
15 that a grant be provided on a competitive basis if—

16 (A) the Secretary has declared a plant or
17 animal disease emergency under the Plant Pro-
18 tection Act (7 U.S.C. 7701 et seq.) or the Ani-
19 mal Health Protection Act (7 U.S.C. 8301 et
20 seq.); and

21 (B) waiving the requirement would lead to
22 the rapid development of a qualified agricul-
23 tural countermeasure, as determined by the
24 Secretary.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to carry out this section
3 \$50,000,000 for each of fiscal years 2008 through 2012.

4 **SEC. 14122. AGRICULTURAL BIOSECURITY GRANT PRO-**
5 **GRAM.**

6 (a) COMPETITIVE GRANT PROGRAM.—The Secretary
7 shall establish a competitive grant program to promote the
8 development of teaching programs in agriculture, veteri-
9 nary medicine, and disciplines closely allied to the food
10 and agriculture system to increase the number of trained
11 individuals with an expertise in agricultural biosecurity.

12 (b) ELIGIBILITY.—The Secretary may award a grant
13 under this section only to an entity that is—

14 (1) an accredited school of veterinary medicine;

15 or

16 (2) a department of an institution of higher
17 education with a primary focus on—

18 (A) comparative medicine;

19 (B) veterinary science; or

20 (C) agricultural biosecurity.

21 (c) PREFERENCE.—The Secretary shall give pref-
22 erence in awarding grants based on the ability of an appli-
23 cant—

24 (1) to increase the number of veterinarians or
25 individuals with advanced degrees in food and agri-

1 culture disciplines who are trained in agricultural
2 biosecurity practice areas;

3 (2) to increase research capacity in areas of ag-
4 ricultural biosecurity; or

5 (3) to fill critical agricultural biosecurity short-
6 age situations outside of the Federal Government.

7 (d) USE OF FUNDS.—

8 (1) IN GENERAL.—Amounts received under this
9 section shall be used by a grantee to pay—

10 (A) costs associated with the acquisition of
11 equipment and other capital costs relating to
12 the expansion of food, agriculture, and veteri-
13 nary medicine teaching programs in agricultural
14 biosecurity;

15 (B) capital costs associated with the ex-
16 pansion of academic programs that offer post-
17 graduate training for veterinarians or concur-
18 rent training for veterinary students in specific
19 areas of specialization; or

20 (C) other capacity and infrastructure pro-
21 gram costs that the Secretary considers appro-
22 priate.

23 (2) LIMITATION.—Funds received under this
24 section may not be used for the construction, ren-
25 ovation, or rehabilitation of a building or facility.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated sums as are necessary
3 to carry out this section for each of fiscal years 2008
4 through 2012, to remain available until expended.

5 **Subtitle C—Other Miscellaneous**
6 **Provisions**

7 **SEC. 14201. COTTON CLASSIFICATION SERVICES.**

8 Section 3a of the Act of March 3, 1927 (7 U.S.C.
9 473a), is amended to read as follows:

10 **“SEC. 3a. COTTON CLASSIFICATION SERVICES.**

11 “(a) IN GENERAL.—The Secretary of Agriculture
12 (referred to in this section as the ‘Secretary’) shall—

13 “(1) make cotton classification services avail-
14 able to producers of cotton; and

15 “(2) provide for the collection of classification
16 fees from participating producers or agents that vol-
17 untarily agree to collect and remit the fees on behalf
18 of producers.

19 “(b) FEES.—

20 “(1) USE OF FEES.—Classification fees col-
21 lected under subsection (a)(2) and the proceeds from
22 the sales of samples submitted under this section
23 shall, to the maximum extent practicable, be used to
24 pay the cost of the services provided under this sec-
25 tion, including administrative and supervisory costs.

1 “(2) ANNOUNCEMENT OF FEES.—The Sec-
2 retary shall announce a uniform classification fee
3 and any applicable surcharge for classification serv-
4 ices not later than June 1 of the year in which the
5 fee applies.

6 “(c) CONSULTATION.—

7 “(1) IN GENERAL.—In establishing the amount
8 of fees under this section, the Secretary shall consult
9 with representatives of the United States cotton in-
10 dustry.

11 “(2) EXEMPTION.—The Federal Advisory Com-
12 mittee Act (5 U.S.C. App.) shall not apply to con-
13 sultations with representatives of the United States
14 cotton industry under this section.

15 “(d) CREDITING OF FEES.—Any fees collected under
16 this section and under section 3d, late payment penalties,
17 the proceeds from the sales of samples, and interest
18 earned from the investment of such funds shall—

19 “(1) be credited to the current appropriation
20 account that incurs the cost of services provided
21 under this section and section 3d; and

22 “(2) remain available without fiscal year limita-
23 tion to pay the expenses of the Secretary in pro-
24 viding those services.

1 “(e) INVESTMENT OF FUNDS.—Funds described in
2 subsection (d) may be invested—

3 “(1) by the Secretary in insured or fully
4 collateralized, interest-bearing accounts; or

5 “(2) at the discretion of the Secretary, by the
6 Secretary of the Treasury in United States Govern-
7 ment debt instruments.

8 “(f) LEASE AGREEMENTS.—Notwithstanding any
9 other provision of law, the Secretary may enter into long-
10 term lease agreements that exceed 5 years or may take
11 title to property (including through purchase agreements)
12 for the purpose of obtaining offices to be used for the clas-
13 sification of cotton in accordance with this Act, if the Sec-
14 retary determines that action would best effectuate the
15 purposes of this Act.

16 “(g) AUTHORIZATION OF APPROPRIATIONS.—To the
17 extent that financing is not available from fees and the
18 proceeds from the sales of samples, there are authorized
19 to be appropriated such sums as are necessary to carry
20 out this section.”.

21 **SEC. 14202. DESIGNATION OF STATES FOR COTTON RE-**
22 **SEARCH AND PROMOTION.**

23 Section 17(f) of the Cotton Research and Promotion
24 Act (7 U.S.C. 2116(f)) is amended—

1 (1) by striking “(f) The term” and inserting
2 the following:

3 “(f) COTTON-PRODUCING STATE.—

4 “(1) IN GENERAL.—The term”;

5 (2) by striking “more, and the term” and all
6 that follows through the end of the subsection and
7 inserting the following: “more.

8 “(2) INCLUSIONS.—The term ‘cotton-producing
9 State’ includes—

10 “(A) any combination of States described
11 in paragraph (1); and

12 “(B) effective beginning with the 2008
13 crop of cotton, the States of Kansas, Virginia,
14 and Florida.”.

15 **SEC. 14203. GRANTS TO REDUCE PRODUCTION OF**
16 **METHAMPHETAMINES FROM ANHYDROUS**
17 **AMMONIA.**

18 (a) DEFINITIONS.—In this section:

19 (1) ELIGIBLE ENTITY.—The term “eligible enti-
20 ty” means—

21 (A) a producer of agricultural commod-
22 ities;

23 (B) a cooperative association, a majority of
24 the members of which produce or process agri-
25 cultural commodities; or

1 (C) a person in the trade or business of—

2 (i) selling an agricultural product (in-
3 cluding an agricultural chemical) at retail,
4 predominantly to farmers and ranchers; or
5 (ii) aerial and ground application of
6 an agricultural chemical.

7 (2) NURSE TANK.—The term “nurse tank”
8 shall be considered to be a cargo tank (within the
9 meaning of section 173.315(m) of title 49, Code of
10 Federal Regulations, as in effect as of the date of
11 the enactment of this Act).

12 (b) GRANT AUTHORITY.—The Secretary may make
13 a grant to an eligible entity to enable the eligible entity
14 to obtain and add to an anhydrous ammonia fertilizer
15 nurse tank a physical lock or a substance to reduce the
16 amount of methamphetamine that can be produced from
17 any anhydrous ammonia removed from the nurse tank.

18 (c) GRANT AMOUNT.—The amount of a grant made
19 under this section to an eligible entity shall be the product
20 obtained by multiplying—

21 (1) an amount not less than \$40 and not more
22 than \$60, as determined by the Secretary; and

23 (2) the number of fertilizer nurse tanks of the
24 eligible entity.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to the Secretary to make
3 grants under this section \$15,000,000 for the period of
4 fiscal years 2008 through 2012.

5 **SEC. 14204. GRANTS TO IMPROVE SUPPLY, STABILITY,**
6 **SAFETY, AND TRAINING OF AGRICULTURAL**
7 **LABOR FORCE.**

8 (a) DEFINITION OF ELIGIBLE ENTITY.—In this sec-
9 tion, the term “eligible entity” means an entity described
10 in section 379C(a) of the Consolidated Farm and Rural
11 Development Act (7 U.S.C. 2008q(a)).

12 (b) GRANTS.—

13 (1) IN GENERAL.—To assist agricultural em-
14 ployers and farmworkers by improving the supply,
15 stability, safety, and training of the agricultural
16 labor force, the Secretary may provide grants to eli-
17 gible entities for use in providing services to assist
18 farmworkers who are citizens or otherwise legally
19 present in the United States in securing, retaining,
20 upgrading, or returning from agricultural jobs.

21 (2) ELIGIBLE SERVICES.—The services referred
22 to in paragraph (1) include—

23 (A) agricultural labor skills development;

24 (B) the provision of agricultural labor mar-
25 ket information;

1 (C) transportation;

2 (D) short-term housing while in transit to
3 an agricultural worksite;

4 (E) workplace literacy and assistance with
5 English as a second language;

6 (F) health and safety instruction, including
7 ways of safeguarding the food supply of the
8 United States; and

9 (G) such other services as the Secretary
10 determines to be appropriate.

11 (c) LIMITATION ON ADMINISTRATIVE EXPENSES.—
12 Not more than 15 percent of the funds made available
13 to carry out this section for a fiscal year may be used
14 to pay for administrative expenses.

15 (d) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated such sums as are nec-
17 essary to carry out this section for each of fiscal years
18 2008 through 2012.

19 **SEC. 14205. AMENDMENT TO THE RIGHT TO FINANCIAL PRI-**
20 **VACY ACT OF 1978.**

21 Section 1113(k) of the Right to Financial Privacy
22 Act of 1978 (12 U.S.C. 3413(k)) is amended—

23 (1) by striking the subsection heading and in-
24 serting the following:

1 “(k) DISCLOSURE NECESSARY FOR PROPER ADMIN-
2 ISTRATION OF PROGRAMS OF CERTAIN GOVERNMENT AU-
3 THORITIES.—”; and

4 (2) by striking paragraph (2) and inserting the
5 following:

6 “(2) Nothing in this title shall apply to the dis-
7 closure by the financial institution of information
8 contained in the financial records of any customer to
9 any Government authority that certifies, disburses,
10 or collects payments, where the disclosure of such
11 information is necessary to, and such information is
12 used solely for the purpose of—

13 “(A) verification of the identity of any per-
14 son or proper routing and delivery of funds in
15 connection with the issuance of a Federal pay-
16 ment or collection of funds by a Government
17 authority; or

18 “(B) the investigation or recovery of an
19 improper Federal payment or collection of
20 funds or an improperly negotiated Treasury
21 check.

22 “(3) Notwithstanding any other provision of
23 law, a request authorized by paragraph (1) or (2)
24 (and the information contained therein) may be used
25 by the financial institution or its agents solely for

1 the purpose of providing information contained in
2 the financial records of the customer to the Govern-
3 ment authority requesting the information, and the
4 financial institution and its agents shall be barred
5 from redisclosure of such information. Any Govern-
6 ment authority receiving information pursuant to
7 paragraph (1) or (2) may not disclose or use the in-
8 formation, except for the purposes set forth in such
9 paragraph.”.

10 **SEC. 14206. REPORT ON STORED QUANTITIES OF PROPANE.**

11 (a) REPORT.—

12 (1) IN GENERAL.—Not later than 240 days
13 after the date of the enactment of this Act, the Sec-
14 retary of Homeland Security (referred to in this sec-
15 tion as the “Secretary”) shall submit to the Com-
16 mittee on Agriculture, Nutrition, and Forestry of
17 the Senate and the Committee on Agriculture of the
18 House of Representatives a report describing the ef-
19 fect of interim or final regulations issued by the Sec-
20 retary pursuant to section 550(a) of the Department
21 of Homeland Security Appropriations Act, 2007 (6
22 U.S.C. 121 note; Public Law 109–295), with respect
23 to possession of quantities of propane that meet or
24 exceed the screening threshold quantity for propane
25 established in the final rule under that section.

1 (2) INCLUSIONS.—The report under paragraph
2 (1) shall include a description of—

3 (A) the number of facilities that completed
4 a top screen consequence assessment due to
5 possession of quantities of propane that meet or
6 exceed the listed screening threshold quantity
7 for propane;

8 (B) the number of agricultural facilities
9 that completed the top screen consequence as-
10 sessment due to possession of quantities of pro-
11 pane that meet or exceed the listed screening
12 threshold quantity for propane;

13 (C) the number of propane facilities ini-
14 tially determined to be high risk by the Sec-
15 retary;

16 (D) the number of propane facilities—
17 (i) required to complete a security vul-
18 nerability assessment or a site security
19 plan; or

20 (ii) that submit to the Secretary an
21 alternative security program;

22 (E) the number of propane facilities that
23 file an appeal of a finding under the final rule
24 described in paragraph (1); and

1 (F) to the extent available, the average
2 cost of—

3 (i) completing a top screen con-
4 sequence assessment requirement;

5 (ii) completing a security vulnerability
6 assessment; and

7 (iii) completing and implementing a
8 site security plan; and

9 (3) FORM.—The report under paragraph (1)
10 shall be submitted in unclassified form, but may in-
11 clude a classified annex.

12 (b) EDUCATIONAL OUTREACH.—Not later than 30
13 days after the date of the enactment of this Act, the Sec-
14 retary shall conduct educational outreach activities for
15 rural facilities that may be required to complete a top
16 screen consequence assessment due to possession of pro-
17 pane in a quantity that meets or exceeds the listed screen-
18 ing threshold quantity for propane.

19 **SEC. 14207. PROHIBITIONS ON DOG FIGHTING VENTURES.**

20 (a) IN GENERAL.—Section 26 of the Animal Welfare
21 Act (7 U.S.C. 2156) is amended—

22 (1) in subsection (a)—

23 (A) in paragraph (1), by striking “, if any
24 animal in the venture was moved in interstate
25 or foreign commerce”; and

1 (B) in the heading of paragraph (2), by
2 striking “STATE” and inserting “STATE”;

3 (2) in subsection (b)—

4 (A) by striking “(b) It shall be” and in-
5 serting the following:

6 “(b) BUYING, SELLING, DELIVERING, POSSESSING,
7 TRAINING, OR TRANSPORTING ANIMALS FOR PARTICIPA-
8 TION IN ANIMAL FIGHTING VENTURE.—It shall be”; and

9 (B) by striking “transport, deliver” and all
10 that follows through “participate” and inserting
11 “possess, train, transport, deliver, or receive
12 any animal for purposes of having the animal
13 participate”;

14 (3) in subsection (c)—

15 (A) by striking “(c) It shall be” and insert-
16 ing the following:

17 “(c) USE OF POSTAL SERVICE OR OTHER INTER-
18 STATE INSTRUMENTALITY FOR PROMOTING OR FUR-
19 THERING ANIMAL FIGHTING VENTURE.—It shall be”; and

20 (B) by inserting “advertising an animal, or
21 an instrument described in subsection (e), for
22 use in an animal fighting venture,” after “for
23 purposes of”;

24 (4) in subsection (d), by striking “(d) Notwith-
25 standing” and inserting the following:

1 “(d) VIOLATION OF STATE LAW.—Notwithstanding”;

2 (5) in subsection (e), by striking “(e) It shall
3 be” and inserting the following:

4 “(e) BUYING, SELLING, DELIVERING, OR TRANS-
5 PORTING SHARP INSTRUMENTS FOR USE IN ANIMAL
6 FIGHTING VENTURE.—It shall be”;

7 (6) in subsection (f)—

8 (A) by striking “(f) The Secretary” and in-
9 serting the following:

10 “(f) INVESTIGATION OF VIOLATIONS BY SECRETARY;
11 ASSISTANCE BY OTHER FEDERAL AGENCIES; ISSUANCE
12 OF SEARCH WARRANT; FORFEITURE; COSTS RECOVER-
13 ABLE IN FORFEITURE OR CIVIL ACTION.—The Sec-
14 retary”; and

15 (B) in the last sentence—

16 (i) by striking “by the United States”;

17 (ii) by inserting “(1)” after “owner of
18 the animals”; and

19 (iii) by striking “proceeding or in”
20 and inserting “proceeding, or (2) in”;

21 (7) in subsection (g)—

22 (A) by striking “(g) For purposes of” and
23 inserting the following:

24 “(g) DEFINITIONS.—In”;

1 (B) in paragraph (1), by striking “any
2 event” and all that follows through “entertain-
3 ment” and inserting “any event, in or affecting
4 interstate or foreign commerce, that involves a
5 fight conducted or to be conducted between at
6 least 2 animals for purposes of sport, wagering,
7 or entertainment,”;

8 (C) by striking paragraph (2);

9 (D) in paragraph (5)—

10 (i) by striking “dog or other”; and

11 (ii) by striking “; and” and inserting
12 a period; and

13 (E) by redesignating paragraphs (3)
14 through (5) as paragraphs (2) through (4), re-
15 spectively;

16 (8) by redesignating subsections (h) and (i) as
17 subsections (i) and (j), respectively;

18 (9) in subsection (i) (as so redesignated), by
19 striking “(i)(1) The provisions” and inserting the
20 following:

21 “(i) CONFLICT WITH STATE LAW.—

22 “(1) IN GENERAL.—The provisions”;

23 (10) in subsection (j) (as so redesignated), by
24 striking “(j) The criminal” and inserting the fol-
25 lowing:

1 “(j) CRIMINAL PENALTIES.—The criminal”; and

2 (11) in subsection (g)(6), by striking “(6) the
3 conduct” and inserting the following:

4 “(h) RELATIONSHIP TO OTHER PROVISIONS.—The
5 conduct”.

6 (b) ENFORCEMENT OF ANIMAL FIGHTING PROHIBI-
7 TIONS.—Section 49 of title 18, United States Code, is
8 amended by striking “3 years” and inserting “5 years”.

9 **SEC. 14208. DEPARTMENT OF AGRICULTURE CONFERENCE**

10 **TRANSPARENCY.**

11 (a) REPORT.—

12 (1) REQUIREMENT.—Not later than September
13 30 of each year, the Secretary of Agriculture shall
14 submit to the Committee on Agriculture of the
15 House of Representatives and the Committee on Ag-
16 riculture, Nutrition, and Forestry of the Senate, a
17 report on conferences sponsored or held by the De-
18 partment of Agriculture or attended by employees of
19 the Department of Agriculture.

20 (2) CONTENTS.—Each report under paragraph
21 (1) shall contain—

22 (A) for each conference sponsored or held
23 by the Department or attended by employees of
24 the Department—

25 (i) the name of the conference;

- 1 (ii) the location of the conference;
- 2 (iii) the number of Department of Ag-
- 3 riculture employees attending the con-
- 4 ference; and
- 5 (iv) the costs (including travel ex-
- 6 penses) relating to such conference; and

7 (B) for each conference sponsored or held

8 by the Department of Agriculture for which the

9 Department awarded a procurement contract, a

10 description of the contracting procedures re-

11 lated to such conference.

12 (3) EXCLUSIONS.—The requirement in para-

13 graph (1) shall not apply to any conference—

14 (A) for which the cost to the Federal Gov-

15 ernment was less than \$10,000; or

16 (B) outside of the United States that is at-

17 tended by the Secretary or the Secretary's des-

18 ignee as an official representative of the United

19 States government.

20 (b) AVAILABILITY OF REPORT.—Each report sub-

21 mitted in accordance with subsection (a) shall be posted

22 in a searchable format on a Department of Agriculture

23 website that is available to the public.

24 (c) DEFINITION OF CONFERENCE.—In this section,

25 the term “conference”—

1 (1) means a meeting that—

2 (A) is held for consultation, education,
3 awareness, or discussion;

4 (B) includes participants from at least one
5 agency of the Department of Agriculture;

6 (C) is held in whole or in part at a facility
7 outside of an agency of the Department of Ag-
8 riculture; and

9 (D) involves costs associated with travel
10 and lodging for some participants; and

11 (2) does not include any training program that
12 is continuing education or a curriculum-based edu-
13 cational program, provided that such training pro-
14 gram is held independent of a conference of a non-
15 governmental organization.

16 **SEC. 14209. FEDERAL INSECTICIDE, FUNGICIDE, AND**
17 **RODENTICIDE ACT AMENDMENTS.**

18 (a) PAYMENT OF EXPENSES.—Section 17(d) of the
19 Federal Insecticide, Fungicide, and Rodenticide Act (7
20 U.S.C. 136o(d)) is amended—

21 (1) by striking “The Administrator” and insert-
22 ing the following:

23 “(1) IN GENERAL.—The Administrator”; and

24 (2) by adding at the end the following new
25 paragraph:

1 “(2) DEPARTMENT OF STATE EXPENSES.—Any
2 expenses incurred by an employee of the Environ-
3 mental Protection Agency who participates in any
4 international technical, economic, or policy review
5 board, committee, or other official body that is meet-
6 ing in relation to an international treaty shall be
7 paid by the Department of State.”.

8 (b) CONTAINER RECYCLING.—Section 19(a) of the
9 Federal Insecticide, Fungicide, and Rodenticide Act (7
10 U.S.C. 136q(a)) is amended by adding at the end the fol-
11 lowing new paragraph:

12 “(4) CONTAINER RECYCLING.—The Secretary
13 may promulgate a regulation for the return and re-
14 cycling of disposable pesticide containers used for
15 the distribution or sale of registered pesticide prod-
16 ucts in interstate commerce. Any such regulation re-
17 quiring recycling of disposable pesticide containers
18 shall not apply to antimicrobial pesticides (as de-
19 fined in section 2) or other pesticide products in-
20 tended for non-agricultural uses.”.

21 **SEC. 14210. IMPORTATION OF LIVE DOGS.**

22 (a) IN GENERAL.—The Animal Welfare Act is
23 amended by adding after section 17 (7 U.S.C. 2147) the
24 following:

1 **“SEC. 18. IMPORTATION OF LIVE DOGS.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) IMPORTER.—The term ‘importer’ means
4 any person who, for purposes of resale, transports
5 into the United States puppies from a foreign coun-
6 try.

7 “(2) RESALE.—The term ‘resale’ includes any
8 transfer of ownership or control of an imported dog
9 of less than 6 months of age to another person, for
10 more than de minimis consideration.

11 “(b) REQUIREMENTS.—

12 “(1) IN GENERAL.—Except as provided in para-
13 graph (2), no person shall import a dog into the
14 United States for purposes of resale unless, as deter-
15 mined by the Secretary, the dog—

16 “(A) is in good health;

17 “(B) has received all necessary vaccina-
18 tions; and

19 “(C) is at least 6 months of age, if im-
20 ported for resale.

21 “(2) EXCEPTION.—

22 “(A) IN GENERAL.—The Secretary, by reg-
23 ulation, shall provide an exception to any re-
24 quirement under paragraph (1) in any case in
25 which a dog is imported for—

26 “(i) research purposes; or

1 “(ii) veterinary treatment.

2 “(B) LAWFUL IMPORTATION INTO HA-
3 WAI.—Paragraph (1)(C) shall not apply to the
4 lawful importation of a dog into the State of
5 Hawaii from the British Isles, Australia, Guam,
6 or New Zealand in compliance with the applica-
7 ble regulations of the State of Hawaii and the
8 other requirements of this section, if the dog is
9 not transported out of the State of Hawaii for
10 purposes of resale at less than 6 months of age.

11 “(c) IMPLEMENTATION AND REGULATIONS.—The
12 Secretary, the Secretary of Health and Human Services,
13 the Secretary of Commerce, and the Secretary of Home-
14 land Security shall promulgate such regulations as the
15 Secretaries determine to be necessary to implement and
16 enforce this section.

17 “(d) ENFORCEMENT.—An importer that fails to com-
18 ply with this section shall—

19 “(1) be subject to penalties under section 19;
20 and

21 “(2) provide for the care (including appropriate
22 veterinary care), forfeiture, and adoption of each ap-
23 plicable dog, at the expense of the importer.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) takes effect on the date of the enactment
3 of this Act.

4 **SEC. 14211. PERMANENT DEBARMENT FROM PARTICIPA-**
5 **TION IN DEPARTMENT OF AGRICULTURE**
6 **PROGRAMS FOR FRAUD.**

7 (a) IN GENERAL.—Subject to subsection (b), the Sec-
8 retary of Agriculture shall permanently debar an indi-
9 vidual, organization, corporation, or other entity convicted
10 of a felony for knowingly defrauding the United States
11 in connection with any program administered by the De-
12 partment of Agriculture from any subsequent participa-
13 tion in Department of Agriculture programs.

14 (b) EXCEPTIONS.—

15 (1) SECRETARY DETERMINATION.—The Sec-
16 retary may reduce a debarment under subsection (a)
17 to a period of not less than 10 years if the Secretary
18 considers it appropriate.

19 (2) FOOD ASSISTANCE.—A debarment under
20 subsection (a) shall not apply with respect to partici-
21 pation in domestic food assistance programs (as de-
22 fined by the Secretary).

1 **SEC. 14212. PROHIBITION ON CLOSURE OR RELOCATION OF**
2 **COUNTY OFFICES FOR THE FARM SERVICE**
3 **AGENCY.**

4 (a) TEMPORARY PROHIBITION.—

5 (1) IN GENERAL.—Subject to paragraph (2),
6 until the date that is two years after the date of the
7 enactment of this Act, the Secretary of Agriculture
8 may not close or relocate a county or field office of
9 the Farm Service Agency.

10 (2) EXCEPTION.—Paragraph (1) shall not
11 apply to—

12 (A) an office that is located not more than
13 20 miles from another office of the Farm Serv-
14 ice Agency; or

15 (B) the relocation of an office within the
16 same county in the course of routine leasing op-
17 erations.

18 (b) LIMITATION ON CLOSURE; NOTICE.—

19 (1) LIMITATION.—After the period referred to
20 in subsection (a)(1), the Secretary shall, before clos-
21 ing any office of the Farm Service Agency that is lo-
22 cated more than 20 miles from another office of the
23 Farm Service Agency, to the maximum extent prac-
24 ticable, first close any offices of the Farm Service
25 Agency that—

1 (A) are located less than 20 miles from an-
2 other office of the Farm Service Agency; and

3 (B) have two or fewer permanent full-time
4 employees.

5 (2) NOTICE.—After the period referred to in
6 subsection (a)(1), the Secretary of Agriculture may
7 not close a county or field office of the Farm Service
8 Agency unless—

9 (A) not later than 30 days after the Sec-
10 retary proposes to close such office, the Sec-
11 retary holds a public meeting regarding the pro-
12 posed closure in the county in which such office
13 is located; and

14 (B) after the public meeting referred to in
15 subparagraph (A), but not less than 90 days
16 before the date on which the Secretary approves
17 the closure of such office, the Secretary notifies
18 the Committee on Agriculture and the Com-
19 mittee on Appropriations of the House of Rep-
20 resentatives, the Committee on Agriculture, Nu-
21 trition, and Forestry and the Committee on Ap-
22 propriations of the Senate, each Senator rep-
23 resenting the State in which the office proposed
24 to be closed is located, and the member of the
25 House of Representatives who represents the

1 Congressional district in which the office pro-
2 posed to be closed is located of the proposed
3 closure of such office.

4 **SEC. 14213. USDA GRADUATE SCHOOL.**

5 (a) IN GENERAL.—Section 921 of the Federal Agri-
6 culture Improvement and Reform Act of 1996 (7 U.S.C.
7 2279b) is amended—

8 (1) in the heading, to read as follows:

9 **“SEC. 921. DEPARTMENT OF AGRICULTURE EDUCATIONAL,**
10 **TRAINING, AND PROFESSIONAL DEVELOP-**
11 **MENT ACTIVITIES.”; and**

12 (2) by striking subsection (b) and inserting the
13 following new subsection:

14 **“(b) OPERATION AS NONAPPROPRIATED FUND IN-**
15 **STRUMENTALITY.—**

16 **“(1) CEASE OPERATIONS.—**Not later than Oc-
17 tober 1, 2009, the Secretary of Agriculture shall
18 cease to maintain or operate a nonappropriated fund
19 instrumentality of the United States to develop, ad-
20 minister, or provide educational training and profes-
21 sional development activities, including educational
22 activities for Federal agencies, Federal employees,
23 non-profit organizations, other entities, and mem-
24 bers of the general public.

25 **“(2) TRANSITION.—**

1 “(A) IN GENERAL.—The Secretary of Ag-
2 riculture is authorized to use funds available to
3 the Department of Agriculture and such re-
4 sources of the Department as the Secretary
5 considers appropriate (including the assignment
6 of such employees of the Department as the
7 Secretary considers appropriate) to assist the
8 General Administrative Board of the Graduate
9 School in the conversion of the Graduate School
10 to an entity that is non-governmental and not
11 a nonappropriated fund instrumentality of the
12 United States, including such privatization ac-
13 tivities not otherwise inconsistent with law or
14 regulation.

15 “(B) TERMINATION OF AUTHORITY.—The
16 authority under paragraph (1) shall terminate
17 on the earlier of—

18 “(i) the completion of the transition of
19 the Graduate School to an entity that is
20 non-governmental and not a non-
21 appropriated fund instrumentality of the
22 United States, as determined by the Sec-
23 retary; or

24 “(ii) September 30, 2009.”.

1 (b) PROCUREMENT PROCEDURES.—Notwithstanding
2 the amendments made by subsection (a), effective on the
3 date of the enactment of this Act, the Graduate School
4 of the Department of Agriculture shall be subject to Fed-
5 eral procurement laws and regulations in the same manner
6 and subject to the same requirements as a private entity
7 providing services to the Federal Government.

8 **SEC. 14214. FINES FOR VIOLATIONS OF THE ANIMAL WEL-**
9 **FARE ACT.**

10 Section 19(b) of the Animal Welfare Act (7 U.S.C.
11 2149(b)) is amended in the first sentence by striking “not
12 more than \$2,500 for each such violation” and inserting
13 “not more than \$10,000 for each such violation”.

14 **SEC. 14215. DEFINITION OF CENTRAL FILING SYSTEM.**

15 Section 1324(c)(2) of the Food Security Act of 1985
16 (7 U.S.C. 1631(c)(2)) is amended—

17 (1) in subparagraph (C)(ii)(II), by inserting
18 after “such debtors” the following: “, except that the
19 numerical list containing social security or taxpayer
20 identification numbers may be encrypted for security
21 purposes if the Secretary of State provides a method
22 by which an effective search of the encrypted num-
23 bers may be conducted to determine whether the
24 farm product at issue is subject to 1 or more liens”;
25 and

1 (2) in subparagraph (E)—

2 (A) by striking “paragraph (C)” and in-
3 serting “subparagraph (C)”; and

4 (B) by inserting before the semicolon at
5 the end the following: “except that—

6 “(i) the distribution of the portion of
7 the master list may be in electronic, writ-
8 ten, or printed form; and

9 “(ii) if social security or taxpayer
10 identification numbers on the master list
11 are encrypted, the Secretary of State may
12 distribute the master list only—

13 “(I) by compact disc or other
14 electronic media that contains—

15 “(aa) the recorded list of
16 debtor names; and

17 “(bb) an encryption program
18 that enables the buyer, commis-
19 sion merchant, and selling agent
20 to enter a social security number
21 for matching against the re-
22 corded list of encrypted social se-
23 curity or taxpayer identification
24 numbers; and

1 “(II) on the written request of
2 the buyer, commission merchant, or
3 selling agent, by paper copy of the list
4 to the requestor”.

5 **SEC. 14216. CONSIDERATION OF PROPOSED RECOMMENDA-**
6 **TIONS OF STUDY ON USE OF CATS AND DOGS**
7 **IN FEDERAL RESEARCH.**

8 (a) IN GENERAL.—The Secretary of Agriculture
9 shall—

10 (1) review—

11 (A) any independent reviews conducted by
12 a nationally recognized panel of experts of the
13 use of Class B dogs and cats in federally sup-
14 ported research to determine how frequently
15 such dogs and cats are used in research by the
16 National Institutes of Health; and

17 (B) any recommendations proposed by
18 such panel outlining the parameters of such
19 use; and

20 (2) submit to the Committee on Agriculture of
21 the House of Representatives and the Committee on
22 Agriculture, Nutrition, and Forestry of the Senate a
23 report on how recommendations referred to in para-
24 graph (1)(B) can be applied within the Department
25 of Agriculture to ensure such dogs and cats are

1 treated in accordance with regulations of the De-
2 partment of Agriculture.

3 (b) CLASS B DOGS AND CATS DEFINED.—In this
4 section, the term “Class B dogs and cats” means dogs
5 and cats obtained from a Class “B” licensee, as such term
6 is defined in section 1.1 of title 9, Code of Federal Regula-
7 tions.

8 **SEC. 14217. REGIONAL ECONOMIC AND INFRASTRUCTURE**
9 **DEVELOPMENT.**

10 (a) IN GENERAL.—Title 40, United States Code, is
11 amended—

12 (1) by redesignating subtitle V as subtitle VI;

13 and

14 (2) by inserting after subtitle IV the following:

15 **“Subtitle V—Regional Economic**
16 **and Infrastructure Development**

“Chapter	15101
“151. GENERAL PROVISIONS	15101
“153. REGIONAL COMMISSIONS	15301
“155. FINANCIAL ASSISTANCE	15501
“157. ADMINISTRATIVE PROVISIONS	15701

17 **“CHAPTER 1—GENERAL PROVISIONS**

“Sec.
“15101. Definitions.

18 **“§ 15101. Definitions**

19 “In this subtitle, the following definitions apply:

1 “(1) COMMISSION.—The term ‘Commission’
2 means a Commission established under section
3 15301.

4 “(2) LOCAL DEVELOPMENT DISTRICT.—The
5 term ‘local development district’ means an entity
6 that—

7 “(A)(i) is an economic development district
8 that is—

9 “(I) in existence on the date of the
10 enactment of this chapter; and

11 “(II) located in the region; or

12 “(ii) if an entity described in clause (i)
13 does not exist—

14 “(I) is organized and operated in a
15 manner that ensures broad-based commu-
16 nity participation and an effective oppor-
17 tunity for local officials, community lead-
18 ers, and the public to contribute to the de-
19 velopment and implementation of programs
20 in the region;

21 “(II) is governed by a policy board
22 with at least a simple majority of members
23 consisting of—

24 “(aa) elected officials; or

1 “(bb) designees or employees of a
2 general purpose unit of local govern-
3 ment that have been appointed to rep-
4 resent the unit of local government;
5 and

6 “(III) is certified by the Governor or
7 appropriate State officer as having a char-
8 ter or authority that includes the economic
9 development of counties, portions of coun-
10 ties, or other political subdivisions within
11 the region; and

12 “(B) has not, as certified by the Federal
13 Cochairperson—

14 “(i) inappropriately used Federal
15 grant funds from any Federal source; or

16 “(ii) appointed an officer who, during
17 the period in which another entity inappro-
18 priately used Federal grant funds from any
19 Federal source, was an officer of the other
20 entity.

21 “(3) FEDERAL GRANT PROGRAM.—The term
22 ‘Federal grant program’ means a Federal grant pro-
23 gram to provide assistance in carrying out economic
24 and community development activities.

1 “(4) INDIAN TRIBE.—The term ‘Indian tribe’
2 has the meaning given the term in section 4 of the
3 Indian Self-Determination and Education Assistance
4 Act (25 U.S.C. 450b).

5 “(5) NONPROFIT ENTITY.—The term ‘nonprofit
6 entity’ means any organization described in section
7 501(c) of the Internal Revenue Code of 1986 and
8 exempt from taxation under 501(a) of that Code
9 that has been formed for the purpose of economic
10 development.

11 “(6) REGION.—The term ‘region’ means the
12 area covered by a Commission as described in sub-
13 chapter II of chapter 157.

14 **“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.

15 **“§ 15301. Establishment, membership, and employees**

16 “(a) ESTABLISHMENT.—There are established the
17 following regional Commissions:

18 “(1) The Southeast Crescent Regional Commis-
19 sion.

20 “(2) The Southwest Border Regional Commis-
21 sion.

1 “(3) The Northern Border Regional Commis-
2 sion.

3 “(b) MEMBERSHIP.—

4 “(1) FEDERAL AND STATE MEMBERS.—Each
5 Commission shall be composed of the following mem-
6 bers:

7 “(A) A Federal Cochairperson, to be ap-
8 pointed by the President, by and with the ad-
9 vice and consent of the Senate.

10 “(B) The Governor of each participating
11 State in the region of the Commission.

12 “(2) ALTERNATE MEMBERS.—

13 “(A) ALTERNATE FEDERAL COCHAIR-
14 PERSON.—The President shall appoint an alter-
15 nate Federal Cochairperson for each Commis-
16 sion. The alternate Federal Cochairperson,
17 when not actively serving as an alternate for
18 the Federal Cochairperson, shall perform such
19 functions and duties as are delegated by the
20 Federal Cochairperson.

21 “(B) STATE ALTERNATES.—The State
22 member of a participating State may have a
23 single alternate, who shall be appointed by the
24 Governor of the State from among the members
25 of the Governor’s cabinet or personal staff.

1 “(C) VOTING.—An alternate member shall
2 vote in the case of the absence, death, dis-
3 ability, removal, or resignation of the Federal
4 or State member for which the alternate mem-
5 ber is an alternate.

6 “(3) COCHAIRPERSONS.—A Commission shall
7 be headed by—

8 “(A) the Federal Cochairperson, who shall
9 serve as a liaison between the Federal Govern-
10 ment and the Commission; and

11 “(B) a State Cochairperson, who shall be
12 a Governor of a participating State in the re-
13 gion and shall be elected by the State members
14 for a term of not less than 1 year.

15 “(4) CONSECUTIVE TERMS.—A State member
16 may not be elected to serve as State Cochairperson
17 for more than 2 consecutive terms.

18 “(c) COMPENSATION.—

19 “(1) FEDERAL COCHAIRPERSONS.—Each Fed-
20 eral Cochairperson shall be compensated by the Fed-
21 eral Government at level III of the Executive Sched-
22 ule as set out in section 5314 of title 5.

23 “(2) ALTERNATE FEDERAL COCHAIR-
24 PERSONS.—Each Federal Cochairperson’s alternate
25 shall be compensated by the Federal Government at

1 level V of the Executive Schedule as set out in sec-
2 tion 5316 of title 5.

3 “(3) STATE MEMBERS AND ALTERNATES.—

4 Each State member and alternate shall be com-
5 pensated by the State that they represent at the rate
6 established by the laws of that State.

7 “(d) EXECUTIVE DIRECTOR AND STAFF.—

8 “(1) IN GENERAL.—A Commission shall ap-
9 point and fix the compensation of an executive direc-
10 tor and such other personnel as are necessary to en-
11 able the Commission to carry out its duties. Com-
12 pensation under this paragraph may not exceed the
13 maximum rate of basic pay established for the Sen-
14 ior Executive Service under section 5382 of title 5,
15 including any applicable locality-based comparability
16 payment that may be authorized under section
17 5304(h)(2)(C) of that title.

18 “(2) EXECUTIVE DIRECTOR.—The executive di-
19 rector shall be responsible for carrying out the ad-
20 ministrative duties of the Commission, directing the
21 Commission staff, and such other duties as the Com-
22 mission may assign.

23 “(e) NO FEDERAL EMPLOYEE STATUS.—No mem-
24 ber, alternate, officer, or employee of a Commission (other
25 than the Federal Cochairperson, the alternate Federal Co-

1 chairperson, staff of the Federal Cochairperson, and any
2 Federal employee detailed to the Commission) shall be
3 considered to be a Federal employee for any purpose.

4 **“§ 15302. Decisions**

5 “(a) REQUIREMENTS FOR APPROVAL.—Except as
6 provided in section 15304(e)(3), decisions by the Commis-
7 sion shall require the affirmative vote of the Federal Co-
8 chairperson and a majority of the State members (exclu-
9 sive of members representing States delinquent under sec-
10 tion 15304(e)(3)(C)).

11 “(b) CONSULTATION.—In matters coming before the
12 Commission, the Federal Cochairperson shall, to the ex-
13 tent practicable, consult with the Federal departments and
14 agencies having an interest in the subject matter.

15 “(c) QUORUMS.—A Commission shall determine what
16 constitutes a quorum for Commission meetings; except
17 that—

18 “(1) any quorum shall include the Federal Co-
19 chairperson or the alternate Federal Cochairperson;
20 and

21 “(2) a State alternate member shall not be
22 counted toward the establishment of a quorum.

23 “(d) PROJECTS AND GRANT PROPOSALS.—The ap-
24 proval of project and grant proposals shall be a responsi-

1 bility of each Commission and shall be carried out in ac-
2 cordance with section 15503.

3 **“§ 15303. Functions**

4 “A Commission shall—

5 “(1) assess the needs and assets of its region
6 based on available research, demonstration projects,
7 investigations, assessments, and evaluations of the
8 region prepared by Federal, State, and local agen-
9 cies, universities, local development districts, and
10 other nonprofit groups;

11 “(2) develop, on a continuing basis, comprehen-
12 sive and coordinated economic and infrastructure de-
13 velopment strategies to establish priorities and ap-
14 prove grants for the economic development of its re-
15 gion, giving due consideration to other Federal,
16 State, and local planning and development activities
17 in the region;

18 “(3) not later than one year after the date of
19 the enactment of this section, and after taking into
20 account State plans developed under section 15502,
21 establish priorities in an economic and infrastructure
22 development plan for its region, including 5-year re-
23 gional outcome targets;

1 “(4)(A) enhance the capacity of, and provide
2 support for, local development districts in its region;
3 or

4 “(B) if no local development district exists in
5 an area in a participating State in the region, foster
6 the creation of a local development district;

7 “(5) encourage private investment in industrial,
8 commercial, and other economic development
9 projects in its region;

10 “(6) cooperate with and assist State govern-
11 ments with the preparation of economic and infra-
12 structure development plans and programs for par-
13 ticipating States;

14 “(7) formulate and recommend to the Gov-
15 ernors and legislatures of States that participate in
16 the Commission forms of interstate cooperation and,
17 where appropriate, international cooperation; and

18 “(8) work with State and local agencies in de-
19 veloping appropriate model legislation to enhance
20 local and regional economic development.

21 **“§ 15304. Administrative powers and expenses**

22 “(a) POWERS.—In carrying out its duties under this
23 subtitle, a Commission may—

24 “(1) hold such hearings, sit and act at such
25 times and places, take such testimony, receive such

1 evidence, and print or otherwise reproduce and dis-
2 tribute a description of the proceedings and reports
3 on actions by the Commission as the Commission
4 considers appropriate;

5 “(2) authorize, through the Federal or State
6 Cochairperson or any other member of the Commis-
7 sion designated by the Commission, the administra-
8 tion of oaths if the Commission determines that tes-
9 timony should be taken or evidence received under
10 oath;

11 “(3) request from any Federal, State, or local
12 agency such information as may be available to or
13 procurable by the agency that may be of use to the
14 Commission in carrying out the duties of the Com-
15 mission;

16 “(4) adopt, amend, and repeal bylaws and rules
17 governing the conduct of business and the perform-
18 ance of duties by the Commission;

19 “(5) request the head of any Federal agency,
20 State agency, or local government to detail to the
21 Commission such personnel as the Commission re-
22 quires to carry out its duties, each such detail to be
23 without loss of seniority, pay, or other employee sta-
24 tus;

1 “(6) provide for coverage of Commission em-
2 ployees in a suitable retirement and employee benefit
3 system by making arrangements or entering into
4 contracts with any participating State government
5 or otherwise providing retirement and other em-
6 ployee coverage;

7 “(7) accept, use, and dispose of gifts or dona-
8 tions or services or real, personal, tangible, or intan-
9 gible property;

10 “(8) enter into and perform such contracts, co-
11 operative agreements, or other transactions as are
12 necessary to carry out Commission duties, including
13 any contracts or cooperative agreements with a de-
14 partment, agency, or instrumentality of the United
15 States, a State (including a political subdivision,
16 agency, or instrumentality of the State), or a person,
17 firm, association, or corporation; and

18 “(9) maintain a government relations office in
19 the District of Columbia and establish and maintain
20 a central office at such location in its region as the
21 Commission may select.

22 “(b) FEDERAL AGENCY COOPERATION.—A Federal
23 agency shall—

24 “(1) cooperate with a Commission; and

1 “(2) provide, to the extent practicable, on re-
2 quest of the Federal Cochairperson, appropriate as-
3 sistance in carrying out this subtitle, in accordance
4 with applicable Federal laws (including regulations).

5 “(c) ADMINISTRATIVE EXPENSES.—

6 “(1) IN GENERAL.—Subject to paragraph (2),
7 the administrative expenses of a Commission shall
8 be paid—

9 “(A) by the Federal Government, in an
10 amount equal to 50 percent of the administra-
11 tive expenses of the Commission; and

12 “(B) by the States participating in the
13 Commission, in an amount equal to 50 percent
14 of the administrative expenses.

15 “(2) EXPENSES OF THE FEDERAL COCHAIR-
16 PERSON.—All expenses of the Federal Cochair-
17 person, including expenses of the alternate and staff
18 of the Federal Cochairperson, shall be paid by the
19 Federal Government.

20 “(3) STATE SHARE.—

21 “(A) IN GENERAL.—Subject to subpara-
22 graph (B), the share of administrative expenses
23 of a Commission to be paid by each State of the
24 Commission shall be determined by a unani-

1 mous vote of the State members of the Com-
2 mission.

3 “(B) NO FEDERAL PARTICIPATION.—The
4 Federal Cochairperson shall not participate or
5 vote in any decision under subparagraph (A).

6 “(C) DELINQUENT STATES.—During any
7 period in which a State is more than 1 year de-
8 linquent in payment of the State’s share of ad-
9 ministrative expenses of the Commission under
10 this subsection—

11 “(i) no assistance under this subtitle
12 shall be provided to the State (including
13 assistance to a political subdivision or a
14 resident of the State) for any project not
15 approved as of the date of the commence-
16 ment of the delinquency; and

17 “(ii) no member of the Commission
18 from the State shall participate or vote in
19 any action by the Commission.

20 “(4) EFFECT ON ASSISTANCE.—A State’s share
21 of administrative expenses of a Commission under
22 this subsection shall not be taken into consideration
23 when determining the amount of assistance provided
24 to the State under this subtitle.

1 **“§ 15305. Meetings**

2 “(a) INITIAL MEETING.—Each Commission shall
3 hold an initial meeting not later than 180 days after the
4 date of the enactment of this section.

5 “(b) ANNUAL MEETING.—Each Commission shall
6 conduct at least 1 meeting each year with the Federal Co-
7 chairperson and at least a majority of the State members
8 present.

9 “(c) ADDITIONAL MEETINGS.—Each Commission
10 shall conduct additional meetings at such times as it deter-
11 mines and may conduct such meetings by electronic
12 means.

13 **“§ 15306. Personal financial interests**

14 “(a) CONFLICTS OF INTEREST.—

15 “(1) NO ROLE ALLOWED.—Except as permitted
16 by paragraph (2), an individual who is a State mem-
17 ber or alternate, or an officer or employee of a Com-
18 mission, shall not participate personally and sub-
19 stantially as a member, alternate, officer, or em-
20 ployee of the Commission, through decision, ap-
21 proval, disapproval, recommendation, request for a
22 ruling, or other determination, contract, claim, con-
23 troversy, or other matter in which, to the individ-
24 ual’s knowledge, any of the following has a financial
25 interest:

26 “(A) The individual.

1 “(B) The individual’s spouse, minor child,
2 or partner.

3 “(C) An organization (except a State or
4 political subdivision of a State) in which the in-
5 dividual is serving as an officer, director, trust-
6 ee, partner, or employee.

7 “(D) Any person or organization with
8 whom the individual is negotiating or has any
9 arrangement concerning prospective employ-
10 ment.

11 “(2) EXCEPTION.—Paragraph (1) shall not
12 apply if the individual, in advance of the proceeding,
13 application, request for a ruling or other determina-
14 tion, contract, claim controversy, or other particular
15 matter presenting a potential conflict of interest—

16 “(A) advises the Commission of the nature
17 and circumstances of the matter presenting the
18 conflict of interest;

19 “(B) makes full disclosure of the financial
20 interest; and

21 “(C) receives a written decision of the
22 Commission that the interest is not so substan-
23 tial as to be considered likely to affect the in-
24 tegrity of the services that the Commission may
25 expect from the individual.

1 “(3) VIOLATION.—An individual violating this
2 subsection shall be fined under title 18, imprisoned
3 for not more than 1 year, or both.

4 “(b) STATE MEMBER OR ALTERNATE.—A State
5 member or alternate member may not receive any salary,
6 or any contribution to, or supplementation of, salary, for
7 services on a Commission from a source other than the
8 State of the member or alternate.

9 “(c) DETAILED EMPLOYEES.—

10 “(1) IN GENERAL.—No person detailed to serve
11 a Commission shall receive any salary, or any con-
12 tribution to, or supplementation of, salary, for serv-
13 ices provided to the Commission from any source
14 other than the State, local, or intergovernmental de-
15 partment or agency from which the person was de-
16 tailed to the Commission.

17 “(2) VIOLATION.—Any person that violates this
18 subsection shall be fined under title 18, imprisoned
19 not more than 1 year, or both.

20 “(d) FEDERAL COCHAIRMAN, ALTERNATE TO FED-
21 ERAL COCHAIRMAN, AND FEDERAL OFFICERS AND EM-
22 PLOYEES.—The Federal Cochairman, the alternate to the
23 Federal Cochairman, and any Federal officer or employee
24 detailed to duty with the Commission are not subject to

1 this section but remain subject to sections 202 through
2 209 of title 18.

3 “(e) RESCISSION.—A Commission may declare void
4 any contract, loan, or grant of or by the Commission in
5 relation to which the Commission determines that there
6 has been a violation of any provision under subsection
7 (a)(1), (b), or (c), or any of the provisions of sections 202
8 through 209 of title 18.

9 **“§ 15307. Tribal participation**

10 “Governments of Indian tribes in the region of the
11 Southwest Border Regional Commission shall be allowed
12 to participate in matters before that Commission in the
13 same manner and to the same extent as State agencies
14 and instrumentalities in the region.

15 **“§ 15308. Annual report**

16 “(a) IN GENERAL.—Not later than 90 days after the
17 last day of each fiscal year, each Commission shall submit
18 to the President and Congress a report on the activities
19 carried out by the Commission under this subtitle in the
20 fiscal year.

21 “(b) CONTENTS.—The report shall include—

22 “(1) a description of the criteria used by the
23 Commission to designate counties under section
24 15702 and a list of the counties designated in each
25 category;

1 “(2) an evaluation of the progress of the Com-
 2 mission in meeting the goals identified in the Com-
 3 mission’s economic and infrastructure development
 4 plan under section 15303 and State economic and
 5 infrastructure development plans under section
 6 15502; and

7 “(3) any policy recommendations approved by
 8 the Commission.

9 **“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.

10 **“§ 15501. Economic and infrastructure development**
 11 **grants**

12 “(a) IN GENERAL.—A Commission may make grants
 13 to States and local governments, Indian tribes, and public
 14 and nonprofit organizations for projects, approved in ac-
 15 cordance with section 15503—

16 “(1) to develop the transportation infrastruc-
 17 ture of its region;

18 “(2) to develop the basic public infrastructure
 19 of its region;

20 “(3) to develop the telecommunications infra-
 21 structure of its region;

1 “(4) to assist its region in obtaining job skills
2 training, skills development and employment-related
3 education, entrepreneurship, technology, and busi-
4 ness development;

5 “(5) to provide assistance to severely economi-
6 cally distressed and underdeveloped areas of its re-
7 gion that lack financial resources for improving
8 basic health care and other public services;

9 “(6) to promote resource conservation, tourism,
10 recreation, and preservation of open space in a man-
11 ner consistent with economic development goals;

12 “(7) to promote the development of renewable
13 and alternative energy sources; and

14 “(8) to otherwise achieve the purposes of this
15 subtitle.

16 “(b) ALLOCATION OF FUNDS.—A Commission shall
17 allocate at least 40 percent of any grant amounts provided
18 by the Commission in a fiscal year for projects described
19 in paragraphs (1) through (3) of subsection (a).

20 “(c) SOURCES OF GRANTS.—Grant amounts may be
21 provided entirely from appropriations to carry out this
22 subtitle, in combination with amounts available under
23 other Federal grant programs, or from any other source.

24 “(d) MAXIMUM COMMISSION CONTRIBUTIONS.—

1 “(1) IN GENERAL.—Subject to paragraphs (2)
2 and (3), the Commission may contribute not more
3 than 50 percent of a project or activity cost eligible
4 for financial assistance under this section from
5 amounts appropriated to carry out this subtitle.

6 “(2) DISTRESSED COUNTIES.—The maximum
7 Commission contribution for a project or activity to
8 be carried out in a county for which a distressed
9 county designation is in effect under section 15702
10 may be increased to 80 percent.

11 “(3) SPECIAL RULE FOR REGIONAL
12 PROJECTS.—A Commission may increase to 60 per-
13 cent under paragraph (1) and 90 percent under
14 paragraph (2) the maximum Commission contribu-
15 tion for a project or activity if—

16 “(A) the project or activity involves 3 or
17 more counties or more than one State; and

18 “(B) the Commission determines in ac-
19 cordance with section 15302(a) that the project
20 or activity will bring significant interstate or
21 multicounty benefits to a region.

22 “(e) MAINTENANCE OF EFFORT.—Funds may be
23 provided by a Commission for a program or project in a
24 State under this section only if the Commission deter-
25 mines that the level of Federal or State financial assist-

1 ance provided under a law other than this subtitle, for the
2 same type of program or project in the same area of the
3 State within region, will not be reduced as a result of
4 funds made available by this subtitle.

5 “(f) NO RELOCATION ASSISTANCE.—Financial as-
6 sistance authorized by this section may not be used to as-
7 sist a person or entity in relocating from one area to an-
8 other.

9 **“§ 15502. Comprehensive economic and infrastruc-**
10 **ture development plans**

11 “(a) STATE PLANS.—In accordance with policies es-
12 tablished by a Commission, each State member of the
13 Commission shall submit a comprehensive economic and
14 infrastructure development plan for the area of the region
15 represented by the State member.

16 “(b) CONTENT OF PLAN.—A State economic and in-
17 frastructure development plan shall reflect the goals, ob-
18 jectives, and priorities identified in any applicable eco-
19 nomic and infrastructure development plan developed by
20 a Commission under section 15303.

21 “(c) CONSULTATION WITH INTERESTED LOCAL PAR-
22 TIES.—In carrying out the development planning process
23 (including the selection of programs and projects for as-
24 sistance), a State shall—

1 “(1) consult with local development districts,
2 local units of government, and local colleges and uni-
3 versities; and

4 “(2) take into consideration the goals, objec-
5 tives, priorities, and recommendations of the entities
6 described in paragraph (1).

7 “(d) PUBLIC PARTICIPATION.—

8 “(1) IN GENERAL.—A Commission and applica-
9 ble State and local development districts shall en-
10 courage and assist, to the maximum extent prac-
11 ticable, public participation in the development, revi-
12 sion, and implementation of all plans and programs
13 under this subtitle.

14 “(2) GUIDELINES.—A Commission shall de-
15 velop guidelines for providing public participation,
16 including public hearings.

17 **“§ 15503. Approval of applications for assistance**

18 “(a) EVALUATION BY STATE MEMBER.—An applica-
19 tion to a Commission for a grant or any other assistance
20 for a project under this subtitle shall be made through,
21 and evaluated for approval by, the State member of the
22 Commission representing the applicant.

23 “(b) CERTIFICATION.—An application to a Commis-
24 sion for a grant or other assistance for a project under
25 this subtitle shall be eligible for assistance only on certifi-

1 cation by the State member of the Commission rep-
2 resenting the applicant that the application for the
3 project—

4 “(1) describes ways in which the project com-
5 plies with any applicable State economic and infra-
6 structure development plan;

7 “(2) meets applicable criteria under section
8 15504;

9 “(3) adequately ensures that the project will be
10 properly administered, operated, and maintained;
11 and

12 “(4) otherwise meets the requirements for as-
13 sistance under this subtitle.

14 “(c) VOTES FOR DECISIONS.—On certification by a
15 State member of a Commission of an application for a
16 grant or other assistance for a specific project under this
17 section, an affirmative vote of the Commission under sec-
18 tion 15302 shall be required for approval of the applica-
19 tion.

20 **“§ 15504. Program development criteria**

21 “In considering programs and projects to be provided
22 assistance by a Commission under this subtitle, and in es-
23 tablishing a priority ranking of the requests for assistance
24 provided to the Commission, the Commission shall follow

1 procedures that ensure, to the maximum extent prac-
2 ticable, consideration of—

3 “(1) the relationship of the project or class of
4 projects to overall regional development;

5 “(2) the per capita income and poverty and un-
6 employment and outmigration rates in an area;

7 “(3) the financial resources available to the ap-
8 plicants for assistance seeking to carry out the
9 project, with emphasis on ensuring that projects are
10 adequately financed to maximize the probability of
11 successful economic development;

12 “(4) the importance of the project or class of
13 projects in relation to the other projects or classes
14 of projects that may be in competition for the same
15 funds;

16 “(5) the prospects that the project for which as-
17 sistance is sought will improve, on a continuing rath-
18 er than a temporary basis, the opportunities for em-
19 ployment, the average level of income, or the eco-
20 nomic development of the area to be served by the
21 project; and

22 “(6) the extent to which the project design pro-
23 vides for detailed outcome measurements by which
24 grant expenditures and the results of the expendi-
25 tures may be evaluated.

1 **“§ 15505. Local development districts and organiza-**
2 **tions**

3 “(a) GRANTS TO LOCAL DEVELOPMENT DIS-
4 TRICTS.—Subject to the requirements of this section, a
5 Commission may make grants to a local development dis-
6 trict to assist in the payment of development planning and
7 administrative expenses.

8 “(b) CONDITIONS FOR GRANTS.—

9 “(1) MAXIMUM AMOUNT.—The amount of a
10 grant awarded under this section may not exceed 80
11 percent of the administrative and planning expenses
12 of the local development district receiving the grant.

13 “(2) MAXIMUM PERIOD FOR STATE AGEN-
14 CIES.—In the case of a State agency certified as a
15 local development district, a grant may not be
16 awarded to the agency under this section for more
17 than 3 fiscal years.

18 “(3) LOCAL SHARE.—The contributions of a
19 local development district for administrative ex-
20 penses may be in cash or in kind, fairly evaluated,
21 including space, equipment, and services.

22 “(c) DUTIES OF LOCAL DEVELOPMENT DIS-
23 TRICTS.—A local development district shall—

24 “(1) operate as a lead organization serving
25 multicounty areas in the region at the local level;

1 “(2) assist the Commission in carrying out out-
2 reach activities for local governments, community
3 development groups, the business community, and
4 the public;

5 “(3) serve as a liaison between State and local
6 governments, nonprofit organizations (including
7 community-based groups and educational institu-
8 tions), the business community, and citizens; and

9 “(4) assist the individuals and entities described
10 in paragraph (3) in identifying, assessing, and facili-
11 tating projects and programs to promote the eco-
12 nomic development of the region.

13 **“§ 15506. Supplements to Federal grant programs**

14 “(a) FINDING.—Congress finds that certain States
15 and local communities of the region, including local devel-
16 opment districts, may be unable to take maximum advan-
17 tage of Federal grant programs for which the States and
18 communities are eligible because—

19 “(1) they lack the economic resources to pro-
20 vide the required matching share; or

21 “(2) there are insufficient funds available under
22 the applicable Federal law with respect to a project
23 to be carried out in the region.

24 “(b) FEDERAL GRANT PROGRAM FUNDING.—A
25 Commission, with the approval of the Federal Cochair-

1 person, may use amounts made available to carry out this
2 subtitle—

3 “(1) for any part of the basic Federal contribu-
4 tion to projects or activities under the Federal grant
5 programs authorized by Federal laws; and

6 “(2) to increase the Federal contribution to
7 projects and activities under the programs above the
8 fixed maximum part of the cost of the projects or
9 activities otherwise authorized by the applicable law.

10 “(c) CERTIFICATION REQUIRED.—For a program,
11 project, or activity for which any part of the basic Federal
12 contribution to the project or activity under a Federal
13 grant program is proposed to be made under subsection
14 (b), the Federal contribution shall not be made until the
15 responsible Federal official administering the Federal law
16 authorizing the Federal contribution certifies that the pro-
17 gram, project, or activity meets the applicable require-
18 ments of the Federal law and could be approved for Fed-
19 eral contribution under that law if amounts were available
20 under the law for the program, project, or activity.

21 “(d) LIMITATIONS IN OTHER LAWS INAPPLI-
22 CABLE.—Amounts provided pursuant to this subtitle are
23 available without regard to any limitations on areas eligi-
24 ble for assistance or authorizations for appropriation in
25 any other law.

1 “(e) FEDERAL SHARE.—The Federal share of the
2 cost of a project or activity receiving assistance under this
3 section shall not exceed 80 percent.

4 “(f) MAXIMUM COMMISSION CONTRIBUTION.—Sec-
5 tion 15501(d), relating to limitations on Commission con-
6 tributions, shall apply to a program, project, or activity
7 receiving assistance under this section.

8 **“CHAPTER 4—ADMINISTRATIVE**
9 **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.

10 **“SUBCHAPTER I—GENERAL PROVISIONS**

11 **“§ 15701. Consent of States**

12 “‘This subtitle does not require a State to engage in
13 or accept a program under this subtitle without its con-
14 sent.

15 **“§ 15702. Distressed counties and areas**

16 “(a) DESIGNATIONS.—Not later than 90 days after
17 the date of the enactment of this section, and annually

1 thereafter, each Commission shall make the following des-
2 ignations:

3 “(1) DISTRESSED COUNTIES.—The Commission
4 shall designate as distressed counties those counties
5 in its region that are the most severely and persist-
6 ently economically distressed and underdeveloped
7 and have high rates of poverty, unemployment, or
8 outmigration.

9 “(2) TRANSITIONAL COUNTIES.—The Commis-
10 sion shall designate as transitional counties those
11 counties in its region that are economically dis-
12 tressed and underdeveloped or have recently suffered
13 high rates of poverty, unemployment, or outmigra-
14 tion.

15 “(3) ATTAINMENT COUNTIES.—The Commis-
16 sion shall designate as attainment counties, those
17 counties in its region that are not designated as dis-
18 tressed or transitional counties under this sub-
19 section.

20 “(4) ISOLATED AREAS OF DISTRESS.—The
21 Commission shall designate as isolated areas of dis-
22 tress, areas located in counties designated as attain-
23 ment counties under paragraph (3) that have high
24 rates of poverty, unemployment, or outmigration.

1 “(b) ALLOCATION.—A Commission shall allocate at
2 least 50 percent of the appropriations made available to
3 the Commission to carry out this subtitle for programs
4 and projects designed to serve the needs of distressed
5 counties and isolated areas of distress in the region.

6 “(c) ATTAINMENT COUNTIES.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graph (2), funds may not be provided under this
9 subtitle for a project located in a county designated
10 as an attainment county under subsection (a).

11 “(2) EXCEPTIONS.—

12 “(A) ADMINISTRATIVE EXPENSES OF
13 LOCAL DEVELOPMENT DISTRICTS.—The fund-
14 ing prohibition under paragraph (1) shall not
15 apply to grants to fund the administrative ex-
16 penses of local development districts under sec-
17 tion 15505.

18 “(B) MULTICOUNTY AND OTHER
19 PROJECTS.—A Commission may waive the ap-
20 plication of the funding prohibition under para-
21 graph (1) with respect to—

22 “(i) a multicounty project that in-
23 cludes participation by an attainment
24 county; and

1 “(ii) any other type of project, if a
2 Commission determines that the project
3 could bring significant benefits to areas of
4 the region outside an attainment county.

5 “(3) ISOLATED AREAS OF DISTRESS.—For a
6 designation of an isolated area of distress to be ef-
7 fective, the designation shall be supported—

8 “(A) by the most recent Federal data
9 available; or

10 “(B) if no recent Federal data are avail-
11 able, by the most recent data available through
12 the government of the State in which the iso-
13 lated area of distress is located.

14 **“§ 15703. Counties eligible for assistance in more**
15 **than one region**

16 “(a) LIMITATION.—A political subdivision of a State
17 may not receive assistance under this subtitle in a fiscal
18 year from more than one Commission.

19 “(b) SELECTION OF COMMISSION.—A political sub-
20 division included in the region of more than one Commis-
21 sion shall select the Commission with which it will partici-
22 pate by notifying, in writing, the Federal Cochairperson
23 and the appropriate State member of that Commission.

24 “(c) CHANGES IN SELECTIONS.—The selection of a
25 Commission by a political subdivision shall apply in the

1 fiscal year in which the selection is made, and shall apply
2 in each subsequent fiscal year unless the political subdivi-
3 sion, at least 90 days before the first day of the fiscal
4 year, notifies the Cochairpersons of another Commission
5 in writing that the political subdivision will participate in
6 that Commission and also transmits a copy of such notifi-
7 cation to the Cochairpersons of the Commission in which
8 the political subdivision is currently participating.

9 “(d) INCLUSION OF APPALACHIAN REGIONAL COM-
10 MISSION.—In this section, the term ‘Commission’ includes
11 the Appalachian Regional Commission established under
12 chapter 143.

13 **“§ 15704. Inspector General; records**

14 “(a) APPOINTMENT OF INSPECTOR GENERAL.—
15 There shall be an Inspector General for the Commissions
16 appointed in accordance with section 3(a) of the Inspector
17 General Act of 1978 (5 U.S.C. App.). All of the Commis-
18 sions shall be subject to a single Inspector General.

19 “(b) RECORDS OF A COMMISSION.—

20 “(1) IN GENERAL.—A Commission shall main-
21 tain accurate and complete records of all its trans-
22 actions and activities.

23 “(2) AVAILABILITY.—All records of a Commis-
24 sion shall be available for audit and examination by

1 the Inspector General (including authorized rep-
2 resentatives of the Inspector General).

3 “(c) RECORDS OF RECIPIENTS OF COMMISSION AS-
4 SISTANCE.—

5 “(1) IN GENERAL.—A recipient of funds from
6 a Commission under this subtitle shall maintain ac-
7 curate and complete records of transactions and ac-
8 tivities financed with the funds and report to the
9 Commission on the transactions and activities.

10 “(2) AVAILABILITY.—All records required
11 under paragraph (1) shall be available for audit by
12 the Commission and the Inspector General (includ-
13 ing authorized representatives of the Commission
14 and the Inspector General).

15 “(d) ANNUAL AUDIT.—The Inspector General shall
16 audit the activities, transactions, and records of each
17 Commission on an annual basis.

18 **“§ 15705. Biannual meetings of representatives of all**

19 **Commissions**

20 “(a) IN GENERAL.—Representatives of each Com-
21 mission, the Appalachian Regional Commission, and the
22 Denali Commission shall meet biannually to discuss issues
23 confronting regions suffering from chronic and contiguous
24 distress and successful strategies for promoting regional
25 development.

1 “(b) CHAIR OF MEETINGS.—The chair of each meet-
2 ing shall rotate among the Commissions, with the Appa-
3 lachian Regional Commission to host the first meeting.

4 “SUBCHAPTER II—DESIGNATION OF REGIONS
5 **“§ 15731. Southeast Crescent Regional Commission**

6 “The region of the Southeast Crescent Regional
7 Commission shall consist of all counties of the States of
8 Virginia, North Carolina, South Carolina, Georgia, Ala-
9 bama, Mississippi, and Florida not already served by the
10 Appalachian Regional Commission or the Delta Regional
11 Authority.

12 **“§ 15732. Southwest Border Regional Commission**

13 “The region of the Southwest Border Regional Com-
14 mission shall consist of the following political subdivisions:

15 “(1) ARIZONA.—The counties of Cochise, Gila,
16 Graham, Greenlee, La Paz, Maricopa, Pima, Pinal,
17 Santa Cruz, and Yuma in the State of Arizona.

18 “(2) CALIFORNIA.—The counties of Imperial,
19 Los Angeles, Orange, Riverside, San Bernardino,
20 San Diego, and Ventura in the State of California.

21 “(3) NEW MEXICO.—The counties of Catron,
22 Chaves, Dona Ana, Eddy, Grant, Hidalgo, Lincoln,
23 Luna, Otero, Sierra, and Socorro in the State of
24 New Mexico.

1 “(4) TEXAS.—The counties of Atascosa,
2 Bandera, Bee, Bexar, Brewster, Brooks, Cameron,
3 Coke, Concho, Crane, Crockett, Culberson, Dimmit,
4 Duval, Ector, Edwards, El Paso, Frio, Gillespie,
5 Glasscock, Hidalgo, Hudspeth, Irion, Jeff Davis,
6 Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy,
7 Kerr, Kimble, Kinney, Kleberg, La Salle, Live Oak,
8 Loving, Mason, Maverick, McMullen, Medina, Men-
9 ard, Midland, Nueces, Pecos, Presidio, Reagan,
10 Real, Reeves, San Patricio, Shleicher, Sutton, Starr,
11 Sterling, Terrell, Tom Green Upton, Uvalde, Val
12 Verde, Ward, Webb, Willacy, Wilson, Winkler, Za-
13 pata, and Zavala in the State of Texas.

14 **“§ 15733. Northern Border Regional Commission**

15 “The region of the Northern Border Regional Com-
16 mission shall include the following counties:

17 “(1) MAINE.—The counties of Androscoggin,
18 Aroostook, Franklin, Hancock, Kennebec, Knox, Ox-
19 ford, Penobscot, Piscataquis, Somerset, Waldo, and
20 Washington in the State of Maine.

21 “(2) NEW HAMPSHIRE.—The counties of Car-
22 roll, Coos, Grafton, and Sullivan in the State of New
23 Hampshire.

24 “(3) NEW YORK.—The counties of Cayuga,
25 Clinton, Essex, Franklin, Fulton, Hamilton, Her-

1 kimer, Jefferson, Lewis, Madison, Oneida, Oswego,
2 Seneca, and St. Lawrence in the State of New York.

3 “(4) VERMONT.—The counties of Caledonia,
4 Essex, Franklin, Grand Isle, Lamoille, and Orleans
5 in the State of Vermont.

6 “SUBCHAPTER III—AUTHORIZATION OF
7 APPROPRIATIONS

8 “§ 15751. Authorization of appropriations

9 “(a) IN GENERAL.—There is authorized to be appro-
10 priated to each Commission to carry out this subtitle
11 \$30,000,000 for each of fiscal years 2008 through 2012.

12 “(b) ADMINISTRATIVE EXPENSES.—Not more than
13 10 percent of the funds made available to a Commission
14 in a fiscal year under this section may be used for admin-
15 istrative expenses.”

16 (b) CLERICAL AMENDMENT TO TABLE OF SUB-
17 TITLES.—The table of subtitles for chapter 40, United
18 States Code, is amended by striking the item relating to
19 subtitle V and inserting the following:

“V. REGIONAL ECONOMIC AND INFRASTRUCTURE DEVEL-
OPMENT 15101
“VI. MISCELLANEOUS 17101”.

20 (c) CONFORMING AMENDMENTS TO INSPECTOR GEN-
21 ERAL ACT.—Section 11 of the Inspector General Act of
22 1978 (5 U.S.C. App.) is amended—

23 (1) in paragraph (1), by striking “or the Presi-
24 dent of the Export-Import Bank;” and inserting

1 “the President of the Export-Import Bank; or the
2 Federal Cochairpersons of the Commissions estab-
3 lished under section 15301 of title 40, United States
4 Code;”; and

5 (2) in paragraph (2), by striking “or the Ex-
6 port-Import Bank,” and inserting “the Export-Im-
7 port Bank, or the Commissions established under
8 section 15301 of title 40, United States Code,”.

9 (d) EFFECTIVE DATE.—This section, and the amend-
10 ments made by this section, shall take effect on the first
11 day of the first fiscal year beginning after the date of the
12 enactment of this Act.

13 **SEC. 14218. COORDINATOR FOR CHRONICALLY UNDER-**
14 **SERVED RURAL AREAS.**

15 (a) ESTABLISHMENT.—The Secretary of Agriculture
16 shall establish a Coordinator for Chronically Underserved
17 Rural Areas (in this section referred to as the “Coordi-
18 nator”), to be located in the Rural Development Mission
19 Area.

20 (b) MISSION.—The mission of the Coordinator shall
21 be to direct Department of Agriculture resources to high
22 need, high poverty rural areas.

23 (c) DUTIES.—The Coordinator shall consult with
24 other offices in directing technical assistance, strategic re-
25 gional planning, at the State and local level, for developing

1 rural economic development that leverages the resources
2 of State and local governments and non-profit and com-
3 munity development organizations.

4 (d) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated to the Secretary such
6 sums as necessary to carry out this section for fiscal years
7 2008 through 2012.

8 **SEC. 14219. ELIMINATION OF STATUTE OF LIMITATIONS AP-**
9 **PLICABLE TO COLLECTION OF DEBT BY AD-**
10 **MINISTRATIVE OFFSET.**

11 (a) ELIMINATION.—Section 3716(e) of title 31,
12 United States Code, is amended to read as follows:

13 “(e)(1) Notwithstanding any other provision of law,
14 regulation, or administrative limitation, no limitation on
15 the period within which an offset may be initiated or taken
16 pursuant to this section shall be effective.

17 “(2) This section does not apply when a statute ex-
18 plicitly prohibits using administrative offset or setoff to
19 collect the claim or type of claim involved.”.

20 (b) APPLICATION OF AMENDMENT.—The amendment
21 made by subsection (a) shall apply to any debt outstanding
22 on or after the date of the enactment of this Act.

1 **SEC. 14220. AVAILABILITY OF EXCESS AND SURPLUS COM-**
2 **PUTERS IN RURAL AREAS.**

3 In addition to any other authority, the Secretary of
4 Agriculture may make available to an organization excess
5 or surplus computers or other technical equipment of the
6 Department of Agriculture for the purposes of distribution
7 to a city, town, or local government entity in a rural area
8 (as defined in section 343(a)(13)(A) of the Consolidated
9 Farm and Rural Development Act).

10 **SEC. 14221. REPEAL OF SECTION 3068 OF THE WATER RE-**
11 **SOURCES DEVELOPMENT ACT OF 2007.**

12 Effective upon the date of enactment of this Act, sec-
13 tion 3068 of the Water Resources Development Act of
14 2007 (Public Law 110-114; 121 Stat. 1123), and the item
15 relating to section 3068 in the table of contents of that
16 Act, are repealed.

17 **SEC. 14222. DOMESTIC FOOD ASSISTANCE PROGRAMS.**

18 (a) DEFINITION OF SECTION 32.—In this section, the
19 term “section 32” means section 32 of the Act of August
20 24, 1935 (7 U.S.C. 612e).

21 (b) TRANSFER TO FOOD AND NUTRITION SERV-
22 ICE.—

23 (1) IN GENERAL.—Amounts made available for
24 a fiscal year to carry out section 32 in excess of the
25 maximum amount calculated under paragraph (2)
26 shall be transferred to the Secretary, acting through

1 the Administrator of the Food and Nutrition Serv-
2 ice, to be used to carry out the Richard B. Russell
3 National School Lunch Act (42 U.S.C. 1751 et
4 seq.).

5 (2) MAXIMUM AMOUNT.—The maximum
6 amount calculated under this paragraph for a fiscal
7 year is the sum of—

8 (A)(i) in the case of fiscal year 2009,
9 \$1,173,000,000;

10 (ii) in the case of fiscal year 2010,
11 \$1,199,000,000;

12 (iii) in the case of fiscal year 2011,
13 \$1,215,000,000;

14 (iv) in the case of fiscal year 2012,
15 \$1,231,000,000;

16 (v) in the case of fiscal year 2013,
17 \$1,248,000,000;

18 (vi) in the case of fiscal year 2014,
19 \$1,266,000,000;

20 (vii) in the case of fiscal year 2015,
21 \$1,284,000,000;

22 (viii) in the case of fiscal year 2016,
23 \$1,303,000,000;

24 (ix) in the case of fiscal year 2017,
25 \$1,322,000,000; and

1 (x) for fiscal year 2018 and each fiscal
2 year thereafter, the amount made available for
3 the preceding fiscal year, as adjusted to reflect
4 changes for the 12-month period ending on the
5 preceding November 30 in the Consumer Price
6 Index for All Urban Consumers published by
7 the Bureau of Labor Statistics of the Depart-
8 ment of Labor; and

9 (B) any transfers for the fiscal year from sec-
10 tion 32 to the Department of Commerce under the
11 Fish and Wildlife Act of 1956 (16 U.S.C. 742a et
12 seq.).

13 (c) FRESH FRUIT AND VEGETABLE PROGRAM.—Of
14 amounts made available to carry out section 32 under sub-
15 section (b)(2)(A), the Secretary shall transfer for use to
16 carry out the fresh fruit and vegetable program under sec-
17 tion 19 of the Richard B. Russell National School Lunch
18 Act the amounts specified in subsection (i) of that section.

19 (d) WHOLE GRAIN PRODUCTS.—Of amounts made
20 available to carry out section 32 under subsection
21 (b)(2)(A), the Secretary shall use to carry out section
22 4305 \$4,000,000 for fiscal year 2009.

23 (e) MAINTENANCE OF FUNDING.—The funding pro-
24 vided under subsections (c) and (d) shall supplement (and

1 not supplant) other Federal funding (including section 32
2 funding) for programs carried out under—

3 (1) the Richard B. Russell National School
4 Lunch Act (42 U.S.C. 1751 et seq.), except for sec-
5 tion 19 of that Act;

6 (2) the Emergency Food Assistance Act of
7 1983 (7 U.S.C. 7501 et seq.); and

8 (3) section 27 of the Food Stamp Act of 1977
9 (7 U.S.C. 2036).

10 **SEC. 14223. TECHNICAL CORRECTION.**

11 Section 923(1)(B) of the Federal Agriculture Im-
12 provement and Reform Act of 1996 (7 U.S.C.
13 2206a(1)(B)) is amended by striking “as defined in sec-
14 tion 316(b) of the Higher Education Act of 1965 (20
15 U.S.C. 1059e(b))” and inserting “as defined in section
16 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C.
17 1101a(a)(5))”.

18 **TITLE XV—TRADE AND TAX**
19 **PROVISIONS**

20 **SEC. 15001. SHORT TITLE; ETC.**

21 (a) **SHORT TITLE.**—This title may be cited as the
22 “Heartland, Habitat, Harvest, and Horticulture Act of
23 2008”.

24 (b) **AMENDMENTS TO 1986 CODE.**—Except as other-
25 wise expressly provided, whenever in this title an amend-

1 ment or repeal is expressed in terms of an amendment
 2 to, or repeal of, a section or other provision, the reference
 3 shall be considered to be made to a section or other provi-
 4 sion of the Internal Revenue Code of 1986.

5 **Subtitle A—Supplemental Agricultural**
 6 **Disaster Assistance From**
 7 **the Agricultural Disaster Relief**
 8 **Trust Fund**

9 **SEC. 15101. SUPPLEMENTAL AGRICULTURAL DISASTER AS-**
 10 **SISTANCE.**

11 (a) IN GENERAL.—The Trade Act of 1974 (19
 12 U.S.C. 2101 et seq.) is amended by adding at the end
 13 the following:

14 **“TITLE IX—SUPPLEMENTAL AG-**
 15 **RICULTURAL DISASTER AS-**
 16 **SISTANCE**

17 **“SEC. 901. SUPPLEMENTAL AGRICULTURAL DISASTER AS-**
 18 **SISTANCE.**

19 “(a) DEFINITIONS.—In this section:

20 “(1) ACTUAL PRODUCTION HISTORY YIELD.—

21 The term ‘actual production history yield’ means the
 22 weighted average of the actual production history for
 23 each insurable commodity or noninsurable com-
 24 modity, as calculated under the Federal Crop Insur-

1 ance Act (7 U.S.C. 1501 et seq.) or the noninsured
2 crop disaster assistance program, respectively.

3 “(2) ADJUSTED ACTUAL PRODUCTION HISTORY
4 YIELD.—The term ‘adjusted actual production his-
5 tory yield’ means—

6 “(A) in the case of an eligible producer on
7 a farm that has at least 4 years of actual pro-
8 duction history yields for an insurable com-
9 modity that are established other than pursuant
10 to section 508(g)(4)(B) of the Federal Crop In-
11 surance Act (7 U.S.C. 1508(g)(4)(B)), the ac-
12 tual production history for the eligible producer
13 without regard to any yields established under
14 that section;

15 “(B) in the case of an eligible producer on
16 a farm that has less than 4 years of actual pro-
17 duction history yields for an insurable com-
18 modity, of which 1 or more were established
19 pursuant to section 508(g)(4)(B) of that Act,
20 the actual production history for the eligible
21 producer as calculated without including the
22 lowest of the yields established pursuant to sec-
23 tion 508(g)(4)(B) of that Act; and

24 “(C) in all other cases, the actual produc-
25 tion history of the eligible producer on a farm.

1 “(3) ADJUSTED NONINSURED CROP DISASTER
2 ASSISTANCE PROGRAM YIELD.—The term ‘adjusted
3 noninsured crop disaster assistance program yield’
4 means—

5 “(A) in the case of an eligible producer on
6 a farm that has at least 4 years of production
7 history under the noninsured crop disaster as-
8 sistance program that are not replacement
9 yields, the noninsured crop disaster assistance
10 program yield without regard to any replace-
11 ment yields;

12 “(B) in the case of an eligible producer on
13 a farm that less than 4 years of production his-
14 tory under the noninsured crop disaster assist-
15 ance program that are not replacement yields,
16 the noninsured crop disaster assistance pro-
17 gram yield as calculated without including the
18 lowest of the replacement yields; and

19 “(C) in all other cases, the production his-
20 tory of the eligible producer on the farm under
21 the noninsured crop disaster assistance pro-
22 gram.

23 “(4) COUNTER-CYCLICAL PROGRAM PAYMENT
24 YIELD.—The term ‘counter-cyclical program pay-
25 ment yield’ means the weighted average payment

1 yield established under section 1102 of the Farm Se-
2 curity and Rural Investment Act of 2002 (7 U.S.C.
3 7912), section 1102 of the Food, Conservation, and
4 Energy Act of 2008, or a successor section.

5 “(5) DISASTER COUNTY.—

6 “(A) IN GENERAL.—The term ‘disaster
7 county’ means a county included in the geo-
8 graphic area covered by a qualifying natural
9 disaster declaration.

10 “(B) INCLUSION.—The term ‘disaster
11 county’ includes—

12 “(i) a county contiguous to a county
13 described in subparagraph (A); and

14 “(ii) any farm in which, during a cal-
15 endar year, the total loss of production of
16 the farm relating to weather is greater
17 than 50 percent of the normal production
18 of the farm, as determined by the Sec-
19 retary.

20 “(6) ELIGIBLE PRODUCER ON A FARM.—

21 “(A) IN GENERAL.—The term ‘eligible pro-
22 ducer on a farm’ means an individual or entity
23 described in subparagraph (B) that, as deter-
24 mined by the Secretary, assumes the production

1 and market risks associated with the agricul-
2 tural production of crops or livestock.

3 “(B) DESCRIPTION.—An individual or en-
4 tity referred to in subparagraph (A) is—

5 “(i) a citizen of the United States;

6 “(ii) a resident alien;

7 “(iii) a partnership of citizens of the
8 United States; or

9 “(iv) a corporation, limited liability
10 corporation, or other farm organizational
11 structure organized under State law.

12 “(7) FARM.—

13 “(A) IN GENERAL.—The term ‘farm’
14 means, in relation to an eligible producer on a
15 farm, the sum of all crop acreage in all counties
16 that is planted or intended to be planted for
17 harvest by the eligible producer.

18 “(B) AQUACULTURE.—In the case of
19 aquaculture, the term ‘farm’ means, in relation
20 to an eligible producer on a farm, all fish being
21 produced in all counties that are intended to be
22 harvested for sale by the eligible producer.

23 “(C) HONEY.—In the case of honey, the
24 term ‘farm’ means, in relation to an eligible
25 producer on a farm, all bees and beehives in all

1 counties that are intended to be harvested for
2 a honey crop by the eligible producer.

3 “(8) FARM-RAISED FISH.—The term ‘farm-
4 raised fish’ means any aquatic species that is propa-
5 gated and reared in a controlled environment.

6 “(9) INSURABLE COMMODITY.—The term ‘in-
7 surable commodity’ means an agricultural com-
8 modity (excluding livestock) for which the producer
9 on a farm is eligible to obtain a policy or plan of in-
10 surance under the Federal Crop Insurance Act (7
11 U.S.C. 1501 et seq.).

12 “(10) LIVESTOCK.—The term ‘livestock’ in-
13 cludes—

14 “(A) cattle (including dairy cattle);

15 “(B) bison;

16 “(C) poultry;

17 “(D) sheep;

18 “(E) swine;

19 “(F) horses; and

20 “(G) other livestock, as determined by the
21 Secretary.

22 “(11) NONINSURABLE COMMODITY.—The term
23 ‘noninsurable commodity’ means a crop for which
24 the eligible producers on a farm are eligible to ob-

1 tain assistance under the noninsured crop assistance
2 program.

3 “(12) NONINSURED CROP ASSISTANCE PRO-
4 GRAM.—The term ‘noninsured crop assistance pro-
5 gram’ means the program carried out under section
6 196 of the Federal Agriculture Improvement and
7 Reform Act of 1996 (7 U.S.C. 7333).

8 “(13) QUALIFYING NATURAL DISASTER DEC-
9 LARATION.—The term ‘qualifying natural disaster
10 declaration’ means a natural disaster declared by the
11 Secretary for production losses under section 321(a)
12 of the Consolidated Farm and Rural Development
13 Act (7 U.S.C. 1961(a)).

14 “(14) SECRETARY.—The term ‘Secretary’
15 means the Secretary of Agriculture.

16 “(15) SOCIALLY DISADVANTAGED FARMER OR
17 RANCHER.—The term ‘socially disadvantaged farmer
18 or rancher’ has the meaning given the term in sec-
19 tion 2501(e) of the Food, Agriculture, Conservation,
20 and Trade Act of 1990 (7 U.S.C. 2279(e)).

21 “(16) STATE.—The term ‘State’ means—

22 “(A) a State;

23 “(B) the District of Columbia;

24 “(C) the Commonwealth of Puerto Rico;

25 and

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

3 “(17) TRUST FUND.—The term ‘Trust Fund’
4 means the Agricultural Disaster Relief Trust Fund
5 established under section 902.

6 “(18) UNITED STATES.—The term ‘United
7 States’ when used in a geographical sense, means all
8 of the States.

9 “(b) SUPPLEMENTAL REVENUE ASSISTANCE PAY-
10 MENTS.—

11 “(1) IN GENERAL.—The Secretary shall use
12 such sums as are necessary from the Trust Fund to
13 make crop disaster assistance payments to eligible
14 producers on farms in disaster counties that have in-
15 curred crop production losses or crop quality losses,
16 or both, during the crop year.

17 “(2) AMOUNT.—

18 “(A) IN GENERAL.—Subject to subpara-
19 graph (B), the Secretary shall provide crop dis-
20 aster assistance payments under this section to
21 an eligible producer on a farm in an amount
22 equal to 60 percent of the difference between—

23 “(i) the disaster assistance program
24 guarantee, as described in paragraph (3);
25 and

1 “(ii) the total farm revenue for a
2 farm, as described in paragraph (4).

3 “(B) LIMITATION.—The disaster assist-
4 ance program guarantee for a crop used to cal-
5 culate the payments for a farm under subpara-
6 graph (A)(i) may not be greater than 90 per-
7 cent of the sum of the expected revenue, as de-
8 scribed in paragraph (5) for each of the crops
9 on a farm, as determined by the Secretary.

10 “(3) SUPPLEMENTAL REVENUE ASSISTANCE
11 PROGRAM GUARANTEE.—

12 “(A) IN GENERAL.—Except as otherwise
13 provided in this paragraph, the supplemental
14 assistance program guarantee shall be the sum
15 obtained by adding—

16 “(i) for each insurable commodity on
17 the farm, 115 percent of the product ob-
18 tained by multiplying—

19 “(I) a payment rate for the com-
20 modity that is equal to the price elec-
21 tion for the commodity elected by the
22 eligible producer;

23 “(II) the payment acres for the
24 commodity that is equal to the num-

1 ber of acres planted, or prevented
2 from being planted, to the commodity;

3 “(III) the payment yield for the
4 commodity that is equal to the per-
5 centage of the crop insurance yield
6 elected by the producer of the higher
7 of—

8 “(aa) the adjusted actual
9 production history yield; or

10 “(bb) the counter-cyclical
11 program payment yield for each
12 crop; and

13 “(ii) for each noninsurable commodity
14 on a farm, 120 percent of the product ob-
15 tained by multiplying—

16 “(I) a payment rate for the com-
17 modity that is equal to 100 percent of
18 the noninsured crop assistance pro-
19 gram established price for the com-
20 modity;

21 “(II) the payment acres for the
22 commodity that is equal to the num-
23 ber of acres planted, or prevented
24 from being planted, to the commodity;
25 and

1 “(III) the payment yield for the
2 commodity that is equal to the higher
3 of—

4 “(aa) the adjusted non-
5 insured crop assistance program
6 yield guarantee; or

7 “(bb) the counter-cyclical
8 program payment yield for each
9 crop.

10 “(B) ADJUSTMENT INSURANCE GUAR-
11 ANTEE.—Notwithstanding subparagraph (A), in
12 the case of an insurable commodity for which a
13 plan of insurance provides for an adjustment in
14 the guarantee, such as in the case of prevented
15 planting, the adjusted insurance guarantee shall
16 be the basis for determining the disaster assist-
17 ance program guarantee for the insurable com-
18 modity.

19 “(C) ADJUSTED ASSISTANCE LEVEL.—
20 Notwithstanding subparagraph (A), in the case
21 of a noninsurable commodity for which the non-
22 insured crop assistance program provides for an
23 adjustment in the level of assistance, such as in
24 the case of unharvested crops, the adjusted as-
25 sistance level shall be the basis for determining

1 the disaster assistance program guarantee for
2 the noninsurable commodity.

3 “(D) **EQUITABLE TREATMENT FOR NON-**
4 **YIELD BASED POLICIES.**—The Secretary shall
5 establish equitable treatment for non-yield
6 based policies and plans of insurance, such as
7 the Adjusted Gross Revenue Lite insurance pro-
8 gram.

9 “(4) **FARM REVENUE.**—

10 “(A) **IN GENERAL.**—For purposes of this
11 subsection, the total farm revenue for a farm,
12 shall equal the sum obtained by adding—

13 “(i) the estimated actual value for
14 each crop produced on a farm by using the
15 product obtained by multiplying—

16 “(I) the actual crop acreage har-
17 vested by an eligible producer on a
18 farm;

19 “(II) the estimated actual yield
20 of the crop production; and

21 “(III) subject to subparagraphs
22 (B) and (C), to the extent practicable,
23 the national average market price re-
24 ceived for the marketing year, as de-
25 termined by the Secretary;

1 “(ii) 15 percent of amount of any di-
2 rect payments made to the producer under
3 sections 1103 and 1303 of the Food, Con-
4 servation, and Energy Act of 2008 or suc-
5 cessor sections;

6 “(iii) the total amount of any counter-
7 cyclical payments made to the producer
8 under sections 1104 and 1304 of the Food,
9 Conservation, and Energy Act of 2008 or
10 successor sections or of any average crop
11 revenue election payments made to the
12 producer under section 1105 of that Act;

13 “(iv) the total amount of any loan de-
14 ficiency payments, marketing loan gains,
15 and marketing certificate gains made to
16 the producer under subtitles B and C of
17 the Food, Conservation, and Energy Act of
18 2008 or successor subtitles;

19 “(v) the amount of payments for pre-
20 vented planting on a farm;

21 “(vi) the amount of crop insurance in-
22 demnities received by an eligible producer
23 on a farm for each crop on a farm;

24 “(vii) the amount of payments an eli-
25 gible producer on a farm received under

1 the noninsured crop assistance program for
2 each crop on a farm; and

3 “(viii) the value of any other natural
4 disaster assistance payments provided by
5 the Federal Government to an eligible pro-
6 ducer on a farm for each crop on a farm
7 for the same loss for which the eligible pro-
8 ducer is seeking assistance.

9 “(B) ADJUSTMENT.—The Secretary shall
10 adjust the average market price received by the
11 eligible producer on a farm—

12 “(i) to reflect the average quality dis-
13 counts applied to the local or regional mar-
14 ket price of a crop or mechanically har-
15 vested forage due to a reduction in the in-
16 trinsic characteristics of the production re-
17 sulting from adverse weather, as deter-
18 mined annually by the State office of the
19 Farm Service Agency; and

20 “(ii) to account for a crop the value of
21 which is reduced due to excess moisture re-
22 sulting from a disaster-related condition.

23 “(C) MAXIMUM AMOUNT FOR CERTAIN
24 CROPS.—With respect to a crop for which an el-
25 igible producer on a farm receives assistance

1 under the noninsured crop assistance program,
2 the national average market price received dur-
3 ing the marketing year shall be an amount not
4 more than 100 percent of the price of the crop
5 established under the noninsured crop assist-
6 ance program.

7 “(5) EXPECTED REVENUE.—The expected rev-
8 enue for each crop on a farm shall equal the sum
9 obtained by adding—

10 “(A) the product obtained by multi-
11 plying—

12 “(i) the greatest of—

13 “(I) the adjusted actual produc-
14 tion history yield of the eligible pro-
15 ducer on a farm; and

16 “(II) the counter-cyclical pro-
17 gram payment yield;

18 “(ii) the acreage planted or prevented
19 from being planted for each crop; and

20 “(iii) 100 percent of the insurance
21 price guarantee; and

22 “(B) the product obtained by multi-
23 plying—

24 “(i) 100 percent of the adjusted non-
25 insured crop assistance program yield; and

1 “(ii) 100 percent of the noninsured
2 crop assistance program price for each of
3 the crops on a farm.

4 “(c) LIVESTOCK INDEMNITY PAYMENTS.—

5 “(1) PAYMENTS.—The Secretary shall use such
6 sums as are necessary from the Trust Fund to make
7 livestock indemnity payments to eligible producers
8 on farms that have incurred livestock death losses in
9 excess of the normal mortality due to adverse weath-
10 er, as determined by the Secretary, during the cal-
11 endar year, including losses due to hurricanes,
12 floods, blizzards, disease, wildfires, extreme heat,
13 and extreme cold.

14 “(2) PAYMENT RATES.—Indemnity payments to
15 an eligible producer on a farm under paragraph (1)
16 shall be made at a rate of 75 percent of the market
17 value of the applicable livestock on the day before
18 the date of death of the livestock, as determined by
19 the Secretary.

20 “(d) LIVESTOCK FORAGE DISASTER PROGRAM.—

21 “(1) DEFINITIONS.—In this subsection:

22 “(A) COVERED LIVESTOCK.—

23 “(i) IN GENERAL.—The term ‘covered
24 livestock’ means livestock of an eligible
25 livestock producer that, during the 60 days

1 prior to the beginning date of a qualifying
2 drought or fire condition, as determined by
3 the Secretary, the eligible livestock pro-
4 ducer—

5 “(I) owned;

6 “(II) leased;

7 “(III) purchased;

8 “(IV) entered into a contract to
9 purchase;

10 “(V) is a contract grower; or

11 “(VI) sold or otherwise disposed
12 of due to qualifying drought condi-
13 tions during—

14 “(aa) the current production
15 year; or

16 “(bb) subject to paragraph
17 (3)(B)(ii), 1 or both of the 2 pro-
18 duction years immediately pre-
19 ceding the current production
20 year.

21 “(ii) EXCLUSION.—The term ‘covered
22 livestock’ does not include livestock that
23 were or would have been in a feedlot, on
24 the beginning date of the qualifying
25 drought or fire condition, as a part of the

1 normal business operation of the eligible
2 livestock producer, as determined by the
3 Secretary.

4 “(B) DROUGHT MONITOR.—The term
5 ‘drought monitor’ means a system for
6 classifying drought severity according to a
7 range of abnormally dry to exceptional drought,
8 as defined by the Secretary.

9 “(C) ELIGIBLE LIVESTOCK PRODUCER.—

10 “(i) IN GENERAL.—The term ‘eligible
11 livestock producer’ means an eligible pro-
12 ducer on a farm that—

13 “(I) is an owner, cash or share
14 lessee, or contract grower of covered
15 livestock that provides the pastureland
16 or grazing land, including cash-leased
17 pastureland or grazing land, for the
18 livestock;

19 “(II) provides the pastureland or
20 grazing land for covered livestock, in-
21 cluding cash-leased pastureland or
22 grazing land that is physically located
23 in a county affected by drought;

24 “(III) certifies grazing loss; and

1 “(IV) meets all other eligibility
2 requirements established under this
3 subsection.

4 “(ii) EXCLUSION.—The term ‘eligible
5 livestock producer’ does not include an
6 owner, cash or share lessee, or contract
7 grower of livestock that rents or leases
8 pastureland or grazing land owned by an-
9 other person on a rate-of-gain basis.

10 “(D) NORMAL CARRYING CAPACITY.—The
11 term ‘normal carrying capacity’, with respect to
12 each type of grazing land or pastureland in a
13 county, means the normal carrying capacity, as
14 determined under paragraph (3)(D)(i), that
15 would be expected from the grazing land or
16 pastureland for livestock during the normal
17 grazing period, in the absence of a drought or
18 fire that diminishes the production of the graz-
19 ing land or pastureland.

20 “(E) NORMAL GRAZING PERIOD.—The
21 term ‘normal grazing period’, with respect to a
22 county, means the normal grazing period during
23 the calendar year for the county, as determined
24 under paragraph (3)(D)(i).

1 “(2) PROGRAM.—The Secretary shall use such
2 sums as are necessary from the Trust Fund to pro-
3 vide compensation for losses to eligible livestock pro-
4 ducers due to grazing losses for covered livestock
5 due to—

6 “(A) a drought condition, as described in
7 paragraph (3); or

8 “(B) fire, as described in paragraph (4).

9 “(3) ASSISTANCE FOR LOSSES DUE TO
10 DROUGHT CONDITIONS.—

11 “(A) ELIGIBLE LOSSES.—

12 “(i) IN GENERAL.—An eligible live-
13 stock producer may receive assistance
14 under this subsection only for grazing
15 losses for covered livestock that occur on
16 land that—

17 “(I) is native or improved
18 pastureland with permanent vegeta-
19 tive cover; or

20 “(II) is planted to a crop planted
21 specifically for the purpose of pro-
22 viding grazing for covered livestock.

23 “(ii) EXCLUSIONS.—An eligible live-
24 stock producer may not receive assistance
25 under this subsection for grazing losses

1 that occur on land used for haying or graz-
2 ing under the conservation reserve pro-
3 gram established under subchapter B of
4 chapter 1 of subtitle D of title XII of the
5 Food Security Act of 1985 (16 U.S.C.
6 3831 et seq.).

7 “(B) MONTHLY PAYMENT RATE.—

8 “(i) IN GENERAL.—Except as pro-
9 vided in clause (ii), the payment rate for
10 assistance under this paragraph for 1
11 month shall, in the case of drought, be
12 equal to 60 percent of the lesser of—

13 “(I) the monthly feed cost for all
14 covered livestock owned or leased by
15 the eligible livestock producer, as de-
16 termined under subparagraph (C); or

17 “(II) the monthly feed cost cal-
18 culated by using the normal carrying
19 capacity of the eligible grazing land of
20 the eligible livestock producer.

21 “(ii) PARTIAL COMPENSATION.—In
22 the case of an eligible livestock producer
23 that sold or otherwise disposed of covered
24 livestock due to drought conditions in 1 or
25 both of the 2 production years immediately

1 preceding the current production year, as
2 determined by the Secretary, the payment
3 rate shall be 80 percent of the payment
4 rate otherwise calculated in accordance
5 with clause (i).

6 “(C) MONTHLY FEED COST.—

7 “(i) IN GENERAL.—The monthly feed
8 cost shall equal the product obtained by
9 multiplying—

10 “(I) 30 days;

11 “(II) a payment quantity that is
12 equal to the feed grain equivalent, as
13 determined under clause (ii); and

14 “(III) a payment rate that is
15 equal to the corn price per pound, as
16 determined under clause (iii).

17 “(ii) FEED GRAIN EQUIVALENT.—For
18 purposes of clause (i)(I), the feed grain
19 equivalent shall equal—

20 “(I) in the case of an adult beef
21 cow, 15.7 pounds of corn per day; or

22 “(II) in the case of any other
23 type of weight of livestock, an amount
24 determined by the Secretary that rep-
25 represents the average number of pounds

1 of corn per day necessary to feed the
2 livestock.

3 “(iii) CORN PRICE PER POUND.—For
4 purposes of clause (i)(II), the corn price
5 per pound shall equal the quotient ob-
6 tained by dividing—

7 “(I) the higher of—

8 “(aa) the national average
9 corn price per bushel for the 12-
10 month period immediately pre-
11 ceding March 1 of the year for
12 which the disaster assistance is
13 calculated; or

14 “(bb) the national average
15 corn price per bushel for the 24-
16 month period immediately pre-
17 ceding that March 1; by

18 “(II) 56.

19 “(D) NORMAL GRAZING PERIOD AND
20 DROUGHT MONITOR INTENSITY.—

21 “(i) FSA COUNTY COMMITTEE DE-
22 TERMINATIONS.—

23 “(I) IN GENERAL.—The Sec-
24 retary shall determine the normal car-
25 rying capacity and normal grazing pe-

1 riod for each type of grazing land or
2 pastureland in the county served by
3 the applicable committee.

4 “(II) CHANGES.—No change to
5 the normal carrying capacity or nor-
6 mal grazing period established for a
7 county under subclause (I) shall be
8 made unless the change is requested
9 by the appropriate State and county
10 Farm Service Agency committees.

11 “(ii) DROUGHT INTENSITY.—

12 “(I) D2.—An eligible livestock
13 producer that owns or leases grazing
14 land or pastureland that is physically
15 located in a county that is rated by
16 the U.S. Drought Monitor as having a
17 D2 (severe drought) intensity in any
18 area of the county for at least 8 con-
19 secutive weeks during the normal
20 grazing period for the county, as de-
21 termined by the Secretary, shall be el-
22 ible to receive assistance under this
23 paragraph in an amount equal to 1
24 monthly payment using the monthly

1 payment rate determined under sub-
2 paragraph (B).

3 “(II) D3.—An eligible livestock
4 producer that owns or leases grazing
5 land or pastureland that is physically
6 located in a county that is rated by
7 the U.S. Drought Monitor as having
8 at least a D3 (extreme drought) in-
9 tensity in any area of the county at
10 any time during the normal grazing
11 period for the county, as determined
12 by the Secretary, shall be eligible to
13 receive assistance under this para-
14 graph—

15 “(aa) in an amount equal to
16 2 monthly payments using the
17 monthly payment rate deter-
18 mined under subparagraph (B);
19 or

20 “(bb) if the county is rated
21 as having a D3 (extreme
22 drought) intensity in any area of
23 the county for at least 4 weeks
24 during the normal grazing period
25 for the county, or is rated as

1 having a D4 (exceptional
2 drought) intensity in any area of
3 the county at any time during
4 the normal grazing period, in an
5 amount equal to 3 monthly pay-
6 ments using the monthly pay-
7 ment rate determined under sub-
8 paragraph (B).

9 “(4) ASSISTANCE FOR LOSSES DUE TO FIRE ON
10 PUBLIC MANAGED LAND.—

11 “(A) IN GENERAL.—An eligible livestock
12 producer may receive assistance under this
13 paragraph only if—

14 “(i) the grazing losses occur on range-
15 land that is managed by a Federal agency;
16 and

17 “(ii) the eligible livestock producer is
18 prohibited by the Federal agency from
19 grazing the normal permitted livestock on
20 the managed rangeland due to a fire.

21 “(B) PAYMENT RATE.—The payment rate
22 for assistance under this paragraph shall be
23 equal to 50 percent of the monthly feed cost for
24 the total number of livestock covered by the

1 Federal lease of the eligible livestock producer,
2 as determined under paragraph (3)(C).

3 “(C) PAYMENT DURATION.—

4 “(i) IN GENERAL.—Subject to clause
5 (ii), an eligible livestock producer shall be
6 eligible to receive assistance under this
7 paragraph for the period—

8 “(I) beginning on the date on
9 which the Federal agency excludes the
10 eligible livestock producer from using
11 the managed rangeland for grazing;
12 and

13 “(II) ending on the last day of
14 the Federal lease of the eligible live-
15 stock producer.

16 “(ii) LIMITATION.—An eligible live-
17 stock producer may only receive assistance
18 under this paragraph for losses that occur
19 on not more than 180 days per year.

20 “(5) MINIMUM RISK MANAGEMENT PURCHASE
21 REQUIREMENTS.—

22 “(A) IN GENERAL.—Except as otherwise
23 provided in this paragraph, a livestock producer
24 shall only be eligible for assistance under this
25 subsection if the livestock producer—

1 “(i) obtained a policy or plan of insur-
2 ance under the Federal Crop Insurance
3 Act (7 U.S.C. 1501 et seq.) for the grazing
4 land incurring the losses for which assist-
5 ance is being requested; or

6 “(ii) filed the required paperwork, and
7 paid the administrative fee by the applica-
8 ble State filing deadline, for the non-
9 insured crop assistance program for the
10 grazing land incurring the losses for which
11 assistance is being requested.

12 “(B) WAIVER FOR SOCIALLY DISADVAN-
13 TAGED, LIMITED RESOURCE, OR BEGINNING
14 FARMER OR RANCHER.—In the case of an eligi-
15 ble livestock producer that is a socially dis-
16 advantaged farmer or rancher or limited re-
17 source or beginning farmer or rancher, as de-
18 termined by the Secretary, the Secretary may—

19 “(i) waive subparagraph (A); and

20 “(ii) provide disaster assistance under
21 this section at a level that the Secretary
22 determines to be equitable and appro-
23 priate.

24 “(C) WAIVER FOR 2008 CALENDAR YEAR.—

25 In the case of an eligible livestock producer that

1 suffered losses on grazing land during the 2008
2 calendar year but does not meet the require-
3 ments of subparagraph (A), the Secretary shall
4 waive subparagraph (A) if the eligible livestock
5 producer pays a fee in an amount equal to the
6 applicable noninsured crop assistance program
7 fee or catastrophic risk protection plan fee re-
8 quired under subparagraph (A) to the Secretary
9 not later than 90 days after the date of enact-
10 ment of this subtitle.

11 “(D) **EQUITABLE RELIEF.**—

12 “(i) **IN GENERAL.**—The Secretary
13 may provide equitable relief to an eligible
14 livestock producer that is otherwise ineli-
15 gible or unintentionally fails to meet the
16 requirements of subparagraph (A) for the
17 grazing land incurring the loss on a case-
18 by-case basis, as determined by the Sec-
19 retary.

20 “(ii) **2008 CALENDAR YEAR.**—In the
21 case of an eligible livestock producer that
22 suffered losses on grazing land during the
23 2008 calendar year, the Secretary shall
24 take special consideration to provide equi-
25 table relief in cases in which the eligible

1 livestock producer failed to meet the re-
2 quirements of subparagraph (A) due to the
3 enactment of this title after the closing
4 date of sales periods for crop insurance
5 under the Federal Crop Insurance Act (7
6 U.S.C. 1501 et seq.) and the noninsured
7 crop assistance program.

8 “(6) NO DUPLICATIVE PAYMENTS.—

9 “(A) IN GENERAL.—An eligible livestock
10 producer may elect to receive assistance for
11 grazing or pasture feed losses due to drought
12 conditions under paragraph (3) or fire under
13 paragraph (4), but not both for the same loss,
14 as determined by the Secretary.

15 “(B) RELATIONSHIP TO SUPPLEMENTAL
16 REVENUE ASSISTANCE.—An eligible livestock
17 producer that receives assistance under this
18 subsection may not also receive assistance for
19 losses to crops on the same land with the same
20 intended use under subsection (b).

21 “(e) EMERGENCY ASSISTANCE FOR LIVESTOCK,
22 HONEY BEES, AND FARM-RAISED FISH.—

23 “(1) IN GENERAL.—The Secretary shall use up
24 to \$50,000,000 per year from the Trust Fund to
25 provide emergency relief to eligible producers of live-

1 stock, honey bees, and farm-raised fish to aid in the
2 reduction of losses due to disease, adverse weather,
3 or other conditions, such as blizzards and wildfires,
4 as determined by the Secretary, that are not covered
5 under subsection (b), (c), or (d).

6 “(2) USE OF FUNDS.—Funds made available
7 under this subsection shall be used to reduce losses
8 caused by feed or water shortages, disease, or other
9 factors as determined by the Secretary.

10 “(3) AVAILABILITY OF FUNDS.—Any funds
11 made available under this subsection shall remain
12 available until expended.

13 “(f) TREE ASSISTANCE PROGRAM.—

14 “(1) DEFINITIONS.—In this subsection:

15 “(A) ELIGIBLE ORCHARDIST.—The term
16 ‘eligible orchardist’ means a person that pro-
17 duces annual crops from trees for commercial
18 purposes.

19 “(B) NATURAL DISASTER.—The term ‘nat-
20 ural disaster’ means plant disease, insect infes-
21 tation, drought, fire, freeze, flood, earthquake,
22 lightning, or other occurrence, as determined by
23 the Secretary.

24 “(C) NURSERY TREE GROWER.—The term
25 ‘nursery tree grower’ means a person who pro-

1 duces nursery, ornamental, fruit, nut, or Christ-
2 mas trees for commercial sale, as determined by
3 the Secretary.

4 “(D) TREE.—The term ‘tree’ includes a
5 tree, bush, and vine.

6 “(2) ELIGIBILITY.—

7 “(A) LOSS.—Subject to subparagraph (B),
8 the Secretary shall provide assistance—

9 “(i) under paragraph (3) to eligible
10 orchardists and nursery tree growers that
11 planted trees for commercial purposes but
12 lost the trees as a result of a natural dis-
13 aster, as determined by the Secretary; and

14 “(ii) under paragraph (3)(B) to eligi-
15 ble orchardists and nursery tree growers
16 that have a production history for commer-
17 cial purposes on planted or existing trees
18 but lost the trees as a result of a natural
19 disaster, as determined by the Secretary.

20 “(B) LIMITATION.—An eligible orchardist
21 or nursery tree grower shall qualify for assist-
22 ance under subparagraph (A) only if the tree
23 mortality of the eligible orchardist or nursery
24 tree grower, as a result of damaging weather or

1 related condition, exceeds 15 percent (adjusted
2 for normal mortality).

3 “(3) ASSISTANCE.—Subject to paragraph (4),
4 the assistance provided by the Secretary to eligible
5 orchardists and nursery tree growers for losses de-
6 scribed in paragraph (2) shall consist of—

7 “(A)(i) reimbursement of 70 percent of the
8 cost of replanting trees lost due to a natural
9 disaster, as determined by the Secretary, in ex-
10 cess of 15 percent mortality (adjusted for nor-
11 mal mortality); or

12 “(ii) at the option of the Secretary, suffi-
13 cient seedlings to reestablish a stand; and

14 “(B) reimbursement of 50 percent of the
15 cost of pruning, removal, and other costs in-
16 curred by an eligible orchardist or nursery tree
17 grower to salvage existing trees or, in the case
18 of tree mortality, to prepare the land to replant
19 trees as a result of damage or tree mortality
20 due to a natural disaster, as determined by the
21 Secretary, in excess of 15 percent damage or
22 mortality (adjusted for normal tree damage and
23 mortality).

24 “(4) LIMITATIONS ON ASSISTANCE.—

1 “(A) DEFINITIONS OF LEGAL ENTITY AND
2 PERSON.—In this paragraph, the terms ‘legal
3 entity’ and ‘person’ have the meaning given
4 those terms in section 1001(a) of the Food Se-
5 curity Act of 1985 (7 U.S.C. 1308(a) (as
6 amended by section 1603 of the Food, Con-
7 servation, and Energy Act of 2008).

8 “(B) AMOUNT.—The total amount of pay-
9 ments received, directly or indirectly, by a per-
10 son or legal entity (excluding a joint venture or
11 general partnership) under this subsection may
12 not exceed \$100,000 for any crop year, or an
13 equivalent value in tree seedlings.

14 “(C) ACRES.—The total quantity of acres
15 planted to trees or tree seedlings for which a
16 person or legal entity shall be entitled to receive
17 payments under this subsection may not exceed
18 500 acres.

19 “(g) RISK MANAGEMENT PURCHASE REQUIRE-
20 MENT.—

21 “(1) IN GENERAL.—Except as otherwise pro-
22 vided in this section, the eligible producers on a
23 farm shall not be eligible for assistance under this
24 section (other than subsection (c)) if the eligible pro-
25 ducers on the farm—

1 “(A) in the case of each insurable com-
2 modity of the eligible producers on the farm,
3 did not obtain a policy or plan of insurance
4 under the Federal Crop Insurance Act (7
5 U.S.C. 1501 et seq.) (excluding a crop insur-
6 ance pilot program under that Act); or

7 “(B) in the case of each noninsurable com-
8 modity of the eligible producers on the farm,
9 did not file the required paperwork, and pay the
10 administrative fee by the applicable State filing
11 deadline, for the noninsured crop assistance
12 program.

13 “(2) MINIMUM.—To be considered to have ob-
14 tained insurance under paragraph (1)(A), an eligible
15 producer on a farm shall have obtained a policy or
16 plan of insurance with not less than 50 percent yield
17 coverage at 55 percent of the insurable price for
18 each crop grazed, planted, or intended to be planted
19 for harvest on a whole farm.

20 “(3) WAIVER FOR SOCIALLY DISADVANTAGED,
21 LIMITED RESOURCE, OR BEGINNING FARMER OR
22 RANCHER.—With respect to eligible producers that
23 are socially disadvantaged farmers or ranchers or
24 limited resource or beginning farmers or ranchers,

1 as determined by the Secretary, the Secretary
2 may—

3 “(A) waive paragraph (1); and

4 “(B) provide disaster assistance under this
5 section at a level that the Secretary determines
6 to be equitable and appropriate.

7 “(4) WAIVER FOR 2008 CROP YEAR.—In the
8 case of an eligible producer that suffered losses in
9 an insurable commodity or noninsurable commodity
10 during the 2008 crop year but does not meet the re-
11 quirements of paragraph (1), the Secretary shall
12 waive paragraph (1) if the eligible producer pays a
13 fee in an amount equal to the applicable noninsured
14 crop assistance program fee or catastrophic risk pro-
15 tection plan fee required under paragraph (1) to the
16 Secretary not later than 90 days after the date of
17 enactment of this subtitle.

18 “(5) EQUITABLE RELIEF.—

19 “(A) IN GENERAL.—The Secretary may
20 provide equitable relief to eligible producers on
21 a farm that are otherwise ineligible or uninten-
22 tionally fail to meet the requirements of para-
23 graph (1) for 1 or more crops on a farm on a
24 case-by-case basis, as determined by the Sec-
25 retary.

1 “(B) 2008 CROP YEAR.—In the case of eli-
2 gible producers on a farm that suffered losses
3 in an insurable commodity or noninsurable com-
4 modity during the 2008 crop year, the Sec-
5 retary shall take special consideration to pro-
6 vide equitable relief in cases in which the eligi-
7 ble producers failed to meet the requirements of
8 paragraph (1) due to the enactment of this title
9 after the closing date of sales periods for crop
10 insurance under the Federal Crop Insurance
11 Act (7 U.S.C. 1501 et seq.) and the noninsured
12 crop assistance program.

13 “(h) PAYMENT LIMITATIONS.—

14 “(1) DEFINITIONS OF LEGAL ENTITY AND PER-
15 SON.—In this subsection, the terms ‘legal entity’ and
16 ‘person’ have the meaning given those terms in sec-
17 tion 1001(a) of the Food Security Act of 1985 (7
18 U.S.C. 1308(a) (as amended by section 1603 of the
19 Food, Conservation, and Energy Act of 2008).

20 “(2) AMOUNT.—The total amount of disaster
21 assistance payments received, directly or indirectly,
22 by a person or legal entity (excluding a joint venture
23 or general partnership) under this section (excluding
24 payments received under subsection (f)) may not ex-
25 ceed \$100,000 for any crop year.

1 “(3) AGI LIMITATION.—Section 1001D of the
2 Food Security Act of 1985 (7 U.S.C. 1308–3a) or
3 any successor provision shall apply with respect to
4 assistance provided under this section.

5 “(4) DIRECT ATTRIBUTION.—Subsections (e)
6 and (f) of section 1001 of the Food Security Act of
7 1985 (7 U.S.C. 1308) or any successor provisions
8 relating to direct attribution shall apply with respect
9 to assistance provided under this section.

10 “(i) PERIOD OF EFFECTIVENESS.—This section shall
11 be effective only for losses that are incurred as the result
12 of a disaster, adverse weather, or other environmental con-
13 dition that occurs on or before September 30, 2011, as
14 determined by the Secretary.

15 “(j) NO DUPLICATIVE PAYMENTS.—In implementing
16 any other program which makes disaster assistance pay-
17 ments (except for indemnities made under the Federal
18 Crop Insurance Act (7 U.S.C. 1501 et seq.)) and section
19 196 of the Federal Agriculture Improvement and Reform
20 Act of 1996), the Secretary shall prevent duplicative pay-
21 ments with respect to the same loss for which a person
22 receives a payment under subsections (b), (c), (d), (e), or
23 (f).

1 **“SEC. 902. AGRICULTURAL DISASTER RELIEF TRUST FUND.**

2 “(a) CREATION OF TRUST FUND.—There is estab-
3 lished in the Treasury of the United States a trust fund
4 to be known as the ‘Agricultural Disaster Relief Trust
5 Fund’, consisting of such amounts as may be appropriated
6 or credited to such Trust Fund as provided in this section.

7 “(b) TRANSFER TO TRUST FUND.—

8 “(1) IN GENERAL.—There are appropriated to
9 the Agricultural Disaster Relief Trust Fund
10 amounts equivalent to 3.08 percent of the amounts
11 received in the general fund of the Treasury of the
12 United States during fiscal years 2008 through
13 2011 attributable to the duties collected on articles
14 entered, or withdrawn from warehouse, for consump-
15 tion under the Harmonized Tariff Schedule of the
16 United States.

17 “(2) AMOUNTS BASED ON ESTIMATES.—The
18 amounts appropriated under this section shall be
19 transferred at least monthly from the general fund
20 of the Treasury of the United States to the Agricul-
21 tural Disaster Relief Trust Fund on the basis of es-
22 timates made by the Secretary of the Treasury.
23 Proper adjustments shall be made in the amounts
24 subsequently transferred to the extent prior esti-
25 mates were in excess of or less than the amounts re-
26 quired to be transferred.

1 “(3) LIMITATION ON TRANSFERS TO AGRICUL-
2 TURAL DISASTER RELIEF TRUST FUND.—No amount
3 may be appropriated to the Agricultural Disaster
4 Relief Trust Fund on and after the date of any ex-
5 penditure from the Agricultural Disaster Relief
6 Trust Fund which is not permitted by this section.
7 The determination of whether an expenditure is so
8 permitted shall be made without regard to—

9 “(A) any provision of law which is not con-
10 tained or referenced in this title or in a revenue
11 Act, and

12 “(B) whether such provision of law is a
13 subsequently enacted provision or directly or in-
14 directly seeks to waive the application of this
15 paragraph.

16 “(c) ADMINISTRATION.—

17 “(1) REPORTS.—The Secretary of the Treasury
18 shall be the trustee of the Agricultural Disaster Re-
19 lief Trust Fund and shall submit an annual report
20 to Congress each year on the financial condition and
21 the results of the operations of such Trust Fund
22 during the preceding fiscal year and on its expected
23 condition and operations during the 4 fiscal years
24 succeeding such fiscal year. Such report shall be

1 printed as a House document of the session of Con-
2 gress to which the report is made.

3 “(2) INVESTMENT.—

4 “(A) IN GENERAL.—The Secretary of the
5 Treasury shall invest such portion of the Agri-
6 cultural Disaster Relief Trust Fund as is not in
7 his judgment required to meet current with-
8 draws. Such investments may be made only in
9 interest bearing obligations of the United
10 States. For such purpose, such obligations may
11 be acquired—

12 “(i) on original issue at the issue
13 price, or

14 “(ii) by purchase of outstanding obli-
15 gations at the market price.

16 “(B) SALE OF OBLIGATIONS.—Any obliga-
17 tion acquired by the Agricultural Disaster Re-
18 lief Trust Fund may be sold by the Secretary
19 of the Treasury at the market price.

20 “(C) INTEREST ON CERTAIN PROCEEDS.—
21 The interest on, and the proceeds from the sale
22 or redemption of, any obligations held in the
23 Agricultural Disaster Relief Trust Fund shall
24 be credited to and form a part of such Trust
25 Fund.

1 “(d) EXPENDITURES FROM TRUST FUND.—
2 Amounts in the Agricultural Disaster Relief Trust Fund
3 shall be available for the purposes of making expenditures
4 to meet those obligations of the United States incurred
5 under section 901 or section 531 of the Federal Crop In-
6 surance Act (as such sections are in effect on the date
7 of the enactment of the Food, Conservation, and Energy
8 Act of 2008).

9 “(e) AUTHORITY TO BORROW.—

10 “(1) IN GENERAL.—There are authorized to be
11 appropriated, and are appropriated, to the Agricul-
12 tural Disaster Relief Trust Fund, as repayable ad-
13 vances, such sums as may be necessary to carry out
14 the purposes of such Trust Fund.

15 “(2) REPAYMENT OF ADVANCES.—

16 “(A) IN GENERAL.—Advances made to the
17 Agricultural Disaster Relief Trust Fund shall
18 be repaid, and interest on such advances shall
19 be paid, to the general fund of the Treasury
20 when the Secretary determines that moneys are
21 available for such purposes in such Trust Fund.

22 “(B) RATE OF INTEREST.—Interest on ad-
23 vances made pursuant to this subsection shall
24 be—

1 “(i) at a rate determined by the Sec-
2 retary of the Treasury (as of the close of
3 the calendar month preceding the month in
4 which the advance is made) to be equal to
5 the current average market yield on out-
6 standing marketable obligations of the
7 United States with remaining periods to
8 maturity comparable to the anticipated pe-
9 riod during which the advance will be out-
10 standing, and

11 “(ii) compounded annually.

12 **“SEC. 903. JURISDICTION.**

13 “Legislation in the Senate of the United States
14 amending section 901 or 902 shall be referred to the Com-
15 mittee on Finance of the Senate.”.

16 (b) **TRANSITION.**—For purposes of the 2008 crop
17 year, the Secretary shall carry out subsections (f)(4) and
18 (h) of section 901 of the Trade Act of 1974 (as added
19 by subsection (a)) in accordance with the terms and condi-
20 tions of sections 1001 through 1001D of the Food Secu-
21 rity Act of 1985 (16 U.S.C. 1308 et seq.), as in effect
22 on September 30, 2007.

23 (c) **CLERICAL AMENDMENT.**—The table of contents
24 for the Trade Act of 1974 (19 U.S.C. 2101 et seq.) is
25 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.”.

1 **Subtitle B—Revenue Provisions for**
2 **Agriculture Programs**

3 **SEC. 15201. CUSTOMS USER FEES.**

4 (a) IN GENERAL.—Section 13031(j)(3)(A) of the
5 Consolidated Omnibus Budget Reconciliation Act of 1985
6 (19 U.S.C. 58c(j)(3)(A)) is amended by striking “Decem-
7 ber 27, 2014” and inserting “November 14, 2017”.

8 (b) OTHER FEES.—Section 13031(j)(3)(B)(i) of the
9 Consolidated Omnibus Budget Reconciliation Act of 1985
10 (19 U.S.C. 58c(j)(3)(B)(i)) is amended by striking “De-
11 cember 27, 2014” and inserting “September 30, 2017”.

12 (c) TIME FOR REMITTING CERTAIN COBRA FEES.—
13 Notwithstanding any other provision of law, any fees au-
14 thorized under paragraphs (1) through (8) of section
15 13031(a) of the Consolidated Omnibus Budget Reconcili-
16 ation Act of 1985 (19 U.S.C. 58c(a) (1) through (8)) with
17 respect to customs services provided on or after July 1,
18 2017, and before September 20, 2017, shall be paid not
19 later than September 25, 2017.

20 (d) TIME FOR REMITTING CERTAIN MERCHANDISE
21 PROCESSING FEES.—

1 (1) IN GENERAL.—Notwithstanding any other
2 provision of law, any fees authorized under para-
3 graphs (9) and (10) of section 13031(a) of the Con-
4 solidated Omnibus Budget Reconciliation Act of
5 1985 (19 U.S.C. 58c(a) (9) and (10)) with respect
6 to processing merchandise entered on or after Octo-
7 ber 1, 2017, and before November 15, 2017, shall
8 be paid not later than September 25, 2017, in an
9 amount equivalent to the amount of such fees paid
10 by the person responsible for such fees with respect
11 to merchandise entered on or after October 1, 2016,
12 and before November 15, 2016, as determined by
13 the Secretary of the Treasury.

14 (2) RECONCILIATION OF MERCHANDISE PROC-
15 ESSING FEES.—Not later than December 15, 2017,
16 the Secretary of the Treasury shall reconcile the fees
17 paid pursuant to paragraph (1) with the fees for
18 services actually provided on or after October 1,
19 2017, and before November 15, 2017, and shall re-
20 fund with interest any overpayment of such fees and
21 make proper adjustments with respect to any under-
22 payment of such fees. No interest may be assessed
23 with respect to any such underpayment that was
24 based on the amount of fees paid for merchandise

1 entered on or after October 1, 2016, and before No-
2 vember 15, 2016.

3 **SEC. 15202. TIME FOR PAYMENT OF CORPORATE ESTI-**
4 **MATED TAXES.**

5 The percentage under subparagraph (B) of section
6 401(1) of the Tax Increase Prevention and Reconciliation
7 Act of 2005 in effect on the date of the enactment of this
8 Act is increased by 7.75 percentage points.

9 **Subtitle C—Tax Provisions**

10 **PART I—CONSERVATION**

11 **Subpart A—Land and Species Preservation**

12 **Provisions**

13 **SEC. 15301. EXCLUSION OF CONSERVATION RESERVE PRO-**
14 **GRAM PAYMENTS FROM SECA TAX FOR CER-**
15 **TAIN INDIVIDUALS.**

16 (a) INTERNAL REVENUE CODE.—Section 1402(a)(1)
17 (defining net earnings from self-employment) is amended
18 by inserting “, and including payments under section
19 1233(2) of the Food Security Act of 1985 (16 U.S.C.
20 3833(2)) to individuals receiving benefits under section
21 202 or 223 of the Social Security Act” after “crop
22 shares”.

23 (b) SOCIAL SECURITY ACT.—Section 211(a)(1) of
24 the Social Security Act is amended by inserting “, and
25 including payments under section 1233(2) of the Food Se-

1 curity Act of 1985 (16 U.S.C. 3833(2)) to individuals re-
2 ceiving benefits under section 202 or 223” after “crop
3 shares”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to payments made after December
6 31, 2007.

7 **SEC. 15302. TWO-YEAR EXTENSION OF SPECIAL RULE EN-**
8 **COURAGING CONTRIBUTIONS OF CAPITAL**
9 **GAIN REAL PROPERTY FOR CONSERVATION**
10 **PURPOSES.**

11 (a) IN GENERAL.—

12 (1) INDIVIDUALS.—Section 170(b)(1)(E)(vi)
13 (relating to termination) is amended by striking
14 “December 31, 2007” and inserting “December 31,
15 2009”.

16 (2) CORPORATIONS.—Section 170(b)(2)(B)(iii)
17 (relating to termination) is amended by striking
18 “December 31, 2007” and inserting “December 31,
19 2009”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to contributions made in taxable
22 years beginning after December 31, 2007.

1 **SEC. 15303. DEDUCTION FOR ENDANGERED SPECIES RE-**
2 **COVERY EXPENDITURES.**

3 (a) DEDUCTION FOR ENDANGERED SPECIES RECOV-
4 ERY EXPENDITURES.—

5 (1) IN GENERAL.—Paragraph (1) of section
6 175(c) (relating to definitions) is amended by insert-
7 ing after the first sentence the following new sen-
8 tence: “Such term shall include expenditures paid or
9 incurred for the purpose of achieving site-specific
10 management actions recommended in recovery plans
11 approved pursuant to the Endangered Species Act of
12 1973.”.

13 (2) CONFORMING AMENDMENTS.—

14 (A) Section 175 is amended by inserting “,
15 or for endangered species recovery” after “pre-
16 vention of erosion of land used in farming”
17 each place it appears in subsections (a) and (c).

18 (B) The heading of section 175 is amended
19 by inserting “; **ENDANGERED SPECIES RE-**
20 **COVERY EXPENDITURES**” before the period.

21 (C) The item relating to section 175 in the
22 table of sections for part VI of subchapter B of
23 chapter 1 is amended by inserting “; endan-
24 gered species recovery expenditures” before the
25 period.

1 (b) LIMITATIONS.—Paragraph (3) of section 175(c)
2 (relating to additional limitations) is amended—

3 (1) in the heading of subparagraph (A), by in-
4 sserting “OR ENDANGERED SPECIES RECOVERY
5 PLAN” after “CONSERVATION PLAN”, and

6 (2) in subparagraph (A)(i), by inserting “or the
7 recovery plan approved pursuant to the Endangered
8 Species Act of 1973” after “Department of Agri-
9 culture”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to expenditures paid or incurred
12 after December 31, 2008.

13 **Subpart B—Timber Provisions**

14 **SEC. 15311. TEMPORARY REDUCTION IN RATE OF TAX ON**
15 **QUALIFIED TIMBER GAIN OF CORPORATIONS.**

16 (a) IN GENERAL.—Section 1201 (relating to alter-
17 native tax for corporations) is amended by redesignating
18 subsection (b) as subsection (c) and by adding after sub-
19 section (a) the following new subsection:

20 “(b) SPECIAL RATE FOR QUALIFIED TIMBER
21 GAINS.—

22 “(1) IN GENERAL.—If, for any taxable year
23 ending after the date of the enactment of the Food,
24 Conservation, and Energy Act of 2008 and begin-
25 ning on or before the date which is 1 year after such

1 date, a corporation has both a net capital gain and
2 qualified timber gain—

3 “(A) subsection (a) shall apply to such cor-
4 poration for the taxable year without regard to
5 whether the applicable tax rate exceeds 35 per-
6 cent, and

7 “(B) the tax computed under subsection
8 (a)(2) shall be equal to the sum of—

9 “(i) 15 percent of the least of—

10 “(I) qualified timber gain,

11 “(II) net capital gain, or

12 “(III) taxable income, plus

13 “(ii) 35 percent of the excess (if any)
14 of taxable income over the sum of the
15 amounts for which a tax was determined
16 under subsection (a)(1) and clause (i).

17 “(2) QUALIFIED TIMBER GAIN.—For purposes
18 of this section, the term ‘qualified timber gain’
19 means, with respect to any taxpayer for any taxable
20 year, the excess (if any) of—

21 “(A) the sum of the taxpayer’s gains de-
22 scribed in subsections (a) and (b) of section 631
23 for such year, over

24 “(B) the sum of the taxpayer’s losses de-
25 scribed in such subsections for such year.

1 For purposes of subparagraphs (A) and (B), only
2 timber held more than 15 years shall be taken into
3 account.

4 “(3) COMPUTATION FOR TAXABLE YEARS IN
5 WHICH RATE FIRST APPLIES OR ENDS.—In the case
6 of any taxable year which includes either of the
7 dates set forth in paragraph (1), the qualified timber
8 gain for such year shall not exceed the qualified tim-
9 ber gain properly taken into account for—

10 “(A) in the case of the taxable year includ-
11 ing the date of the enactment of the Food, Con-
12 servation, and Energy Act of 2008, the portion
13 of the year after such date, and

14 “(B) in the case of the taxable year includ-
15 ing the date which is 1 year after such date of
16 enactment, the portion of the year on or before
17 such later date.”.

18 (b) MINIMUM TAX.—Subsection (b) of section 55 is
19 amended by adding at the end the following paragraph:

20 “(4) MAXIMUM RATE OF TAX ON QUALIFIED
21 TIMBER GAIN OF CORPORATIONS.—In the case of
22 any taxable year to which section 1201(b) applies,
23 the amount determined under clause (i) of subpara-
24 graph (B) shall not exceed the sum of—

1 “(A) 20 percent of so much of the taxable
2 excess (if any) as exceeds the qualified timber
3 gain (or, if less, the net capital gain), plus

4 “(B) 15 percent of the taxable excess in
5 excess of the amount on which a tax is deter-
6 mined under subparagraph (A).

7 Any term used in this paragraph which is also used
8 in section 1201 shall have the meaning given such
9 term by such section, except to the extent such term
10 is subject to adjustment under this part.”.

11 (c) CONFORMING AMENDMENT.—Section
12 857(b)(3)(A)(ii) is amended by striking “rate” and insert-
13 ing “rates”.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years ending after the
16 date of enactment.

17 **SEC. 15312. TIMBER REIT MODERNIZATION.**

18 (a) IN GENERAL.—Section 856(c)(5) is amended by
19 adding after subparagraph (G) the following new subpara-
20 graph:

21 “(H) TREATMENT OF TIMBER GAINS.—

22 “(i) IN GENERAL.—Gain from the sale
23 of real property described in paragraph
24 (2)(D) and (3)(C) shall include gain which
25 is—

1 “(I) recognized by an election
2 under section 631(a) from timber
3 owned by the real estate investment
4 trust, the cutting of which is provided
5 by a taxable REIT subsidiary of the
6 real estate investment trust;

7 “(II) recognized under section
8 631(b); or

9 “(III) income which would con-
10 stitute gain under subclause (I) or
11 (II) but for the failure to meet the 1-
12 year holding period requirement.

13 “(ii) SPECIAL RULES.—

14 “(I) For purposes of this subtitle,
15 cut timber, the gain from which is
16 recognized by a real estate investment
17 trust pursuant to an election under
18 section 631(a) described in clause
19 (i)(I) or so much of clause (i)(III) as
20 relates to clause (i)(I), shall be
21 deemed to be sold to the taxable
22 REIT subsidiary of the real estate in-
23 vestment trust on the first day of the
24 taxable year.

1 “(II) For purposes of this sub-
2 title, income described in this sub-
3 paragraph shall not be treated as gain
4 from the sale of property described in
5 section 1221(a)(1).

6 “(iii) TERMINATION.—This subpara-
7 graph shall not apply to dispositions after
8 the termination date.”.

9 (b) TERMINATION DATE.—Subsection (c) of section
10 856 is amended by adding at the end the following new
11 paragraph:

12 “(8) TERMINATION DATE.—For purposes of
13 this subsection, the term ‘termination date’ means,
14 with respect to any taxpayer, the last day of the tax-
15 payer’s first taxable year beginning after the date of
16 the enactment of this paragraph and before the date
17 that is 1 year after such date of enactment.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 subsection (a) shall apply to dispositions in taxable years
20 beginning after the date of the enactment of this Act.

21 **SEC. 15313. MINERAL ROYALTY INCOME QUALIFYING IN-**
22 **COME FOR TIMBER REITS.**

23 (a) IN GENERAL.—Section 856(c)(2) is amended by
24 striking “and” at the end of subparagraph (G), by insert-

1 ing “and” at the end of subparagraph (H), and by adding
2 after subparagraph (H) the following new subparagraph:

3 “(I) mineral royalty income earned in the
4 first taxable year beginning after the date of
5 the enactment of this subparagraph from real
6 property owned by a timber real estate invest-
7 ment trust and held, or once held, in connection
8 with the trade or business of producing timber
9 by such real estate investment trust;”.

10 (b) **TIMBER REAL ESTATE INVESTMENT TRUST.**—
11 Section 856(c)(5), as amended by this Act, is amended
12 by adding after subparagraph (H) the following new sub-
13 paragraph:

14 “(I) **TIMBER REAL ESTATE INVESTMENT**
15 **TRUST.**—The term ‘timber real estate invest-
16 ment trust’ means a real estate investment
17 trust in which more than 50 percent in value of
18 its total assets consists of real property held in
19 connection with the trade or business of pro-
20 ducing timber.”.

21 (c) **EFFECTIVE DATE.**—The amendments by this sec-
22 tion shall apply to taxable years beginning after the date
23 of the enactment of this Act.

1 **SEC. 15314. MODIFICATION OF TAXABLE REIT SUBSIDIARY**

2 **ASSET TEST FOR TIMBER REITS.**

3 (a) IN GENERAL.—Section 856(c)(4)(B)(ii) is
4 amended by inserting “(in the case of a quarter which
5 closes on or before the termination date, 25 percent in
6 the case of a timber real estate investment trust)” after
7 “REIT subsidiaries”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to taxable years beginning after
10 the date of the enactment of this Act.

11 **SEC. 15315. SAFE HARBOR FOR TIMBER PROPERTY.**

12 (a) IN GENERAL.—Section 857(b)(6) (relating to in-
13 come from prohibited transactions) is amended by adding
14 at the end the following new subparagraph:

15 “(G) SPECIAL RULES FOR SALES TO
16 QUALIFIED ORGANIZATIONS.—

17 “(i) IN GENERAL.—In the case of the
18 sale of a real estate asset (as defined in
19 section 856(c)(5)(B)) to a qualified organi-
20 zation (as defined in section 170(h)(3)) ex-
21 clusively for conservation purposes (within
22 the meaning of section 170(h)(1)(C)), sub-
23 paragraph (D) shall be applied—

24 “(I) by substituting ‘2 years’ for
25 ‘4 years’ in clause (i), and

1 “(II) by substituting ‘2-year pe-
2 riod’ for ‘4-year period’ in clauses (ii)
3 and (iii).

4 “(ii) TERMINATION.—This subpara-
5 graph shall not apply to sales after the ter-
6 mination date.”.

7 (b) PROHIBITED TRANSACTIONS.—Section
8 857(b)(6)(D)(v) is amended by inserting “, or, in the case
9 of a sale on or before the termination date, a taxable
10 REIT subsidiary” after “any income”.

11 (c) SALES THAT ARE NOT PROHIBITED TRANS-
12 ACTIONS.—Section 857(b)(6), as amended by subsection
13 (a), is amended by adding at the end the following new
14 subparagraph:

15 “(H) SALES OF PROPERTY THAT ARE NOT
16 A PROHIBITED TRANSACTION.—In the case of a
17 sale on or before the termination date, the sale
18 of property which is not a prohibited trans-
19 action through the application of subparagraph
20 (D) shall be considered property held for invest-
21 ment or for use in a trade or business and not
22 property described in section 1221(a)(1) for all
23 purposes of this subtitle.”.

1 (d) TERMINATION DATE.—Section 857(b)(6), as
 2 amended by subsections (a) and (c), is amended by adding
 3 at the end the following new subparagraph:

4 “(I) TERMINATION DATE.—For purposes
 5 of this paragraph, the term ‘termination date’
 6 has the meaning given such term by section
 7 856(c)(8).”.

8 (e) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to dispositions in taxable years be-
 10 ginning after the date of the enactment of this Act.

11 **SEC. 15316. QUALIFIED FORESTRY CONSERVATION BONDS.**

12 (a) IN GENERAL.—Part IV of subchapter A of chap-
 13 ter 1 (relating to credits against tax) is amended by add-
 14 ing at the end the following new subpart:

15 **“Subpart I—Qualified Tax Credit Bonds**

“Sec. 54A. Credit to holders of qualified tax credit bonds.

“Sec. 54B. Qualified forestry conservation bonds.

16 **“SEC. 54A. CREDIT TO HOLDERS OF QUALIFIED TAX CRED-**
 17 **IT BONDS.**

18 “(a) ALLOWANCE OF CREDIT.—If a taxpayer holds
 19 a qualified tax credit bond on one or more credit allowance
 20 dates of the bond during any taxable year, there shall be
 21 allowed as a credit against the tax imposed by this chapter
 22 for the taxable year an amount equal to the sum of the
 23 credits determined under subsection (b) with respect to
 24 such dates.

1 “(b) AMOUNT OF CREDIT.—

2 “(1) IN GENERAL.—The amount of the credit
3 determined under this subsection with respect to any
4 credit allowance date for a qualified tax credit bond
5 is 25 percent of the annual credit determined with
6 respect to such bond.

7 “(2) ANNUAL CREDIT.—The annual credit de-
8 termined with respect to any qualified tax credit
9 bond is the product of—

10 “(A) the applicable credit rate, multiplied
11 by

12 “(B) the outstanding face amount of the
13 bond.

14 “(3) APPLICABLE CREDIT RATE.—For purposes
15 of paragraph (2), the applicable credit rate is the
16 rate which the Secretary estimates will permit the
17 issuance of qualified tax credit bonds with a speci-
18 fied maturity or redemption date without discount
19 and without interest cost to the qualified issuer. The
20 applicable credit rate with respect to any qualified
21 tax credit bond shall be determined as of the first
22 day on which there is a binding, written contract for
23 the sale or exchange of the bond.

24 “(4) SPECIAL RULE FOR ISSUANCE AND RE-
25 DEMPTION.—In the case of a bond which is issued

1 during the 3-month period ending on a credit allow-
2 ance date, the amount of the credit determined
3 under this subsection with respect to such credit al-
4 lowance date shall be a ratable portion of the credit
5 otherwise determined based on the portion of the 3-
6 month period during which the bond is outstanding.
7 A similar rule shall apply when the bond is redeemed
8 or matures.

9 “(c) LIMITATION BASED ON AMOUNT OF TAX.—

10 “(1) IN GENERAL.—The credit allowed under
11 subsection (a) for any taxable year shall not exceed
12 the excess of—

13 “(A) the sum of the regular tax liability
14 (as defined in section 26(b)) plus the tax im-
15 posed by section 55, over

16 “(B) the sum of the credits allowable
17 under this part (other than subpart C and this
18 subpart).

19 “(2) CARRYOVER OF UNUSED CREDIT.—If the
20 credit allowable under subsection (a) exceeds the
21 limitation imposed by paragraph (1) for such taxable
22 year, such excess shall be carried to the succeeding
23 taxable year and added to the credit allowable under
24 subsection (a) for such taxable year (determined be-

1 fore the application of paragraph (1) for such suc-
2 ceeding taxable year).

3 “(d) QUALIFIED TAX CREDIT BOND.—For purposes
4 of this section—

5 “(1) QUALIFIED TAX CREDIT BOND.—The term
6 ‘qualified tax credit bond’ means a qualified forestry
7 conservation bond which is part of an issue that
8 meets the requirements of paragraphs (2), (3), (4),
9 (5), and (6).

10 “(2) SPECIAL RULES RELATING TO EXPENDI-
11 TURES.—

12 “(A) IN GENERAL.—An issue shall be
13 treated as meeting the requirements of this
14 paragraph if, as of the date of issuance, the
15 issuer reasonably expects—

16 “(i) 100 percent or more of the avail-
17 able project proceeds to be spent for 1 or
18 more qualified purposes within the 3-year
19 period beginning on such date of issuance,
20 and

21 “(ii) a binding commitment with a
22 third party to spend at least 10 percent of
23 such available project proceeds will be in-
24 curred within the 6-month period begin-
25 ning on such date of issuance.

1 “(B) FAILURE TO SPEND REQUIRED
2 AMOUNT OF BOND PROCEEDS WITHIN 3
3 YEARS.—

4 “(i) IN GENERAL.—To the extent that
5 less than 100 percent of the available
6 project proceeds of the issue are expended
7 by the close of the expenditure period for
8 1 or more qualified purposes, the issuer
9 shall redeem all of the nonqualified bonds
10 within 90 days after the end of such pe-
11 riod. For purposes of this paragraph, the
12 amount of the nonqualified bonds required
13 to be redeemed shall be determined in the
14 same manner as under section 142.

15 “(ii) EXPENDITURE PERIOD.—For
16 purposes of this subpart, the term ‘expen-
17 diture period’ means, with respect to any
18 issue, the 3-year period beginning on the
19 date of issuance. Such term shall include
20 any extension of such period under clause
21 (iii).

22 “(iii) EXTENSION OF PERIOD.—Upon
23 submission of a request prior to the expira-
24 tion of the expenditure period (determined
25 without regard to any extension under this

1 clause), the Secretary may extend such pe-
2 riod if the issuer establishes that the fail-
3 ure to expend the proceeds within the
4 original expenditure period is due to rea-
5 sonable cause and the expenditures for
6 qualified purposes will continue to proceed
7 with due diligence.

8 “(C) QUALIFIED PURPOSE.—For purposes
9 of this paragraph, the term ‘qualified purpose’
10 means a purpose specified in section 54B(e).

11 “(D) REIMBURSEMENT.—For purposes of
12 this subtitle, available project proceeds of an
13 issue shall be treated as spent for a qualified
14 purpose if such proceeds are used to reimburse
15 the issuer for amounts paid for a qualified pur-
16 pose after the date that the Secretary makes an
17 allocation of bond limitation with respect to
18 such issue, but only if—

19 “(i) prior to the payment of the origi-
20 nal expenditure, the issuer declared its in-
21 tent to reimburse such expenditure with
22 the proceeds of a qualified tax credit bond,

23 “(ii) not later than 60 days after pay-
24 ment of the original expenditure, the issuer
25 adopts an official intent to reimburse the

1 original expenditure with such proceeds,
2 and

3 “(iii) the reimbursement is made not
4 later than 18 months after the date the
5 original expenditure is paid.

6 “(3) REPORTING.—An issue shall be treated as
7 meeting the requirements of this paragraph if the
8 issuer of qualified tax credit bonds submits reports
9 similar to the reports required under section 149(e).

10 “(4) SPECIAL RULES RELATING TO ARBI-
11 TRAGE.—

12 “(A) IN GENERAL.—An issue shall be
13 treated as meeting the requirements of this
14 paragraph if the issuer satisfies the require-
15 ments of section 148 with respect to the pro-
16 ceeds of the issue.

17 “(B) SPECIAL RULE FOR INVESTMENTS
18 DURING EXPENDITURE PERIOD.—An issue shall
19 not be treated as failing to meet the require-
20 ments of subparagraph (A) by reason of any in-
21 vestment of available project proceeds during
22 the expenditure period.

23 “(C) SPECIAL RULE FOR RESERVE
24 FUNDS.—An issue shall not be treated as fail-
25 ing to meet the requirements of subparagraph

1 (A) by reason of any fund which is expected to
2 be used to repay such issue if—

3 “(i) such fund is funded at a rate not
4 more rapid than equal annual installments,

5 “(ii) such fund is funded in a manner
6 reasonably expected to result in an amount
7 not greater than an amount necessary to
8 repay the issue, and

9 “(iii) the yield on such fund is not
10 greater than the discount rate determined
11 under paragraph (5)(B) with respect to the
12 issue.

13 “(5) MATURITY LIMITATION.—

14 “(A) IN GENERAL.—An issue shall be
15 treated as meeting the requirements of this
16 paragraph if the maturity of any bond which is
17 part of such issue does not exceed the max-
18 imum term determined by the Secretary under
19 subparagraph (B).

20 “(B) MAXIMUM TERM.—During each cal-
21 endar month, the Secretary shall determine the
22 maximum term permitted under this paragraph
23 for bonds issued during the following calendar
24 month. Such maximum term shall be the term
25 which the Secretary estimates will result in the

1 present value of the obligation to repay the
2 principal on the bond being equal to 50 percent
3 of the face amount of such bond. Such present
4 value shall be determined using as a discount
5 rate the average annual interest rate of tax-ex-
6 empt obligations having a term of 10 years or
7 more which are issued during the month. If the
8 term as so determined is not a multiple of a
9 whole year, such term shall be rounded to the
10 next highest whole year.

11 “(6) PROHIBITION ON FINANCIAL CONFLICTS
12 OF INTEREST.—An issue shall be treated as meeting
13 the requirements of this paragraph if the issuer cer-
14 tifies that—

15 “(A) applicable State and local law re-
16 quirements governing conflicts of interest are
17 satisfied with respect to such issue, and

18 “(B) if the Secretary prescribes additional
19 conflicts of interest rules governing the appro-
20 priate Members of Congress, Federal, State,
21 and local officials, and their spouses, such addi-
22 tional rules are satisfied with respect to such
23 issue.

24 “(e) OTHER DEFINITIONS.—For purposes of this
25 subchapter—

1 “(1) CREDIT ALLOWANCE DATE.—The term
2 ‘credit allowance date’ means—

3 “(A) March 15,

4 “(B) June 15,

5 “(C) September 15, and

6 “(D) December 15.

7 Such term includes the last day on which the bond
8 is outstanding.

9 “(2) BOND.—The term ‘bond’ includes any ob-
10 ligation.

11 “(3) STATE.—The term ‘State’ includes the
12 District of Columbia and any possession of the
13 United States.

14 “(4) AVAILABLE PROJECT PROCEEDS.—The
15 term ‘available project proceeds’ means—

16 “(A) the excess of—

17 “(i) the proceeds from the sale of an
18 issue, over

19 “(ii) the issuance costs financed by
20 the issue (to the extent that such costs do
21 not exceed 2 percent of such proceeds),
22 and

23 “(B) the proceeds from any investment of
24 the excess described in subparagraph (A).

1 “(f) CREDIT TREATED AS INTEREST.—For purposes
2 of this subtitle, the credit determined under subsection (a)
3 shall be treated as interest which is includible in gross in-
4 come.

5 “(g) S CORPORATIONS AND PARTNERSHIPS.—In the
6 case of a tax credit bond held by an S corporation or part-
7 nership, the allocation of the credit allowed by this section
8 to the shareholders of such corporation or partners of such
9 partnership shall be treated as a distribution.

10 “(h) BONDS HELD BY REGULATED INVESTMENT
11 COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—
12 If any qualified tax credit bond is held by a regulated in-
13 vestment company or a real estate investment trust, the
14 credit determined under subsection (a) shall be allowed to
15 shareholders of such company or beneficiaries of such
16 trust (and any gross income included under subsection (f)
17 with respect to such credit shall be treated as distributed
18 to such shareholders or beneficiaries) under procedures
19 prescribed by the Secretary.

20 “(i) CREDITS MAY BE STRIPPED.—Under regula-
21 tions prescribed by the Secretary—

22 “(1) IN GENERAL.—There may be a separation
23 (including at issuance) of the ownership of a quali-
24 fied tax credit bond and the entitlement to the credit
25 under this section with respect to such bond. In case

1 of any such separation, the credit under this section
2 shall be allowed to the person who on the credit al-
3 lowance date holds the instrument evidencing the en-
4 titlement to the credit and not to the holder of the
5 bond.

6 “(2) CERTAIN RULES TO APPLY.—In the case
7 of a separation described in paragraph (1), the rules
8 of section 1286 shall apply to the qualified tax credit
9 bond as if it were a stripped bond and to the credit
10 under this section as if it were a stripped coupon.

11 **“SEC. 54B. QUALIFIED FORESTRY CONSERVATION BONDS.**

12 “(a) QUALIFIED FORESTRY CONSERVATION BOND.—
13 For purposes of this subchapter, the term ‘qualified for-
14 estry conservation bond’ means any bond issued as part
15 of an issue if—

16 “(1) 100 percent of the available project pro-
17 ceeds of such issue are to be used for one or more
18 qualified forestry conservation purposes,

19 “(2) the bond is issued by a qualified issuer,
20 and

21 “(3) the issuer designates such bond for pur-
22 poses of this section.

23 “(b) LIMITATION ON AMOUNT OF BONDS DES-
24 IGNATED.—The maximum aggregate face amount of
25 bonds which may be designated under subsection (a) by

1 any issuer shall not exceed the limitation amount allocated
2 to such issuer under subsection (d).

3 “(c) NATIONAL LIMITATION ON AMOUNT OF BONDS
4 DESIGNATED.—There is a national qualified forestry con-
5 servation bond limitation of \$500,000,000.

6 “(d) ALLOCATIONS.—

7 “(1) IN GENERAL.—The Secretary shall make
8 allocations of the amount of the national qualified
9 forestry conservation bond limitation described in
10 subsection (c) among qualified forestry conservation
11 purposes in such manner as the Secretary deter-
12 mines appropriate so as to ensure that all of such
13 limitation is allocated before the date which is 24
14 months after the date of the enactment of this sec-
15 tion.

16 “(2) SOLICITATION OF APPLICATIONS.—The
17 Secretary shall solicit applications for allocations of
18 the national qualified forestry conservation bond lim-
19 itation described in subsection (c) not later than 90
20 days after the date of the enactment of this section.

21 “(e) QUALIFIED FORESTRY CONSERVATION PUR-
22 POSE.—For purposes of this section, the term ‘qualified
23 forestry conservation purpose’ means the acquisition by a
24 State or any political subdivision or instrumentality there-
25 of or a 501(c)(3) organization (as defined in section

1 150(a)(4)) from an unrelated person of forest and forest
2 land that meets the following qualifications:

3 “(1) Some portion of the land acquired must be
4 adjacent to United States Forest Service Land.

5 “(2) At least half of the land acquired must be
6 transferred to the United States Forest Service at
7 no net cost to the United States and not more than
8 half of the land acquired may either remain with or
9 be conveyed to a State.

10 “(3) All of the land must be subject to a native
11 fish habitat conservation plan approved by the
12 United States Fish and Wildlife Service.

13 “(4) The amount of acreage acquired must be
14 at least 40,000 acres.

15 “(f) QUALIFIED ISSUER.—For purposes of this sec-
16 tion, the term ‘qualified issuer’ means a State or any polit-
17 ical subdivision or instrumentality thereof or a 501(c)(3)
18 organization (as defined in section 150(a)(4)).

19 “(g) SPECIAL ARBITRAGE RULE.—In the case of any
20 qualified forestry conservation bond issued as part of an
21 issue, section 54A(d)(4)(C) shall be applied to such issue
22 without regard to clause (i).

23 “(h) ELECTION TO TREAT 50 PERCENT OF BOND
24 ALLOCATION AS PAYMENT OF TAX.—

25 “(1) IN GENERAL.—If—

1 “(A) a qualified issuer receives an alloca-
2 tion of any portion of the national qualified for-
3 estry conservation bond limitation described in
4 subsection (c), and

5 “(B) the qualified issuer elects the applica-
6 tion of this subsection with respect to such allo-
7 cation,

8 then the qualified issuer (without regard to whether
9 the issuer is subject to tax under this chapter) shall
10 be treated as having made a payment against the
11 tax imposed by this chapter, for the taxable year
12 preceding the taxable year in which the allocation is
13 received, in an amount equal to 50 percent of the
14 amount of such allocation.

15 “(2) TREATMENT OF DEEMED PAYMENT.—

16 “(A) IN GENERAL.—Notwithstanding any
17 other provision of this title, the Secretary shall
18 not use the payment of tax described in para-
19 graph (1) as an offset or credit against any tax
20 liability of the qualified issuer but shall refund
21 such payment to such issuer.

22 “(B) NO INTEREST.—Except as provided
23 in paragraph (3)(A), the payment described in
24 paragraph (1) shall not be taken into account

1 in determining any amount of interest under
2 this title.

3 “(3) REQUIREMENT FOR, AND EFFECT OF,
4 ELECTION.—

5 “(A) REQUIREMENT.—No election under
6 this subsection shall take effect unless the
7 qualified issuer certifies to the Secretary that
8 any payment of tax refunded to the issuer
9 under this subsection will be used exclusively
10 for 1 or more qualified forestry conservation
11 purposes. If the qualified issuer fails to use any
12 portion of such payment for such purpose, the
13 issuer shall be liable to the United States in an
14 amount equal to such portion, plus interest at
15 the overpayment rate under section 6621 for
16 the period from the date such portion was re-
17 funded to the date such amount is paid. Any
18 such amount shall be assessed and collected in
19 the same manner as tax imposed by this chap-
20 ter, except that subchapter B of chapter 63 (re-
21 lating to deficiency procedures) shall not apply
22 in respect of such assessment or collection.

23 “(B) EFFECT OF ELECTION ON ALLOCA-
24 TION.—If a qualified issuer makes the election

1 under this subsection with respect to any alloca-
2 tion—

3 “(i) the issuer may issue no bonds
4 pursuant to the allocation, and

5 “(ii) the Secretary may not reallocate
6 such allocation for any other purpose.”.

7 (b) REPORTING.—Subsection (d) of section 6049 (re-
8 lating to returns regarding payments of interest) is
9 amended by adding at the end the following new para-
10 graph:

11 “(9) REPORTING OF CREDIT ON QUALIFIED
12 TAX CREDIT BONDS.—

13 “(A) IN GENERAL.—For purposes of sub-
14 section (a), the term ‘interest’ includes amounts
15 includible in gross income under section 54A
16 and such amounts shall be treated as paid on
17 the credit allowance date (as defined in section
18 54A(e)(1)).

19 “(B) REPORTING TO CORPORATIONS,
20 ETC.—Except as otherwise provided in regula-
21 tions, in the case of any interest described in
22 subparagraph (A) of this paragraph, subsection
23 (b)(4) of this section shall be applied without
24 regard to subparagraphs (A), (H), (I), (J), (K),
25 and (L)(i).

1 “(C) REGULATORY AUTHORITY.—The Sec-
2 retary may prescribe such regulations as are
3 necessary or appropriate to carry out the pur-
4 poses of this paragraph, including regulations
5 which require more frequent or more detailed
6 reporting.”.

7 (c) CONFORMING AMENDMENTS.—

8 (1) Sections 54(c)(2) and 1400N(l)(3)(B) are
9 each amended by striking “subpart C” and inserting
10 “subparts C and I”.

11 (2) Section 1397E(c)(2) is amended by striking
12 “subpart H” and inserting “subparts H and I”.

13 (3) Section 6401(b)(1) is amended by striking
14 “and H” and inserting “H, and I”.

15 (4) The heading of subpart H of part IV of
16 subchapter A of chapter 1 is amended by striking
17 “**Certain Bonds**” and inserting “**Clean Re-**
18 **newable Energy Bonds**”.

19 (5) The table of subparts for part IV of sub-
20 chapter A of chapter 1 is amended by striking the
21 item relating to subpart H and inserting the fol-
22 lowing new items:

“SUBPART H. NONREFUNDABLE CREDIT TO HOLDERS OF CLEAN RENEWABLE
ENERGY BONDS.

“SUBPART I. QUALIFIED TAX CREDIT BONDS.”.

1 (6) Paragraph (2) of section 1324(b) of title
2 31, United States Code, is amended by striking “or
3 6428 or 53(e)” and inserting “, 53(e), 54B(h), or
4 6428”.

5 (d) EFFECTIVE DATES.—The amendments made by
6 this section shall apply to obligations issued after the date
7 of the enactment of this Act.

8 **PART II—ENERGY PROVISIONS**

9 **Subpart A—Cellulosic Biofuel**

10 **SEC. 15321. CREDIT FOR PRODUCTION OF CELLULOSIC** 11 **BIOFUEL.**

12 (a) IN GENERAL.—Subsection (a) of section 40 (re-
13 lating to alcohol used as fuel) is amended by striking
14 “plus” at the end of paragraph (1), by striking “plus”
15 at the end of paragraph (2), by striking the period at the
16 end of paragraph (3) and inserting “, plus”, and by add-
17 ing at the end the following new paragraph:

18 “(4) the cellulosic biofuel producer credit.”.

19 (b) CELLULOSIC BIOFUEL PRODUCER CREDIT.—

20 (1) IN GENERAL.—Subsection (b) of section 40
21 is amended by adding at the end the following new
22 paragraph:

23 “(6) CELLULOSIC BIOFUEL PRODUCER CRED-
24 IT.—

1 “(A) IN GENERAL.—The cellulosic biofuel
2 producer credit of any taxpayer is an amount
3 equal to the applicable amount for each gallon
4 of qualified cellulosic biofuel production.

5 “(B) APPLICABLE AMOUNT.—For purposes
6 of subparagraph (A), the applicable amount
7 means \$1.01, except that such amount shall, in
8 the case of cellulosic biofuel which is alcohol, be
9 reduced by the sum of—

10 “(i) the amount of the credit in effect
11 for such alcohol under subsection (b)(1)
12 (without regard to subsection (b)(3)) at
13 the time of the qualified cellulosic biofuel
14 production, plus

15 “(ii) in the case of ethanol, the
16 amount of the credit in effect under sub-
17 section (b)(4) at the time of such produc-
18 tion.

19 “(C) QUALIFIED CELLULOSIC BIOFUEL
20 PRODUCTION.—For purposes of this section,
21 the term ‘qualified cellulosic biofuel production’
22 means any cellulosic biofuel which is produced
23 by the taxpayer, and which during the taxable
24 year—

1 “(i) is sold by the taxpayer to another
2 person—

3 “(I) for use by such other person
4 in the production of a qualified cel-
5 lulosic biofuel mixture in such other
6 person’s trade or business (other than
7 casual off-farm production),

8 “(II) for use by such other per-
9 son as a fuel in a trade or business,
10 or

11 “(III) who sells such cellulosic
12 biofuel at retail to another person and
13 places such cellulosic biofuel in the
14 fuel tank of such other person, or

15 “(ii) is used or sold by the taxpayer
16 for any purpose described in clause (i).

17 The qualified cellulosic biofuel production of
18 any taxpayer for any taxable year shall not in-
19 clude any alcohol which is purchased by the
20 taxpayer and with respect to which such pro-
21 ducer increases the proof of the alcohol by addi-
22 tional distillation.

23 “(D) QUALIFIED CELLULOSIC BIOFUEL
24 MIXTURE.—For purposes of this paragraph, the
25 term ‘qualified cellulosic biofuel mixture’ means

1 a mixture of cellulosic biofuel and gasoline or of
2 cellulosic biofuel and a special fuel which—

3 “(i) is sold by the person producing
4 such mixture to any person for use as a
5 fuel, or

6 “(ii) is used as a fuel by the person
7 producing such mixture.

8 “(E) CELLULOSIC BIOFUEL.—For pur-
9 poses of this paragraph—

10 “(i) IN GENERAL.—The term ‘cel-
11 lulosic biofuel’ means any liquid fuel
12 which—

13 “(I) is produced from any
14 lignocellulosic or hemicellulosic matter
15 that is available on a renewable or re-
16 curring basis, and

17 “(II) meets the registration re-
18 quirements for fuels and fuel additives
19 established by the Environmental Pro-
20 tection Agency under section 211 of
21 the Clean Air Act (42 U.S.C. 7545).

22 “(ii) EXCLUSION OF LOW-PROOF AL-
23 COHOL.—Such term shall not include any
24 alcohol with a proof of less than 150. The
25 determination of the proof of any alcohol

1 shall be made without regard to any added
2 denaturants.

3 “(F) ALLOCATION OF CELLULOSIC
4 BIOFUEL PRODUCER CREDIT TO PATRONS OF
5 COOPERATIVE.—Rules similar to the rules
6 under subsection (g)(6) shall apply for purposes
7 of this paragraph.

8 “(G) REGISTRATION REQUIREMENT.—No
9 credit shall be determined under this paragraph
10 with respect to any taxpayer unless such tax-
11 payer is registered with the Secretary as a pro-
12 ducer of cellulosic biofuel under section 4101.

13 “(H) APPLICATION OF PARAGRAPH.—This
14 paragraph shall apply with respect to qualified
15 cellulosic biofuel production after December 31,
16 2008, and before January 1, 2013.”.

17 (2) TERMINATION DATE NOT TO APPLY.—Sub-
18 section (e) of section 40 (relating to termination) is
19 amended—

20 (A) by inserting “or subsection (b)(6)(H)”
21 after “by reason of paragraph (1)” in para-
22 graph (2), and

23 (B) by adding at the end the following new
24 paragraph:

1 “(3) EXCEPTION FOR CELLULOSIC BIOFUEL
2 PRODUCER CREDIT.—Paragraph (1) shall not apply
3 to the portion of the credit allowed under this sec-
4 tion by reason of subsection (a)(4).”.

5 (3) CONFORMING AMENDMENTS.—

6 (A) Paragraph (1) of section 4101(a) is
7 amended—

8 (i) by striking “and every person” and
9 inserting “, every person”, and

10 (ii) by inserting “, and every person
11 producing cellulosic biofuel (as defined in
12 section 40(b)(6)(E))” after “section
13 6426(b)(4)(A)”.

14 (B) The heading of section 40, and the
15 item relating to such section in the table of sec-
16 tions for subpart D of part IV of subchapter A
17 of chapter 1, are each amended by inserting “,
18 etc.,” after “Alcohol”.

19 (c) BIOFUEL NOT USED AS A FUEL, ETC.—

20 (1) IN GENERAL.—Paragraph (3) of section
21 40(d) is amended by redesignating subparagraph
22 (D) as subparagraph (E) and by inserting after sub-
23 paragraph (C) the following new subparagraph:

24 “(D) CELLULOSIC BIOFUEL PRODUCER
25 CREDIT.—If—

1 “(i) any credit is allowed under sub-
2 section (a)(4), and

3 “(ii) any person does not use such
4 fuel for a purpose described in subsection
5 (b)(6)(C),

6 then there is hereby imposed on such person a
7 tax equal to the applicable amount (as defined
8 in subsection (b)(6)(B)) for each gallon of such
9 cellulosic biofuel.”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Subparagraph (C) of section 40(d)(3)
12 is amended by striking “PRODUCER” in the
13 heading and inserting “SMALL ETHANOL PRO-
14 DUCER”.

15 (B) Subparagraph (E) of section 40(d)(3),
16 as redesignated by paragraph (1), is amended
17 by striking “or (C)” and inserting “(C), or
18 (D)”.

19 (d) BIOFUEL PRODUCED IN THE UNITED STATES.—
20 Section 40(d) is amended by adding at the end the fol-
21 lowing new paragraph:

22 “(6) SPECIAL RULE FOR CELLULOSIC BIOFUEL
23 PRODUCER CREDIT.—No cellulosic biofuel producer
24 credit shall be determined under subsection (a) with
25 respect to any cellulosic biofuel unless such cellulosic

1 biofuel is produced in the United States and used as
2 a fuel in the United States. For purposes of this
3 subsection, the term ‘United States’ includes any
4 possession of the United States.”.

5 (e) WAIVER OF CREDIT LIMIT FOR CELLULOSIC
6 BIOFUEL PRODUCTION BY SMALL ETHANOL PRO-
7 DUCERS.—Section 40(b)(4)(C) is amended by inserting
8 “(determined without regard to any qualified cellulose
9 biofuel production)” after “15,000,000 gallons”.

10 (f) DENIAL OF DOUBLE BENEFIT.—

11 (1) BIODIESEL.—Paragraph (1) of section
12 40A(d) is amended by adding at the end the fol-
13 lowing new flush sentence:

14 “Such term shall not include any liquid with respect
15 to which a credit may be determined under section
16 40.”.

17 (2) RENEWABLE DIESEL.—Paragraph (3) of
18 section 40A(f) is amended by adding at the end the
19 following new flush sentence:

20 “Such term shall not include any liquid with respect
21 to which a credit may be determined under section
22 40.”.

23 (g) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to fuel produced after December
25 31, 2008.

1 **SEC. 15322. COMPREHENSIVE STUDY OF BIOFUELS.**

2 (a) STUDY.—The Secretary of the Treasury, in con-
3 sultation with the Secretary of Agriculture, the Secretary
4 of Energy, and the Administrator of the Environmental
5 Protection Agency, shall enter into an agreement with the
6 National Academy of Sciences to produce an analysis of
7 current scientific findings to determine—

8 (1) current biofuels production, as well as pro-
9 jections for future production,

10 (2) the maximum amount of biofuels production
11 capable in United States forests and farmlands, in-
12 cluding the current quantities and character of the
13 feedstocks and including such information as re-
14 gional forest inventories that are commercially avail-
15 able, used in the production of biofuels,

16 (3) the domestic effects of an increase in
17 biofuels production levels, including the effects of
18 such levels on—

19 (A) the price of fuel,

20 (B) the price of land in rural and subur-
21 ban communities,

22 (C) crop acreage, forest acreage, and other
23 land use,

24 (D) the environment, due to changes in
25 crop acreage, fertilizer use, runoff, water use,

1 emissions from vehicles utilizing biofuels, and
2 other factors,

3 (E) the price of feed,

4 (F) the selling price of grain crops and for-
5 est products,

6 (G) exports and imports of grains and for-
7 est products,

8 (H) taxpayers, through cost or savings to
9 commodity crop payments, and

10 (I) the expansion of refinery capacity,

11 (4) the ability to convert corn ethanol plants for
12 other uses, such as cellulosic ethanol or biodiesel,

13 (5) a comparative analysis of corn ethanol
14 versus other biofuels and renewable energy sources,
15 considering cost, energy output, and ease of imple-
16 mentation,

17 (6) the impact of the tax credit established by
18 this subpart on the regional agricultural and silvicult-
19 tural capabilities of commercially available forest in-
20 ventories, and

21 (7) the need for additional scientific inquiry,
22 and specific areas of interest for future research.

23 (b) REPORT.—The Secretary of the Treasury shall
24 submit an initial report of the findings of the study re-
25 quired under subsection (a) to Congress not later than 6

1 months after the date of the enactment of this Act (36
 2 months after such date in the case of the information re-
 3 quired by subsection (a)(6)), and a final report not later
 4 than 12 months after such date (42 months after such
 5 date in the case of the information required by subsection
 6 (a)(6)).

7 **Subpart B—Revenue Provisions**

8 **SEC. 15331. MODIFICATION OF ALCOHOL CREDIT.**

9 (a) INCOME TAX CREDIT.—

10 (1) IN GENERAL.—The table in paragraph (2)
 11 of section 40(h) is amended—

12 (A) by striking “through 2010” in the first
 13 column and inserting “, 2006, 2007, or 2008”,

14 (B) by striking the period at the end of the
 15 third row, and

16 (C) by adding at the end the following new
 17 row:

“2009 through 2010 45 cents 33.33 cents.”.

18 (2) EXCEPTION.—Section 40(h) is amended by
 19 adding at the end the following new paragraph:

20 “(3) REDUCTION DELAYED UNTIL ANNUAL
 21 PRODUCTION OR IMPORTATION OF 7,500,000,000 GAL-
 22 LONS.—

23 “(A) IN GENERAL.—In the case of any cal-
 24 endar year beginning after 2008, if the Sec-

1 retary makes a determination described in sub-
2 paragraph (B) with respect to all preceding cal-
3 endar years beginning after 2007, the last row
4 in the table in paragraph (2) shall be applied
5 by substituting ‘51 cents’ for ‘45 cents’.

6 “(B) DETERMINATION.—A determination
7 described in this subparagraph with respect to
8 any calendar year is a determination, in con-
9 sultation with the Administrator of the Envi-
10 ronmental Protection Agency, that an amount
11 less than 7,500,000,000 gallons of ethanol (in-
12 cluding cellulosic ethanol) has been produced in
13 or imported into the United States in such
14 year.”.

15 (b) EXCISE TAX CREDIT.—

16 (1) IN GENERAL.—Subparagraph (A) of section
17 6426(b)(2) (relating to alcohol fuel mixture credit)
18 is amended by striking “the applicable amount is 51
19 cents” and inserting “the applicable amount is—

20 “(i) in the case of calendar years be-
21 ginning before 2009, 51 cents, and

22 “(ii) in the case of calendar years be-
23 ginning after 2008, 45 cents.”.

1 (2) EXCEPTION.—Paragraph (2) of section
2 6426(b) is amended by adding at the end the fol-
3 lowing new subparagraph:

4 “(C) REDUCTION DELAYED UNTIL ANNUAL
5 PRODUCTION OR IMPORTATION OF 7,500,000,000
6 GALLONS.—In the case of any calendar year be-
7 ginning after 2008, if the Secretary makes a
8 determination described in section 40(h)(3)(B)
9 with respect to all preceding calendar years be-
10 ginning after 2007, subparagraph (A)(ii) shall
11 be applied by substituting ‘51 cents’ for ‘45
12 cents’.”

13 (3) CONFORMING AMENDMENT.—Subparagraph
14 (A) of section 6426(b)(2) is amended by striking
15 “subparagraph (B)” and inserting “subparagraphs
16 (B) and (C)”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect on the date of the enactment
19 of this Act.

20 **SEC. 15332. CALCULATION OF VOLUME OF ALCOHOL FOR**
21 **FUEL CREDITS.**

22 (a) IN GENERAL.—Paragraph (4) of section 40(d)
23 (relating to volume of alcohol) is amended by striking “5
24 percent” and inserting “2 percent”.

1 (b) CONFORMING AMENDMENT FOR EXCISE TAX
2 CREDIT.—Section 6426(b) (relating to alcohol fuel mix-
3 ture credit) is amended by redesignating paragraph (5)
4 as paragraph (6) and by inserting after paragraph (4) the
5 following new paragraph:

6 “(5) VOLUME OF ALCOHOL.—For purposes of
7 determining under subsection (a) the number of gal-
8 lons of alcohol with respect to which a credit is al-
9 lowable under subsection (a), the volume of alcohol
10 shall include the volume of any denaturant (includ-
11 ing gasoline) which is added under any formulas ap-
12 proved by the Secretary to the extent that such de-
13 naturants do not exceed 2 percent of the volume of
14 such alcohol (including denaturants).”

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to fuel sold or used after December
17 31, 2008.

18 **SEC. 15333. ETHANOL TARIFF EXTENSION.**

19 Headings 9901.00.50 and 9901.00.52 of the Har-
20 monized Tariff Schedule of the United States are each
21 amended in the effective period column by striking “1/1/
22 2009” and inserting “1/1/2011”.

1 **SEC. 15334. LIMITATIONS ON DUTY DRAWBACK ON CERTAIN**
2 **IMPORTED ETHANOL.**

3 (a) IN GENERAL.—Section 313(p) of the Tariff Act
4 of 1930 (19 U.S.C. 1313(p)) is amended by adding at the
5 end the following new paragraph:

6 “(5) SPECIAL RULES FOR ETHYL ALCOHOL.—
7 For purposes of this subsection, any duty paid under
8 subheading 9901.00.50 of the Harmonized Tariff
9 Schedule of the United States on imports of ethyl al-
10 cohool or a mixture of ethyl alcohol may not be re-
11 funded if the exported article upon which a draw-
12 back claim is based does not contain ethyl alcohol or
13 a mixture of ethyl alcohol.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section applies with respect to—

16 (1) imports of ethyl alcohol or a mixture of
17 ethyl alcohol entered for consumption, or withdrawn
18 from warehouse for consumption, on or after Octo-
19 ber 1, 2008; and

20 (2) imports of ethyl alcohol or a mixture of
21 ethyl alcohol entered for consumption, or withdrawn
22 from warehouse for consumption, before October 1,
23 2008, if a duty drawback claim is filed with respect
24 to such imports on or after October 1, 2010.

1 **PART III—AGRICULTURAL PROVISIONS**

2 **SEC. 15341. INCREASE IN LOAN LIMITS ON AGRICULTURAL**
3 **BONDS.**

4 (a) **IN GENERAL.**—Subparagraph (A) of section
5 147(c)(2) (relating to exception for first-time farmers) is
6 amended by striking “\$250,000” and inserting
7 “\$450,000”.

8 (b) **INFLATION ADJUSTMENT.**—Section 147(c)(2) is
9 amended by adding at the end the following new subpara-
10 graph:

11 “(H) **ADJUSTMENTS FOR INFLATION.**—In
12 the case of any calendar year after 2008, the
13 dollar amount in subparagraph (A) shall be in-
14 creased by an amount equal to—

15 “(i) such dollar amount, multiplied by

16 “(ii) the cost-of-living adjustment de-
17 termined under section 1(f)(3) for the cal-
18 endar year, determined by substituting
19 ‘calendar year 2007’ for ‘calendar year
20 1992’ in subparagraph (B) thereof.

21 If any amount as increased under the preceding
22 sentence is not a multiple of \$100, such amount
23 shall be rounded to the nearest multiple of
24 \$100.”.

25 (c) **MODIFICATION OF SUBSTANTIAL FARMLAND**
26 **DEFINITION.**—Section 147(c)(2)(E) (defining substantial

1 farmland) is amended by striking “unless” and all that
 2 follows through the period and inserting “unless such par-
 3 cel is smaller than 30 percent of the median size of a farm
 4 in the county in which such parcel is located.”.

5 (d) CONFORMING AMENDMENT.—Section
 6 147(e)(2)(C)(i)(II) is amended by striking “\$250,000”
 7 and inserting “the amount in effect under subparagraph
 8 (A)”.

9 (e) EFFECTIVE DATE.—The amendments made by
 10 this section shall apply to bonds issued after the date of
 11 the enactment of this Act.

12 **SEC. 15342. ALLOWANCE OF SECTION 1031 TREATMENT FOR**
 13 **EXCHANGES INVOLVING CERTAIN MUTUAL**
 14 **DITCH, RESERVOIR, OR IRRIGATION COM-**
 15 **PANY STOCK.**

16 (a) IN GENERAL.—Section 1031 (relating to ex-
 17 change of property held for productive use or investment)
 18 is amended by adding at the end the following new sub-
 19 section:

20 “(i) SPECIAL RULES FOR MUTUAL DITCH, RES-
 21 ERVOIR, OR IRRIGATION COMPANY STOCK.—For purposes
 22 of subsection (a)(2)(B), the term ‘stocks’ shall not include
 23 shares in a mutual ditch, reservoir, or irrigation company
 24 if at the time of the exchange—

1 “(1) the mutual ditch, reservoir, or irrigation
2 company is an organization described in section
3 501(c)(12)(A) (determined without regard to the
4 percentage of its income that is collected from its
5 members for the purpose of meeting losses and ex-
6 penses), and

7 “(2) the shares in such company have been rec-
8 ognized by the highest court of the State in which
9 such company was organized or by applicable State
10 statute as constituting or representing real property
11 or an interest in real property.”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 this section shall apply to exchanges completed after the
14 date of the enactment of this Act.

15 **SEC. 15343. AGRICULTURAL CHEMICALS SECURITY CREDIT.**

16 (a) IN GENERAL.—Subpart D of part IV of sub-
17 chapter A of chapter 1 (relating to business related cred-
18 its) is amended by adding at the end the following new
19 section:

20 **“SEC. 450. AGRICULTURAL CHEMICALS SECURITY CREDIT.**

21 “(a) IN GENERAL.—For purposes of section 38, in
22 the case of an eligible agricultural business, the agricul-
23 tural chemicals security credit determined under this sec-
24 tion for the taxable year is 30 percent of the qualified se-
25 curity expenditures for the taxable year.

1 “(b) FACILITY LIMITATION.—The amount of the
2 credit determined under subsection (a) with respect to any
3 facility for any taxable year shall not exceed—

4 “(1) \$100,000, reduced by

5 “(2) the aggregate amount of credits deter-
6 mined under subsection (a) with respect to such fa-
7 cility for the 5 prior taxable years.

8 “(c) ANNUAL LIMITATION.—The amount of the cred-
9 it determined under subsection (a) with respect to any tax-
10 payer for any taxable year shall not exceed \$2,000,000.

11 “(d) QUALIFIED CHEMICAL SECURITY EXPENDI-
12 TURE.—For purposes of this section, the term ‘qualified
13 chemical security expenditure’ means, with respect to any
14 eligible agricultural business for any taxable year, any
15 amount paid or incurred by such business during such tax-
16 able year for—

17 “(1) employee security training and background
18 checks,

19 “(2) limitation and prevention of access to con-
20 trols of specified agricultural chemicals stored at the
21 facility,

22 “(3) tagging, locking tank valves, and chemical
23 additives to prevent the theft of specified agricul-
24 tural chemicals or to render such chemicals unfit for
25 illegal use,

1 “(4) protection of the perimeter of specified ag-
2 ricultural chemicals,

3 “(5) installation of security lighting, cameras,
4 recording equipment, and intrusion detection sen-
5 sors,

6 “(6) implementation of measures to increase
7 computer or computer network security,

8 “(7) conducting a security vulnerability assess-
9 ment,

10 “(8) implementing a site security plan, and

11 “(9) such other measures for the protection of
12 specified agricultural chemicals as the Secretary may
13 identify in regulation.

14 Amounts described in the preceding sentence shall be
15 taken into account only to the extent that such amounts
16 are paid or incurred for the purpose of protecting specified
17 agricultural chemicals.

18 “(e) ELIGIBLE AGRICULTURAL BUSINESS.—For pur-
19 poses of this section, the term ‘eligible agricultural busi-
20 ness’ means any person in the trade or business of—

21 “(1) selling agricultural products, including
22 specified agricultural chemicals, at retail predomi-
23 nantly to farmers and ranchers, or

24 “(2) manufacturing, formulating, distributing,
25 or aerially applying specified agricultural chemicals.

1 “(f) SPECIFIED AGRICULTURAL CHEMICAL.—For
2 purposes of this section, the term ‘specified agricultural
3 chemical’ means—

4 “(1) any fertilizer commonly used in agricul-
5 tural operations which is listed under—

6 “(A) section 302(a)(2) of the Emergency
7 Planning and Community Right-to-Know Act of
8 1986,

9 “(B) section 101 of part 172 of title 49,
10 Code of Federal Regulations, or

11 “(C) part 126, 127, or 154 of title 33,
12 Code of Federal Regulations, and

13 “(2) any pesticide (as defined in section 2(u) of
14 the Federal Insecticide, Fungicide, and Rodenticide
15 Act), including all active and inert ingredients there-
16 of, which is customarily used on crops grown for
17 food, feed, or fiber.

18 “(g) CONTROLLED GROUPS.—Rules similar to the
19 rules of paragraphs (1) and (2) of section 41(f) shall apply
20 for purposes of this section.

21 “(h) REGULATIONS.—The Secretary may prescribe
22 such regulations as may be necessary or appropriate to
23 carry out the purposes of this section, including regula-
24 tions which—

1 “(1) provide for the proper treatment of
2 amounts which are paid or incurred for purpose of
3 protecting any specified agricultural chemical and
4 for other purposes, and

5 “(2) provide for the treatment of related prop-
6 erties as one facility for purposes of subsection (b).

7 “(i) TERMINATION.—This section shall not apply to
8 any amount paid or incurred after December 31, 2012.”.

9 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
10 NESS CREDIT.—Section 38(b) is amended by striking
11 “plus” at the end of paragraph (30), by striking the period
12 at the end of paragraph (31) and inserting “, plus”, and
13 by adding at the end the following new paragraph:

14 “(32) in the case of an eligible agricultural
15 business (as defined in section 45O(e)), the agricul-
16 tural chemicals security credit determined under sec-
17 tion 45O(a).”.

18 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C is
19 amended by adding at the end the following new sub-
20 section:

21 “(f) CREDIT FOR SECURITY OF AGRICULTURAL
22 CHEMICALS.—No deduction shall be allowed for that por-
23 tion of the expenses otherwise allowable as a deduction
24 taken into account in determining the credit under section
25 45O for the taxable year which is equal to the amount

1 of the credit determined for such taxable year under sec-
2 tion 450(a).”.

3 (d) CLERICAL AMENDMENT.—The table of sections
4 for subpart D of part IV of subchapter A of chapter 1
5 is amended by adding at the end the following new item:

“Sec. 450. Agricultural chemicals security credit.”.

6 (e) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to amounts paid or incurred after
8 the date of the enactment of this Act.

9 **SEC. 15344. 3-YEAR DEPRECIATION FOR RACE HORSES**
10 **THAT ARE 2-YEARS OLD OR YOUNGER.**

11 (a) IN GENERAL.—Clause (i) of section 168(e)(3)(A)
12 (relating to 3-year property) is amended to read as follows:

13 “(i) any race horse—

14 “(I) which is placed in service be-
15 fore January 1, 2014, and

16 “(II) which is placed in service
17 after December 31, 2013, and which
18 is more than 2 years old at the time
19 such horse is placed in service by such
20 purchaser.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to property placed in service after
23 December 31, 2008.

1 **SEC. 15345. TEMPORARY TAX RELIEF FOR KIOWA COUNTY,**
2 **KANSAS AND SURROUNDING AREA.**

3 (a) IN GENERAL.—Subject to the modifications de-
4 scribed in this section, the following provisions of or relat-
5 ing to the Internal Revenue Code of 1986 shall apply to
6 the Kansas disaster area in addition to the areas to which
7 such provisions otherwise apply:

8 (1) Section 1400N(d) of such Code (relating to
9 special allowance for certain property).

10 (2) Section 1400N(e) of such Code (relating to
11 increase in expensing under section 179).

12 (3) Section 1400N(f) of such Code (relating to
13 expensing for certain demolition and clean-up costs).

14 (4) Section 1400N(k) of such Code (relating to
15 treatment of net operating losses attributable to
16 storm losses).

17 (5) Section 1400N(n) of such Code (relating to
18 treatment of representations regarding income eligi-
19 bility for purposes of qualified rental project require-
20 ments).

21 (6) Section 1400N(o) of such Code (relating to
22 treatment of public utility property disaster losses).

23 (7) Section 1400Q of such Code (relating to
24 special rules for use of retirement funds).

25 (8) Section 1400R(a) of such Code (relating to
26 employee retention credit for employers).

1 (9) Section 1400S(b) of such Code (relating to
2 suspension of certain limitations on personal cas-
3 ualty losses).

4 (10) Section 405 of the Katrina Emergency
5 Tax Relief Act of 2005 (relating to extension of re-
6 placement period for nonrecognition of gain).

7 (b) KANSAS DISASTER AREA.—For purposes of this
8 section, the term “Kansas disaster area” means an area
9 with respect to which a major disaster has been declared
10 by the President under section 401 of the Robert T. Staf-
11 ford Disaster Relief and Emergency Assistance Act
12 (FEMA–1699–DR, as in effect on the date of the enact-
13 ment of this Act) by reason of severe storms and tornados
14 beginning on May 4, 2007, and determined by the Presi-
15 dent to warrant individual or individual and public assist-
16 ance from the Federal Government under such Act with
17 respect to damages attributable to such storms and tor-
18 nados.

19 (c) REFERENCES TO AREA OR LOSS.—

20 (1) AREA.—Any reference in such provisions to
21 the Katrina disaster area or the Gulf Opportunity
22 Zone shall be treated as a reference to the Kansas
23 disaster area.

24 (2) LOSS.—Any reference in such provisions to
25 any loss or damage attributable to Hurricane

1 Katrina shall be treated as a reference to any loss
2 or damage attributable to the May 4, 2007, storms
3 and tornados.

4 (d) REFERENCES TO DATES, ETC.—

5 (1) SPECIAL ALLOWANCE FOR CERTAIN PROP-
6 ERTY ACQUIRED ON OR AFTER MAY 5, 2007.—Section
7 1400N(d) of such Code—

8 (A) by substituting “qualified Recovery As-
9 sistance property” for “qualified Gulf Oppor-
10 tunity Zone property” each place it appears,

11 (B) by substituting “May 5, 2007” for
12 “August 28, 2005” each place it appears,

13 (C) by substituting “December 31, 2008”
14 for “December 31, 2007” in paragraph
15 (2)(A)(v),

16 (D) by substituting “December 31, 2009”
17 for “December 31, 2008” in paragraph
18 (2)(A)(v),

19 (E) by substituting “May 4, 2007” for
20 “August 27, 2005” in paragraph (3)(A),

21 (F) by substituting “January 1, 2009” for
22 “January 1, 2008” in paragraph (3)(B), and

23 (G) determined without regard to para-
24 graph (6) thereof.

1 (2) INCREASE IN EXPENSING UNDER SECTION
2 179.—Section 1400N(e) of such Code, by sub-
3 stituting “qualified section 179 Recovery Assistance
4 property” for “qualified section 179 Gulf Oppor-
5 tunity Zone property” each place it appears.

6 (3) EXPENSING FOR CERTAIN DEMOLITION AND
7 CLEAN-UP COSTS.—Section 1400N(f) of such
8 Code—

9 (A) by substituting “qualified Recovery As-
10 sistance clean-up cost” for “qualified Gulf Op-
11 portunity Zone clean-up cost” each place it ap-
12 pears, and

13 (B) by substituting “beginning on May 4,
14 2007, and ending on December 31, 2009” for
15 “beginning on August 28, 2005, and ending on
16 December 31, 2007” in paragraph (2) thereof.

17 (4) TREATMENT OF NET OPERATING LOSSES
18 ATTRIBUTABLE TO STORM LOSSES.—Section
19 1400N(k) of such Code—

20 (A) by substituting “qualified Recovery As-
21 sistance loss” for “qualified Gulf Opportunity
22 Zone loss” each place it appears,

23 (B) by substituting “after May 3, 2007,
24 and before on January 1, 2010” for “after Au-

1 gust 27, 2005, and before January 1, 2008”
2 each place it appears,

3 (C) by substituting “May 4, 2007” for
4 “August 28, 2005” in paragraph (2)(B)(ii)(I)
5 thereof,

6 (D) by substituting “qualified Recovery
7 Assistance property” for “qualified Gulf Oppor-
8 tunity Zone property” in paragraph (2)(B)(iv)
9 thereof, and

10 (E) by substituting “qualified Recovery As-
11 sistance casualty loss” for “qualified Gulf Op-
12 portunity Zone casualty loss” each place it ap-
13 pears.

14 (5) SPECIAL RULES FOR USE OF RETIREMENT
15 FUNDS.—Section 1400Q of such Code—

16 (A) by substituting “qualified Recovery As-
17 sistance distribution” for “qualified hurricane
18 distribution” each place it appears,

19 (B) by substituting “on or after May 4,
20 2007, and before January 1, 2009” for “on or
21 after August 25, 2005, and before January 1,
22 2007” in subsection (a)(4)(A)(i),

23 (C) by substituting “May 4, 2007” for
24 “August 28, 2005” in subsections (a)(4)(A)(i)
25 and (c)(3)(B),

1 (D) disregarding clauses (ii) and (iii) of
2 subsection (a)(4)(A),

3 (E) by substituting “qualified storm dis-
4 tribution” for “qualified Katrina distribution”
5 each place it appears,

6 (F) by substituting “after November 4,
7 2006, and before May 5, 2007” for “after Feb-
8 ruary 28, 2005, and before August 29, 2005”
9 in subsection (b)(2)(B)(ii),

10 (G) by substituting “the Kansas disaster
11 area (as defined in section 15345(b) of the
12 Food, Conservation, and Energy Act of 2008)
13 but which was not so purchased or constructed
14 on account of the May 4, 2007, storms and tor-
15 nados” for “the Hurricane Katrina disaster
16 area, but not so purchased or constructed on
17 account of Hurricane Katrina” in subsection
18 (b)(2)(B)(iii),

19 (H) by substituting “beginning on May 4,
20 2007, and ending on the date which is 5
21 months after the date of the enactment of the
22 Heartland, Habitat, Harvest, and Horticulture
23 Act of 2008” for “beginning on August 25,
24 2005, and ending on February 28, 2006” in
25 subsection (b)(3)(A),

1 (I) by substituting “qualified storm indi-
2 vidual” for “qualified Hurricane Katrina indi-
3 vidual” each place it appears,

4 (J) by substituting “December 31, 2008”
5 for “December 31, 2006” in subsection
6 (c)(2)(A),

7 (K) by substituting “beginning on the date
8 of the enactment of the Food, Conservation,
9 and Energy Act of 2008 and ending on Decem-
10 ber 31, 2008” for “beginning on September 24,
11 2005, and ending on December 31, 2006” in
12 subsection (c)(4)(A)(i),

13 (L) by substituting “May 4, 2007” for
14 “August 25, 2005” in subsection (c)(4)(A)(ii),
15 and

16 (M) by substituting “January 1, 2009” for
17 “January 1, 2007” in subsection (d)(2)(A)(ii).

18 (6) EMPLOYEE RETENTION CREDIT FOR EM-
19 PLOYERS AFFECTED BY MAY 4 STORMS AND TOR-
20 NADOS.—Section 1400R(a) of the Internal Revenue
21 Code of 1986—

22 (A) by substituting “May 4, 2007” for
23 “August 28, 2005” each place it appears,

24 (B) by substituting “January 1, 2008” for
25 “January 1, 2006” both places it appears, and

1 (C) only with respect to eligible employers
2 who employed an average of not more than 200
3 employees on business days during the taxable
4 year before May 4, 2007.

5 (7) SUSPENSION OF CERTAIN LIMITATIONS ON
6 PERSONAL CASUALTY LOSSES.—Section 1400S(b)(1)
7 of the Internal Revenue Code of 1986, by sub-
8 stituting “May 4, 2007” for “August 25, 2005”.

9 (8) EXTENSION OF REPLACEMENT PERIOD FOR
10 NONRECOGNITION OF GAIN.—Section 405 of the
11 Katrina Emergency Tax Relief Act of 2005, by sub-
12 stituting “on or after May 4, 2007” for “on or after
13 August 25, 2005”.

14 **SEC. 15346. COMPETITIVE CERTIFICATION AWARDS MODI-**
15 **FICATION AUTHORITY.**

16 (a) IN GENERAL.—Section 48A (relating to quali-
17 fying advanced coal project credit) is amended by adding
18 at the end the following new subsection:

19 “(h) COMPETITIVE CERTIFICATION AWARDS MODI-
20 FICATION AUTHORITY.—In implementing this section or
21 section 48B, the Secretary is directed to modify the terms
22 of any competitive certification award and any associated
23 closing agreement where such modification—

24 “(1) is consistent with the objectives of such
25 section,

1 “(j) LIMITATION ON EXCESS FARM LOSSES OF CER-
2 TAIN TAXPAYERS.—

3 “(1) LIMITATION.—If a taxpayer other than a
4 C corporation receives any applicable subsidy for any
5 taxable year, any excess farm loss of the taxpayer
6 for the taxable year shall not be allowed.

7 “(2) DISALLOWED LOSS CARRIED TO NEXT
8 TAXABLE YEAR.—Any loss which is disallowed under
9 paragraph (1) shall be treated as a deduction of the
10 taxpayer attributable to farming businesses in the
11 next taxable year.

12 “(3) APPLICABLE SUBSIDY.—For purposes of
13 this subsection, the term ‘applicable subsidy’
14 means—

15 “(A) any direct or counter-cyclical pay-
16 ment under title I of the Food, Conservation,
17 and Energy Act of 2008, or any payment elect-
18 ed to be received in lieu of any such payment,
19 or

20 “(B) any Commodity Credit Corporation
21 loan.

22 “(4) EXCESS FARM LOSS.—For purposes of this
23 subsection—

24 “(A) IN GENERAL.—The term ‘excess farm
25 loss’ means the excess of—

1 “(i) the aggregate deductions of the
2 taxpayer for the taxable year which are at-
3 tributable to farming businesses of such
4 taxpayer (determined without regard to
5 whether or not such deductions are dis-
6 allowed for such taxable year under para-
7 graph (1)), over

8 “(ii) the sum of—

9 “(I) the aggregate gross income
10 or gain of such taxpayer for the tax-
11 able year which is attributable to such
12 farming businesses, plus

13 “(II) the threshold amount for
14 the taxable year.

15 “(B) THRESHOLD AMOUNT.—

16 “(i) IN GENERAL.—The term ‘thresh-
17 old amount’ means, with respect to any
18 taxable year, the greater of—

19 “(I) \$300,000 (\$150,000 in the
20 case of married individuals filing sepa-
21 rately), or

22 “(II) the excess (if any) of the
23 aggregate amounts described in sub-
24 paragraph (A)(ii)(I) for the 5-con-
25 secutive taxable year period preceding

1 the taxable year over the aggregate
2 amounts described in subparagraph
3 (A)(i) for such period.

4 “(ii) SPECIAL RULES FOR DETER-
5 MINING AGGREGATE AMOUNTS.—For pur-
6 poses of clause (i)(II)—

7 “(I) notwithstanding the dis-
8 regard in subparagraph (A)(i) of any
9 disallowance under paragraph (1), in
10 the case of any loss which is carried
11 forward under paragraph (2) from
12 any taxable year, such loss (or any
13 portion thereof) shall be taken into
14 account for the first taxable year in
15 which a deduction for such loss (or
16 portion) is not disallowed by reason of
17 this subsection, and

18 “(II) the Secretary shall pre-
19 scribe rules for the computation of the
20 aggregate amounts described in such
21 clause in cases where the filing status
22 of the taxpayer is not the same for
23 the taxable year and each of the tax-
24 able years in the period described in
25 such clause.

1 “(C) FARMING BUSINESS.—

2 “(i) IN GENERAL.—The term ‘farming
3 business’ has the meaning given such term
4 in section 263A(e)(4).

5 “(ii) CERTAIN TRADES AND BUSI-
6 NESSES INCLUDED.—If, without regard to
7 this clause, a taxpayer is engaged in a
8 farming business with respect to any agri-
9 cultural or horticultural commodity—

10 “(I) the term ‘farming business’
11 shall include any trade or business of
12 the taxpayer of the processing of such
13 commodity (without regard to whether
14 the processing is incidental to the
15 growing, raising, or harvesting of such
16 commodity), and

17 “(II) if the taxpayer is a member
18 of a cooperative to which subchapter
19 T applies, any trade or business of the
20 cooperative described in subclause (I)
21 shall be treated as the trade or busi-
22 ness of the taxpayer.

23 “(D) CERTAIN LOSSES DISREGARDED.—
24 For purposes of subparagraph (A)(i), there
25 shall not be taken into account any deduction

1 for any loss arising by reason of fire, storm, or
2 other casualty, or by reason of disease or
3 drought, involving any farming business.

4 “(5) APPLICATION OF SUBSECTION IN CASE OF
5 PARTNERSHIPS AND S CORPORATIONS.—In the case
6 of a partnership or S corporation—

7 “(A) this subsection shall be applied at the
8 partner or shareholder level, and

9 “(B) each partner’s or shareholder’s pro-
10 portionate share of the items of income, gain,
11 or deduction of the partnership or S corpora-
12 tion for any taxable year from farming busi-
13 nesses attributable to the partnership or S cor-
14 poration, and of any applicable subsidies re-
15 ceived by the partnership or S corporation dur-
16 ing the taxable year, shall be taken into account
17 by the partner or shareholder in applying this
18 subsection to the taxable year of such partner
19 or shareholder with or within which the taxable
20 year of the partnership or S corporation ends.

21 The Secretary may provide rules for the application
22 of this paragraph to any other pass-thru entity to
23 the extent necessary to carry out the provisions of
24 this subsection.

1 “(6) ADDITIONAL REPORTING.—The Secretary
2 may prescribe such additional reporting require-
3 ments as the Secretary determines appropriate to
4 carry out the purposes of this subsection.

5 “(7) COORDINATION WITH SECTION 469.—This
6 subsection shall be applied before the application of
7 section 469.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to taxable years beginning after
10 December 31, 2009.

11 **SEC. 15352. MODIFICATION TO OPTIONAL METHOD OF COM-**
12 **PUTING NET EARNINGS FROM SELF-EMPLOY-**
13 **MENT.**

14 (a) AMENDMENTS TO THE INTERNAL REVENUE
15 CODE OF 1986.—

16 (1) IN GENERAL.—The matter following para-
17 graph (17) of section 1402(a) is amended—

18 (A) by striking “\$2,400” each place it ap-
19 pears and inserting “the upper limit”, and

20 (B) by striking “\$1,600” each place it ap-
21 pears and inserting “the lower limit”.

22 (2) DEFINITIONS.—Section 1402 is amended by
23 adding at the end the following new subsection:

24 “(l) UPPER AND LOWER LIMITS.—For purposes of
25 subsection (a)—

1 “(1) LOWER LIMIT.—The lower limit for any
2 taxable year is the sum of the amounts required
3 under section 213(d) of the Social Security Act for
4 a quarter of coverage in effect with respect to each
5 calendar quarter ending with or within such taxable
6 year.

7 “(2) UPPER LIMIT.—The upper limit for any
8 taxable year is the amount equal to 150 percent of
9 the lower limit for such taxable year.”.

10 (b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—

11 (1) IN GENERAL.—The matter following para-
12 graph (16) of section 211(a) of the Social Security
13 Act is amended—

14 (A) by striking “\$2,400” each place it ap-
15 pears and inserting “the upper limit”, and

16 (B) by striking “\$1,600” each place it ap-
17 pears and inserting “the lower limit”.

18 (2) DEFINITIONS.—Section 211 of such Act is
19 amended by adding at the end the following new
20 subsection:

21 “(k) UPPER AND LOWER LIMITS.—For purposes of
22 subsection (a)—

23 “(1) The lower limit for any taxable year is the
24 sum of the amounts required under section 213(d)
25 for a quarter of coverage in effect with respect to

1 each calendar quarter ending with or within such
2 taxable year.

3 “(2) The upper limit for any taxable year is the
4 amount equal to 150 percent of the lower limit for
5 such taxable year.”.

6 (3) CONFORMING AMENDMENT.—Section 212
7 of such Act is amended—

8 (A) in subsection (b), by striking “For”
9 and inserting “Except as provided in subsection
10 (c), for”; and

11 (B) by adding at the end the following new
12 subsection:

13 “(c) For the purpose of determining average indexed
14 monthly earnings, average monthly wage, and quarters of
15 coverage in the case of any individual who elects the option
16 described in clause (ii) or (iv) in the matter following sec-
17 tion 211(a)(16) for any taxable year that does not begin
18 with or during a particular calendar year and end with
19 or during such year, the self-employment income of such
20 individual deemed to be derived during such taxable year
21 shall be allocated to the two calendar years, portions of
22 which are included within such taxable year, in the same
23 proportion to the total of such deemed self-employment
24 income as the sum of the amounts applicable under section
25 213(d) for the calendar quarters ending with or within

1 each such calendar year bears to the lower limit for such
2 taxable year specified in section 211(k)(1).”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2007.

6 **SEC. 15353. INFORMATION REPORTING FOR COMMODITY**
7 **CREDIT CORPORATION TRANSACTIONS.**

8 (a) IN GENERAL.—Subpart A of part III of sub-
9 chapter A of chapter 61 (relating to information con-
10 cerning persons subject to special provisions) is amended
11 by inserting after section 6039I the following new section:

12 **“SEC. 6039J. INFORMATION REPORTING WITH RESPECT TO**
13 **COMMODITY CREDIT CORPORATION TRANS-**
14 **ACTIONS.**

15 “(a) REQUIREMENT OF REPORTING.—The Com-
16 modity Credit Corporation, through the Secretary of Agri-
17 culture, shall make a return, according to the forms and
18 regulations prescribed by the Secretary of the Treasury,
19 setting forth any market gain realized by a taxpayer dur-
20 ing the taxable year in relation to the repayment of a loan
21 issued by the Commodity Credit Corporation, without re-
22 gard to the manner in which such loan was repaid.

23 “(b) STATEMENTS TO BE FURNISHED TO PERSONS
24 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—
25 The Secretary of Agriculture shall furnish to each person

1 whose name is required to be set forth in a return required
2 under subsection (a) a written statement showing the
3 amount of market gain reported in such return.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for subpart A of part III of subchapter A of chapter 61
6 is amended by inserting after the item relating to section
7 6039I the following new item:

“Sec. 6039J. Information reporting with respect to Commodity Credit Corpora-
tion transactions.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to loans repaid on or after January
10 1, 2007.

11 **PART V—PROTECTION OF SOCIAL SECURITY**

12 **SEC. 15361. PROTECTION OF SOCIAL SECURITY.**

13 To ensure that the assets of the trust funds estab-
14 lished under section 201 of the Social Security Act (42
15 U.S.C. 401) are not reduced as a result of the enactment
16 of this Act, the Secretary of the Treasury shall transfer
17 annually from the general revenues of the Federal Govern-
18 ment to those trust funds the following amounts:

19 (1) For fiscal year 2009, \$5,000,000.

20 (2) For fiscal year 2010, \$9,000,000.

21 (3) For fiscal year 2011, \$8,000,000.

22 (4) For fiscal year 2012, \$7,000,000.

23 (5) For fiscal year 2013, \$8,000,000.

24 (6) For fiscal year 2014, \$8,000,000.

1 (7) For fiscal year 2015, \$8,000,000.

2 (8) For fiscal year 2016, \$6,000,000.

3 (9) For fiscal year 2017, \$7,000,000.

4 **Subtitle D—Trade Provisions**

5 **PART I—EXTENSION OF CERTAIN TRADE**

6 **BENEFITS**

7 **SEC. 15401. SHORT TITLE.**

8 This part may be cited as the “Haitian Hemispheric
9 Opportunity through Partnership Encouragement Act of
10 2008” or the “HOPE II Act”.

11 **SEC. 15402. BENEFITS FOR APPAREL AND OTHER TEXTILE**

12 **ARTICLES.**

13 (a) VALUE-ADDED RULE.—Section 213A(b) of the
14 Caribbean Basin Economic Recovery Act (19 U.S.C.
15 2703a(b)) is amended as follows:

16 (1) The subsection heading is amended to read
17 as follows: “APPAREL AND OTHER TEXTILE ARTI-
18 CLES”.

19 (2) Paragraph (1) is amended to read as fol-
20 lows:

21 “(1) VALUE-ADDED RULE FOR APPAREL ARTI-
22 CLES.—

23 “(A) IN GENERAL.—Apparel articles de-
24 scribed in subparagraph (B) of a producer or
25 entity controlling production that are imported

1 directly from Haiti or the Dominican Republic
2 shall enter the United States free of duty dur-
3 ing an applicable 1-year period, subject to the
4 limitations set forth in subparagraphs (B) and
5 (C), and subject to subparagraph (D).”.

6 (3) Paragraph (2) is amended—

7 (A) in subparagraph (A)—

8 (i) by moving such subparagraph 2
9 ems to the right;

10 (ii) in clause (i), by striking “subpara-
11 graph (C)” and inserting “clause (iii)”;

12 (iii) in clause (ii), by striking “sub-
13 paragraph (C)” and inserting “clause
14 (iii)”;

15 (iv) in the matter following clause (ii),
16 by striking “subparagraph (E)(I)” and in-
17 serting “clause (v)(I)”;

18 (v) by redesignating clauses (i) and
19 (ii) as subclauses (I) and (II), respectively;
20 and

21 (vi) by redesignating subparagraph
22 (A) as clause (i);

23 (B) in subparagraph (B)—

24 (i) by moving such subparagraph 2
25 ems to the right;

- 1 (ii) by striking “subparagraph (A)(i)”
2 each place it appears and inserting “clause
3 (i)(I)”;
- 4 (iii) by redesignating clauses (i) and
5 (ii) as subclauses (I) and (II), respectively;
6 and
- 7 (iv) by redesignating subparagraph
8 (B) as clause (ii);
9 (C) in subparagraph (C)—
- 10 (i) by moving such subparagraph 2
11 ems to the right;
- 12 (ii) in the matter preceding clause (i),
13 by striking “subparagraph (A)” and insert-
14 ing “clause (i)”;
- 15 (iii) in clause (ii), by striking “that
16 enters into force” and all that follows
17 through “et seq.)” and inserting “that en-
18 ters into force thereafter”;
- 19 (iv) by redesignating clauses (i)
20 through (v) as subclauses (I) through (V),
21 respectively; and
- 22 (v) by redesignating subparagraph (C)
23 as clause (iii);
24 (D) in subparagraph (D)—

1 (i) by moving such subparagraph 2
2 ems to the right;

3 (ii) in clause (i)—

4 (I) in the matter preceding sub-
5 clause (I), by striking “subparagraph
6 (A)” and inserting “clause (i)”;

7 (II) in subclause (I), by striking
8 “clause (i) of subparagraph (A)” and
9 inserting “subclause (I) of clause (i)”;

10 (III) in subclause (II), by strik-
11 ing “clause (ii) of subparagraph (A)”
12 and inserting “subclause (II) of clause
13 (i)”;

14 (IV) by redesignating subclauses
15 (I) and (II) as items (aa) and (bb),
16 respectively; and

17 (V) by redesignating clause (i) as
18 subclause (I);

19 (iii) in clause (ii)—

20 (I) in the matter preceding sub-
21 clause (I), by striking “subparagraph
22 (A)” and inserting “clause (i)”;

23 (II) in subclause (I), by striking
24 “clause (i) of subparagraph (A)” and
25 inserting “subclause (I) of clause (i)”;

1 (III) in subclause (II), by strik-
2 ing “clause (ii) of subparagraph (A)”
3 and inserting “subclause (II) of clause
4 (i)”;

5 (IV) by redesignating subclauses
6 (I) and (II) as items (aa) and (bb),
7 respectively; and

8 (V) by redesignating clause (ii)
9 as subclause (II);
10 (iv) in clause (iii)—

11 (I) by striking “clause (i)(I) or
12 (ii)(I)” each place it appears and in-
13 sserting “subclause (I)(aa) or
14 (II)(aa)”;

15 (II) by redesignating subclauses
16 (I) and (II) as items (aa) and (bb),
17 respectively; and

18 (III) by redesignating clause (iii)
19 as subclause (III);

20 (v) by amending clause (iv) to read as
21 follows:

22 “(IV) INCLUSION IN CALCULA-
23 TION OF OTHER ARTICLES RECEIVING
24 PREFERENTIAL TREATMENT.—Entries
25 of apparel articles that receive pref-

1 differential treatment under any provision
2 of law other than this subparagraph
3 or are subject to the ‘General’ column
4 1 rate of duty under the HTS are not
5 included in the annual aggregation
6 under subclause (I) or (II) unless the
7 producer or entity controlling produc-
8 tion elects, at the time the annual ag-
9 gregation calculation is made, to in-
10 clude such entries in such aggrega-
11 tion.”; and

12 (vi) by redesignating subparagraph
13 (D) as clause (iv);

14 (E) in subparagraph (E)—

15 (i) by moving such subparagraph 2
16 ems to the right;

17 (ii) in clause (i)—

18 (I) by redesignating subclauses
19 (I) through (III) as items (aa)
20 through (cc), respectively; and

21 (II) by redesignating clause (i) as
22 subclause (I);

23 (iii) in clause (ii)—

24 (I) by striking “subparagraph
25 (C)” and inserting “clause (iii)”; and

1 (II) by redesignating clause (ii)
2 as subclause (II); and
3 (iv) by redesignating subparagraph
4 (E) as clause (v);
5 (F) in subparagraph (F)—
6 (i) by moving such subparagraph 2
7 ems to the right;
8 (ii) in clause (i)—
9 (I) by striking “The Bureau of
10 Customs and Border Protection” and
11 inserting “U.S. Customs and Border
12 Protection”;
13 (II) by striking “subparagraphs
14 (A) and (D)” and inserting “clauses
15 (i) and (iv)”; and
16 (III) by redesignating clause (i)
17 as subclause (I);
18 (iii) in clause (ii)—
19 (I) in the matter preceding sub-
20 clause (I)—
21 (aa) by striking “the Bureau
22 of Customs and Border Protec-
23 tion” and inserting “U.S. Cus-
24 toms and Border Protection”;

- 1 (bb) by striking “subpara-
- 2 graph (A)” each place it appears
- 3 and inserting “clause (i)”; and
- 4 (cc) by striking “subpara-
- 5 graph (D)” and inserting “clause
- 6 (iv)”;
- 7 (II) in subclause (I), by striking
- 8 “clause (i) of subparagraph (A)” and
- 9 inserting “subclause (I) of clause (i)”;
- 10 (III) in subclause (II), by strik-
- 11 ing “clause (ii) of subparagraph (A)”
- 12 and inserting “subclause (II) of clause
- 13 (i)”;
- 14 (IV) in the matter following sub-
- 15 clause (II), by striking “subparagraph
- 16 (E)(i)” and inserting “clause (v)(I)”;
- 17 (V) by redesignating subclauses
- 18 (I) and (II) as items (aa) and (bb),
- 19 respectively; and
- 20 (VI) by redesignating clause (ii)
- 21 as subclause (II);
- 22 (iv) in clause (iii)—
- 23 (I) in subclause (I)—

- 1 (aa) by striking “paragraph
2 (1)” and inserting “subpara-
3 graph (A)”; and
- 4 (bb) by striking “subpara-
5 graph (A) or (D)” and inserting
6 “clause (i) or (iv)”;
- 7 (II) in subclause (II), by striking
8 “clause (ii) of this subparagraph” and
9 inserting “subclause (II) of this
10 clause”;
- 11 (III) in the matter following sub-
12 clause (II)—
- 13 (aa) by striking “the Bureau
14 of Customs and Border Protec-
15 tion” each place it appears and
16 inserting “U.S. Customs and
17 Border Protection”; and
- 18 (bb) by striking “subclause
19 (II)” and inserting “item (bb)”;
20 and
- 21 (IV) in item (bb)—
- 22 (aa) by striking “paragraph
23 (1)” and inserting “subpara-
24 graph (A)”; and

1 (bb) by striking “subpara-
2 graph (A) or (D)” and inserting
3 “clause (i) or (iv)”; and

4 (V) in the matter following item
5 (bb), by striking “paragraph (1)” and
6 inserting “subparagraph (A)”;

7 (VI) by redesignating items (aa)
8 and (bb) as subitems (AA) and (BB),
9 respectively;

10 (VII) by redesignating subclauses
11 (I) and (II) as items (aa) and (bb),
12 respectively; and

13 (VIII) by redesignating clause
14 (iii) as subclause (III); and

15 (v) by redesignating subparagraph (F)
16 as clause (vi);

17 (G) in subparagraph (G)—

18 (i) by moving such subparagraph 2
19 ems to the right;

20 (ii) in clause (i)—

21 (I) in the matter preceding sub-
22 clause (I), by striking “subparagraph
23 (A) or (D)” and inserting “clause (i)
24 or (iv)”; and

25 (II) in subclause (II)—

1 (aa) in item (dd), by strik-
2 ing “under the Bipartisan Trade
3 Promotion Authority Act of
4 2002” and inserting “with re-
5 spect to the United States”; and
6 (bb) by redesignating items
7 (aa) through (dd) as subitems
8 (AA) through (DD), respectively;
9 (III) by redesignating subclauses
10 (I) and (II) as items (aa) and (bb),
11 respectively; and
12 (IV) by redesignating clause (i)
13 as subclause (I);
14 (iii) in clause (ii)—
15 (I) in subclause (I), by striking
16 “clause (i)(I)” and inserting “sub-
17 clause (I)(aa)”;
18 (II) in subclause (II), by striking
19 “clause (i)(II)” and inserting “sub-
20 clause (I)(bb)”;
21 (III) by redesignating subclauses
22 (I) and (II) as items (aa) and (bb),
23 respectively; and
24 (IV) by redesignating clause (ii)
25 as subclause (II); and

1 (iv) by redesignating subparagraph
2 (G) as clause (vii); and

3 (H) by striking “(2) APPAREL ARTICLES
4 DESCRIBED.—” and inserting the following:

5 “(B) APPAREL ARTICLES DESCRIBED.—”.

6 (4) Paragraph (3) is amended—

7 (A) by redesignating such paragraph as
8 subparagraph (C) and moving it 2 ems to the
9 right;

10 (B) by striking “paragraph (1)” each place
11 it appears and inserting “subparagraph (A)”;
12 and

13 (C) in the table—

14 (i) by striking “1.5 percent” and in-
15 serting “1.25 percent”;

16 (ii) by striking “1.75 percent” and in-
17 serting “1.25 percent”; and

18 (iii) by striking “2 percent” and in-
19 serting “1.25 percent”.

20 (5) The following is added after subparagraph
21 (C), as redesignated by paragraph (4)(A) of this
22 subsection:

23 “(D) OTHER PREFERENTIAL TREATMENT
24 NOT AFFECTED BY QUANTITATIVE LIMITA-
25 TIONS.—Any apparel article that qualifies for

1 preferential treatment under paragraph (2),
2 (3), (4), or (5) or any other provision of this
3 title shall not be subject to, or included in the
4 calculation of, the quantitative limitations under
5 subparagraph (C).”.

6 (b) SPECIAL RULE FOR WOVEN ARTICLES AND CER-
7 TAIN KNIT ARTICLES.—Section 213A(b) of the Carribean
8 Basin Economic Recovery Act is amended by striking
9 paragraph (4) and inserting the following:

10 “(2) SPECIAL RULE FOR WOVEN ARTICLES AND
11 CERTAIN KNIT ARTICLES.—

12 “(A) SPECIAL RULE FOR ARTICLES OF
13 CHAPTER 62 OF THE HTS.—

14 “(i) GENERAL RULE.—Any apparel
15 article classifiable under chapter 62 of the
16 HTS that is wholly assembled, or knit-to-
17 shape, in Haiti from any combination of
18 fabrics, fabric components, components
19 knit-to-shape, or yarns and is imported di-
20 rectly from Haiti or the Dominican Repub-
21 lic shall enter the United States free of
22 duty, subject to clauses (ii) and (iii), with-
23 out regard to the source of the fabric, fab-
24 ric components, components knit-to-shape,
25 or yarns from which the article is made.

1 “(ii) LIMITATION.—The preferential
2 treatment described in clause (i) shall be
3 extended, in the 1-year period beginning
4 October 1, 2008, and in each of the 9 suc-
5 ceeding 1-year periods, to not more than
6 70,000,000 square meter equivalents of ap-
7 parel articles described in such clause.

8 “(iii) OTHER PREFERENTIAL TREAT-
9 MENT NOT AFFECTED BY QUANTITATIVE
10 LIMITATION.—Any apparel article that
11 qualifies for preferential treatment under
12 paragraph (1), (3), (4), or (5) or subpara-
13 graph (B) of this paragraph or any other
14 provision of this title shall not be subject
15 to, or included in the calculation of, the
16 quantitative limitation under clause (ii).

17 “(B) SPECIAL RULE FOR CERTAIN ARTI-
18 CLES OF CHAPTER 61 OF THE HTS.—

19 “(i) GENERAL RULE.—Any apparel
20 article classifiable under chapter 61 of the
21 HTS that is wholly assembled, or knit-to-
22 shape, in Haiti from any combination of
23 fabrics, fabric components, components
24 knit-to-shape, or yarns and is imported di-
25 rectly from Haiti or the Dominican Repub-

1 lic shall enter the United States free of
2 duty, subject to clauses (ii), (iii), and (iv),
3 without regard to the source of the fabric,
4 fabric components, components knit-to-
5 shape, or yarns from which the article is
6 made.

7 “(ii) EXCLUSIONS.—The preferential
8 treatment described in clause (i) shall not
9 apply to the following:

10 “(I) The following apparel arti-
11 cles of cotton, for men or boys, that
12 are classifiable under subheading
13 6109.10.00 of the HTS:

14 “(aa) All white T-shirts,
15 with short hemmed sleeves and
16 hemmed bottom, with crew or
17 round neckline or with V-neck
18 and with a mitered seam at the
19 center of the V, and without
20 pockets, trim, or embroidery.

21 “(bb) All white singlets,
22 without pockets, trim, or embroi-
23 dery.

24 “(cc) Other T-shirts, but not
25 including thermal undershirts.

1 “(II) T-shirts for men or boys
2 that are classifiable under subheading
3 6109.90.10.

4 “(III) The following apparel arti-
5 cles of cotton, for men or boys, that
6 are classifiable under subheading
7 6110.20.20 of the HTS:

8 “(aa) Sweatshirts.

9 “(bb) Pullovers, other than
10 sweaters, vests, or garments im-
11 ported as part of playsuits.

12 “(IV) Sweatshirts for men or
13 boys, of man-made fibers and con-
14 taining less than 65 percent by weight
15 of man-made fibers, that are classifi-
16 able under subheading 6110.30.30 of
17 the HTS.

18 “(iii) LIMITATION.—The preferential
19 treatment described in clause (i) shall be
20 extended, in the 1-year period beginning
21 October 1, 2008, and in each of the 9 suc-
22 ceeding 1-year periods, to not more than
23 70,000,000 square meter equivalents of ap-
24 parel articles described in such clause.

1 “(iv) OTHER PREFERENTIAL TREAT-
2 MENT NOT AFFECTED BY QUANTITATIVE
3 LIMITATION.—Any apparel article that
4 qualifies for preferential treatment under
5 paragraph (1), (3), (4), or (5) or subpara-
6 graph (A) of this paragraph or any other
7 provision of this title shall not be subject
8 to, or included in the calculation of, the
9 quantitative limitation under clause (iii).”.

10 (c) SINGLE TRANSFORMATION RULES NOT SUBJECT
11 TO QUANTITATIVE LIMITATIONS.—Section 213A(b) of the
12 Caribbean Basin Economic Recovery Act is amended by
13 striking paragraph (5) and inserting the following:

14 “(3) APPAREL AND OTHER ARTICLES SUBJECT
15 TO CERTAIN ASSEMBLY RULES.—

16 “(A) BRASSIERES.—Any apparel article
17 classifiable under subheading 6212.10 of the
18 HTS that is wholly assembled, or knit-to-shape,
19 in Haiti from any combination of fabrics, fabric
20 components, components knit-to-shape, or yarns
21 and is imported directly from Haiti or the Do-
22 minican Republic shall enter the United States
23 free of duty, without regard to the source of the
24 fabric, fabric components, components knit-to-
25 shape, or yarns from which the article is made.

1 “(B) OTHER APPAREL ARTICLES.—Any of
2 the following apparel articles that is wholly as-
3 sembled, or knit-to-shape, in Haiti from any
4 combination of fabrics, fabric components, com-
5 ponents knit-to-shape, or yarns and is imported
6 directly from Haiti or the Dominican Republic
7 shall enter the United States free of duty, with-
8 out regard to the source of the fabric, fabric
9 components, components knit-to-shape, or yarns
10 from which the article is made:

11 “(i) Any apparel article that is of a
12 type listed in chapter rule 3, 4, or 5 for
13 chapter 61 of the HTS (as such chapter
14 rules are contained in section A of the
15 Annex to Proclamation 8213 of the Presi-
16 dent of December 20, 2007) as being ex-
17 cluded from the scope of such chapter rule,
18 when such chapter rule is applied to deter-
19 mine whether an apparel article is an origi-
20 nating good for purposes of general note
21 29(n) to the HTS, except that, for pur-
22 poses of this clause, reference in such
23 chapter rules to ‘6104.12.00’ shall be
24 deemed to be a reference to ‘6104.19.60’.

1 “(ii)(I) Subject to subclause (II), any
2 apparel article that is of a type listed in
3 chapter rule 3(a), 4(a), or 5(a) for chapter
4 62 of the HTS, as such chapter rules are
5 contained in paragraph 9 of section A of
6 the Annex to Proclamation 8213 of the
7 President of December 20, 2007.

8 “(II) Subclause (I) shall not include
9 any apparel article to which subparagraph
10 (A) of this paragraph applies.

11 “(C) LUGGAGE AND SIMILAR ITEMS.—Any
12 article classifiable under subheading 4202.12,
13 4202.22, 4202.32 or 4202.92 of the HTS that
14 is wholly assembled in Haiti and is imported di-
15 rectly from Haiti or the Dominican Republic
16 shall enter the United States free of duty, with-
17 out regard to the source of the fabric, compo-
18 nents, or materials from which the article is
19 made.

20 “(D) HEADGEAR.—Any article classifiable
21 under heading 6501, 6502, or 6504 of the
22 HTS, or under subheading 6505.90 of the
23 HTS, that is wholly assembled, knit-to-shape,
24 or formed in Haiti from any combination of
25 fabrics, fabric components, components knit-to-

1 shape, or yarns and is imported directly from
2 Haiti or the Dominican Republic shall enter the
3 United States free of duty, without regard to
4 the source of the fabric, fabric components,
5 components knit-to-shape, or yarns from which
6 the article is made.

7 “(E) CERTAIN SLEEPWEAR.—Any of the
8 following apparel articles that is wholly assem-
9 bled, or knit-to-shape, in Haiti from any com-
10 bination of fabrics, fabric components, compo-
11 nents knit-to-shape, or yarns and is imported
12 directly from Haiti or the Dominican Republic
13 shall enter the United States free of duty, with-
14 out regard to the source of the fabric, fabric
15 components, components knit-to-shape, or yarns
16 from which the article is made:

17 “(i) Pajama bottoms and other
18 sleepwear for women and girls, of cotton,
19 that are classifiable under subheading
20 6208.91.30, or of man-made fibers, that
21 are classifiable under subheading
22 6208.92.00.

23 “(ii) Pajama bottoms and other
24 sleepwear for girls, of other textile mate-

1 rials, that are classifiable under sub-
2 heading 6208.99.20.”.

3 (d) EARNED IMPORT ALLOWANCE RULES.—Section
4 231A(b) of the Caribbean Basin Economic Recovery Act
5 is amended by adding at the end the following new para-
6 graph:

7 “(4) EARNED IMPORT ALLOWANCE RULE.—

8 “(A) IN GENERAL.—Apparel articles whol-
9 ly assembled, or knit-to-shape, in Haiti from
10 any combination of fabrics, fabric components,
11 components knit-to-shape, or yarns and im-
12 ported directly from Haiti or the Dominican
13 Republic shall enter the United States free of
14 duty, without regard to the source of the fabric,
15 fabric components, components knit-to-shape,
16 or yarns from which the articles are made, if
17 such apparel articles are accompanied by an
18 earned import allowance certificate that reflects
19 the amount of credits equal to the total square
20 meter equivalents of such apparel articles, in
21 accordance with the program established under
22 subparagraph (B). For purposes of determining
23 the quantity of square meter equivalents under
24 this subparagraph, the conversion factors listed
25 in ‘Correlation: U.S. Textile and Apparel Indus-

1 try Category System with the Harmonized Tar-
2 iff Schedule of the United States of America,
3 2008', or its successor publications, of the
4 United States Department of Commerce, shall
5 apply.

6 “(B) EARNED IMPORT ALLOWANCE PRO-
7 GRAM.—

8 “(i) ESTABLISHMENT.—The Secretary
9 of Commerce shall establish a program to
10 provide earned import allowance certifi-
11 cates to any producer or entity controlling
12 production for purposes of subparagraph
13 (A), based on the elements described in
14 clause (ii).

15 “(ii) ELEMENTS.—The elements re-
16 ferred to in clause (i) are the following:

17 “(I) One credit shall be issued to
18 a producer or an entity controlling
19 production for every three square
20 meter equivalents of qualifying woven
21 fabric or qualifying knit fabric that
22 the producer or entity controlling pro-
23 duction can demonstrate that it pur-
24 chased for the manufacture in Haiti
25 of articles like or similar to any article

1 eligible for preferential treatment
2 under subparagraph (A). The Sec-
3 retary of Commerce shall, if requested
4 by a producer or entity controlling
5 production, create and maintain an
6 account for such producer or entity
7 controlling production, into which
8 such credits shall be deposited.

9 “(II) Such producer or entity
10 controlling production may redeem
11 credits issued under subclause (I) for
12 earned import allowance certificates
13 reflecting such number of earned
14 credits as the producer or entity may
15 request and has available.

16 “(III) The Secretary of Com-
17 merce may require any textile mill or
18 other entity located in the United
19 States that exports to Haiti qualifying
20 woven fabric or qualifying knit fabric
21 to submit, upon such export or upon
22 request, documentation, such as a
23 Shipper’s Export Declaration, to the
24 Secretary of Commerce—

1 “(aa) verifying that the
2 qualifying woven fabric or quali-
3 fying knit fabric was exported to
4 a producer in Haiti or to an enti-
5 ty controlling production; and

6 “(bb) identifying such pro-
7 ducer or entity controlling pro-
8 duction, and the quantity and de-
9 scription of qualifying woven fab-
10 ric or qualifying knit fabric ex-
11 ported to such producer or entity
12 controlling production.

13 “(IV) The Secretary of Com-
14 merce may require that a producer or
15 entity controlling production submit
16 documentation to verify purchases of
17 qualifying woven fabric or qualifying
18 knit fabric.

19 “(V) The Secretary of Commerce
20 may make available to each person or
21 entity identified in documentation
22 submitted under subclause (III) or
23 (IV) information contained in such
24 documentation that relates to the pur-
25 chase of qualifying woven fabric or

1 qualifying knit fabric involving such
2 person or entity.

3 “(VI) The program under this
4 subparagraph shall be established so
5 as to allow, to the extent feasible, the
6 submission, storage, retrieval, and dis-
7 closure of information in electronic
8 format, including information with re-
9 spect to the earned import allowance
10 certificates required under subpara-
11 graph (A)(i).

12 “(VII) The Secretary of Com-
13 merce may reconcile discrepancies in
14 information provided under subclause
15 (III) or (IV) and verify the accuracy
16 of such information.

17 “(VIII) The Secretary of Com-
18 merce shall establish procedures to
19 carry out the program under this sub-
20 paragraph and may establish addi-
21 tional requirements to carry out this
22 subparagraph. Such additional re-
23 quirements may include—

24 “(aa) submissions by textile
25 mills or other entities in the

1 United States documenting ex-
2 ports of yarns wholly formed in
3 the United States to countries
4 described in paragraph (1)(B)(iii)
5 for the manufacture of qualifying
6 knit fabric; and

7 “(bb) procedures imposed on
8 producers or entities controlling
9 production to allow the Secretary
10 of Commerce to obtain and verify
11 information relating to the pro-
12 duction of qualifying knit fabric.

13 “(iii) QUALIFYING WOVEN FABRIC DE-
14 FINED.—For purposes of this subpara-
15 graph, the term ‘qualifying woven fabric’
16 means fabric wholly formed in the United
17 States from yarns wholly formed in the
18 United States, except that—

19 “(I) fabric otherwise eligible as
20 qualifying woven fabric shall not be
21 ineligible as qualifying woven fabric
22 because the fabric contains nylon fila-
23 ment yarn to which section
24 213(b)(2)(A)(vii)(IV) applies;

1 “(II) fabric that would otherwise
2 be ineligible as qualifying woven fabric
3 because the fabric contains yarns not
4 wholly formed in the United States
5 shall not be ineligible as qualifying
6 woven fabric if the total weight of all
7 such yarns is not more than 10 per-
8 cent of the total weight of the fabric;
9 and

10 “(III) fabric otherwise eligible as
11 qualifying woven fabric shall not be
12 ineligible as qualifying fabric because
13 the fabric contains yarns covered by
14 clause (i) or (ii) of paragraph (5)(A).

15 “(iv) QUALIFYING KNIT FABRIC DE-
16 FINED.—For purposes of this subpara-
17 graph, the term ‘qualifying knit fabric’
18 means fabric or knit-to-shape components
19 wholly formed or knit-to-shape in any
20 country or any combination of countries
21 described in paragraph (1)(B)(iii), from
22 yarns wholly formed in the United States,
23 except that—

24 “(I) fabric or knit-to-shape com-
25 ponents otherwise eligible as quali-

1 fying knit fabric shall not be ineligible
2 as qualifying knit fabric because the
3 fabric or knit-to-shape components
4 contain nylon filament yarn to which
5 section 213(b)(2)(A)(vii)(IV) applies;

6 “(II) fabric or knit-to-shape com-
7 ponents that would otherwise be ineli-
8 gible as qualifying knit fabric because
9 the fabric or knit-to-shape components
10 contain yarns not wholly formed in
11 the United States shall not be ineli-
12 gible as qualifying knit fabric if the
13 total weight of all such yarns is not
14 more than 10 percent of the total
15 weight of the fabric or knit-to-shape
16 components; and

17 “(III) fabric or knit-to-shape
18 components otherwise eligible as
19 qualifying knit fabric shall not be in-
20 eligible as qualifying knit fabric be-
21 cause the fabric or knit-to-shape com-
22 ponents contain yarns covered by
23 clause (i) or (ii) of paragraph (5)(A).

24 “(C) REVIEW BY UNITED STATES GOVERN-
25 MENT ACCOUNTABILITY OFFICE.—The United

1 States Government Accountability Office shall
2 review the program established under subpara-
3 graph (B) annually for the purpose of evalu-
4 ating the effectiveness of, and making rec-
5 ommendations for improvements in, the pro-
6 gram.

7 “(D) ENFORCEMENT PROVISIONS.—

8 “(i) FRAUDULENT CLAIMS OF PREF-
9 ERENCE.—Any person who makes a false
10 claim for preference under the program es-
11 tablished under subparagraph (B) shall be
12 subject to any applicable civil or criminal
13 penalty that may be imposed under the
14 customs laws of the United States or
15 under title 18, United States Code.

16 “(ii) PENALTIES FOR OTHER FRAUDU-
17 LENT INFORMATION.—The Secretary of
18 Commerce may establish and impose pen-
19 alties for the submission to the Secretary
20 of Commerce of fraudulent information
21 under the program established under sub-
22 paragraph (B), other than a claim de-
23 scribed in clause (i).”.

1 (e) SHORT SUPPLY RULES.—Section 213A(b) of the
2 Caribbean Basin Economic Recovery Act is amended by
3 adding at the end the following:

4 “(5) SHORT SUPPLY PROVISION.—

5 “(A) IN GENERAL.—Any apparel article
6 that is wholly assembled, or knit-to-shape, in
7 Haiti from any combination of fabrics, fabric
8 components, components knit-to-shape, or yarns
9 and is imported directly from Haiti or the Do-
10 minican Republic shall enter the United States
11 free of duty, without regard to the source of the
12 fabrics, fabric components, components knit-to-
13 shape, or yarns from which the article is made,
14 if the fabrics, fabric components, components
15 knit-to-shape, or yarns comprising the compo-
16 nent that determines the tariff classification of
17 the article are of any of the following:

18 “(i) Fabrics or yarns, to the extent
19 that apparel articles of such fabrics or
20 yarns would be eligible for preferential
21 treatment, without regard to the source of
22 the fabrics or yarns, under Annex 401 of
23 the NAFTA.

24 “(ii) Fabrics or yarns, to the extent
25 that such fabrics or yarns are designated

1 as not being available in commercial quan-
2 tities for purposes of—

3 “(I) section 213(b)(2)(A)(v) of
4 this Act;

5 “(II) section 112(b)(5) of the Af-
6 rican Growth and Opportunity Act;

7 “(III) clause (i)(III) or (ii) of
8 section 204(b)(3)(B) of the Andean
9 Trade Preference Act; or

10 “(IV) any other provision, relat-
11 ing to determining whether a textile
12 or apparel article is an originating
13 good eligible for preferential treat-
14 ment, of a law that implements a free
15 trade agreement entered into by the
16 United States that is in effect at the
17 time the claim for preferential treat-
18 ment is made.

19 “(B) REMOVAL OF DESIGNATION OF FAB-
20 RICS OR YARNS NOT AVAILABLE IN COMMER-
21 CIAL QUANTITIES.—If the President determines
22 that—

23 “(i) any fabric or yarn described in
24 clause (i) of subparagraph (A) was deter-

1 mined to be eligible for preferential treat-
2 ment, or

3 “(ii) any fabric or yarn described in
4 clause (ii) of subparagraph (A) was des-
5 ignated as not being available in commer-
6 cial quantities,

7 on the basis of fraud, the President is author-
8 ized to remove the eligibility or designation (as
9 the case may be) of that fabric or yarn with re-
10 spect to articles entered after such removal.”.

11 (f) MISCELLANEOUS PROVISIONS.—

12 (1) RELATIONSHIP TO OTHER PREFERENTIAL
13 PROGRAMS.—Section 213A(b) of the Caribbean
14 Basin Economic Recovery Act is amended by adding
15 at the end the following:

16 “(6) OTHER PREFERENTIAL TREATMENT NOT
17 AFFECTED.—The duty-free treatment provided
18 under this subsection is in addition to any other
19 preferential treatment under this title.”.

20 (2) DEFINITIONS.—Section 213A(a) of the Car-
21 ibbean Basin Economic Recovery Act (19 U.S.C.
22 2703a(a)) is amended by adding at the end the fol-
23 lowing:

1 “(3) IMPORTED DIRECTLY FROM HAITI OR THE
2 DOMINICAN REPUBLIC.—Articles are ‘imported di-
3 rectly from Haiti or the Dominican Republic’ if—

4 “(A) the articles are shipped directly from
5 Haiti or the Dominican Republic into the
6 United States without passing through the ter-
7 ritory of any intermediate country; or

8 “(B) the articles are shipped from Haiti or
9 the Dominican Republic into the United States
10 through the territory of an intermediate coun-
11 try, and—

12 “(i) the articles in the shipment do
13 not enter into the commerce of any inter-
14 mediate country, and the invoices, bills of
15 lading, and other shipping documents
16 specify the United States as the final des-
17 tination; or

18 “(ii) the invoices and other documents
19 do not specify the United States as the
20 final destination, but the articles in the
21 shipment—

22 “(I) remain under the control of
23 the customs authority in the inter-
24 mediate country;

1 “(II) do not enter into the com-
2 merce of the intermediate country ex-
3 cept for the purpose of a sale other
4 than at retail; and

5 “(III) have not been subjected to
6 operations in the intermediate country
7 other than loading, unloading, or
8 other activities necessary to preserve
9 the articles in good condition.

10 “(4) KNIT-TO-SHAPE.—A good is ‘knit-to-
11 shape’ if 50 percent or more of the exterior surface
12 area of the good is formed by major parts that have
13 been knitted or crocheted directly to the shape used
14 in the good, with no consideration being given to
15 patch pockets, appliqués, or the like. Minor cutting,
16 trimming, or sewing of those major parts shall not
17 affect the determination of whether a good is ‘knit-
18 to-shape.’

19 “(5) WHOLLY ASSEMBLED.—A good is ‘wholly
20 assembled’ in Haiti if all components, of which there
21 must be at least two, pre-existed in essentially the
22 same condition as found in the finished good and
23 were combined to form the finished good in Haiti.
24 Minor attachments and minor embellishments (for
25 example, appliqués, beads, spangles, embroidery, and

1 buttons) not appreciably affecting the identity of the
2 good, and minor subassemblies (for example, collars,
3 cuffs, plackets, and pockets), shall not affect the de-
4 termination of whether a good is ‘wholly assembled’
5 in Haiti.”.

6 (g) TERMINATION.—Section 213A of the Caribbean
7 Basin Economic Recovery Act (19 U.S.C. 2703a) is
8 amended by adding at the end the following new sub-
9 section:

10 “(g) TERMINATION.—Except as provided in sub-
11 section (b)(1), the duty-free treatment provided under this
12 section shall remain in effect until September 30, 2018.”.

13 (h) CONFORMING AMENDMENTS.—Subsection (e)(1)
14 of section 213A of the Caribbean Basin Economic Recov-
15 ery Act (19 U.S.C. 2703a(e)(1)) is amended by striking
16 “the Bureau of Customs and Border Protection” each
17 place it appears and inserting “U.S. Customs and Border
18 Protection”.

19 **SEC. 15403. LABOR OMBUDSMAN AND TECHNICAL ASSIST-**
20 **ANCE IMPROVEMENT AND COMPLIANCE**
21 **NEEDS ASSESSMENT AND REMEDIATION PRO-**
22 **GRAM.**

23 Section 213A of the Caribbean Basin Economic Re-
24 covery Act (19 U.S.C. 2703a), as amended by section
25 15402 of this Act, is amended—

1 (1) in subsection (a)—

2 (A) by redesignating paragraph (5) as
3 paragraph (8):

4 (B) by redesignating paragraphs (2)
5 through (4) as paragraphs (4) through (6), re-
6 spectively;

7 (C) by inserting after paragraph (1) the
8 following new paragraphs:

9 “(2) APPROPRIATE CONGRESSIONAL COMMIT-
10 TEES.— The term “appropriate congressional com-
11 mittees” means the Committee on Finance of the
12 Senate and the Committee on Ways and Means of
13 the House of Representatives.

14 “(3) CORE LABOR STANDARDS.—The term
15 “core labor standards” means—

16 “(A) freedom of association;

17 “(B) the effective recognition of the right
18 to bargain collectively;

19 “(C) the elimination of all forms of com-
20 pulsory or forced labor;

21 “(D) the effective abolition of child labor
22 and a prohibition on the worst forms of child
23 labor; and

24 “(E) the elimination of discrimination in
25 respect of employment and occupation.”; and

1 (D) by inserting after paragraph (6) (as
2 redesignated) the following new paragraph:

3 “(7) TAICNAR PROGRAM.—The term
4 ‘TAICNAR Program’ means the Technical Assist-
5 ance Improvement and Compliance Needs Assess-
6 ment and Remediation Program established pursu-
7 ant to subsection (e).”;

8 (2) by redesignating subsections (e), (f), and
9 (g) as subsections (f), (g), and (h), respectively; and

10 (3) by inserting after subsection (d) the fol-
11 lowing new subsection:

12 “(e) TECHNICAL ASSISTANCE IMPROVEMENT AND
13 COMPLIANCE NEEDS ASSESSMENT AND REMEDIATION
14 PROGRAM.—

15 “(1) CONTINUED ELIGIBILITY FOR PREF-
16 ERENCES.—

17 “(A) PRESIDENTIAL CERTIFICATION OF
18 COMPLIANCE BY HAITI WITH REQUIREMENTS.—

19 Upon the expiration of the 16-month period be-
20 ginning on the date of the enactment of the
21 Haitian Hemispheric Opportunity through
22 Partnership Encouragement Act of 2008, Haiti
23 shall continue to be eligible for the preferential
24 treatment provided under subsection (b) only if

1 the President determines and certifies to the
2 Congress that—

3 “(i) Haiti has implemented the re-
4 quirements set forth in paragraphs (2) and
5 (3); and

6 “(ii) Haiti has agreed to require pro-
7 ducers of articles for which duty-free treat-
8 ment may be requested under subsection
9 (b) to participate in the TAICNAR Pro-
10 gram described in paragraph (3) and has
11 developed a system to ensure participation
12 in such program by such producers, includ-
13 ing by developing and maintaining the reg-
14 istry described in paragraph (2)(B)(i).

15 “(B) EXTENSION.—The President may ex-
16 tend the period for compliance by Haiti under
17 subparagraph (A) if the President—

18 “(i) determines that Haiti has made a
19 good faith effort toward such compliance
20 and has agreed to take additional steps to
21 come into full compliance that are satisfac-
22 tory to the President; and

23 “(ii) provides to the appropriate con-
24 gressional committees, not later than 6
25 months after the last day of the 16-month

1 period specified in subparagraph (A), and
2 every 6 months thereafter, a report identi-
3 fying the steps that Haiti has agreed to
4 take to come into full compliance and the
5 progress made over the preceding 6-month
6 period in implementing such steps.

7 “(C) CONTINUING COMPLIANCE.—

8 “(i) TERMINATION OF PREFERENTIAL
9 TREATMENT.—If, after making a certifi-
10 cation under subparagraph (A), the Presi-
11 dent determines that Haiti is no longer
12 meeting the requirements set forth in sub-
13 paragraph (A), the President shall termi-
14 nate the preferential treatment provided
15 under subsection (b), unless the President
16 determines, after consulting with the ap-
17 propriate congressional committees, that
18 meeting such requirements is not prac-
19 ticable because of extraordinary cir-
20 cumstances existing in Haiti when the de-
21 termination is made.

22 “(ii) SUBSEQUENT COMPLIANCE.—If
23 the President, after terminating pref-
24 erential treatment under clause (i), deter-
25 mines that Haiti is meeting the require-

1 ments set forth in subparagraph (A), the
2 President shall reinstate the application of
3 preferential treatment under subsection
4 (b).

5 “(2) LABOR OMBUDSMAN.—

6 “(A) IN GENERAL.—The requirement
7 under this paragraph is that Haiti has estab-
8 lished an independent Labor Ombudsman’s Of-
9 fice within the national government that—

10 “(i) reports directly to the President
11 of Haiti;

12 “(ii) is headed by a Labor Ombuds-
13 man chosen by the President of Haiti, in
14 consultation with Haitian labor unions and
15 industry associations; and

16 “(iii) is vested with the authority to
17 perform the functions described in sub-
18 paragraph (B).

19 “(B) FUNCTIONS.—The functions of the
20 Labor Ombudsman’s Office shall include—

21 “(i) developing and maintaining a reg-
22 istry of producers of articles for which
23 duty-free treatment may be requested
24 under subsection (b), and developing, in
25 consultation and coordination with any

1 other appropriate officials of the Govern-
2 ment of Haiti, a system to ensure partici-
3 pation by such producers in the TAICNAR
4 Program described in paragraph (3);

5 “(ii) overseeing the implementation of
6 the TAICNAR Program described in para-
7 graph (3);

8 “(iii) receiving and investigating com-
9 ments from any interested party regarding
10 the conditions described in paragraph
11 (3)(B) in facilities of producers listed in
12 the registry described in clause (i) and,
13 where appropriate, referring such com-
14 ments or the result of such investigations
15 to the appropriate Haitian authorities, or
16 to the entity operating the TAICNAR Pro-
17 gram described in paragraph (3);

18 “(iv) assisting, in consultation and co-
19 ordination with any other appropriate Hai-
20 tian authorities, producers listed in the
21 registry described in clause (i) in meeting
22 the conditions set forth in paragraph
23 (3)(B); and

24 “(v) coordinating, with the assistance
25 of the entity operating the TAICNAR Pro-

1 gram described in paragraph (3), a tri-
2 partite committee comprised of appropriate
3 representatives of government agencies,
4 employers, and workers, as well as other
5 relevant interested parties, for the pur-
6 poses of evaluating progress in imple-
7 menting the TAICNAR Program described
8 in paragraph (3), and consulting on im-
9 proving core labor standards and working
10 conditions in the textile and apparel sector
11 in Haiti, and on other matters of common
12 concern relating to such core labor stand-
13 ards and working conditions.

14 “(3) TECHNICAL ASSISTANCE IMPROVEMENT
15 AND COMPLIANCE NEEDS ASSESSMENT AND REMEDI-
16 ATION PROGRAM.—

17 “(A) IN GENERAL.—The requirement
18 under this paragraph is that Haiti, in coopera-
19 tion with the International Labor Organization,
20 has established a Technical Assistance Improve-
21 ment and Compliance Needs Assessment and
22 Remediation Program meeting the requirements
23 under subparagraph (C)—

24 “(i) to assess compliance by producers
25 listed in the registry described in para-

1 graph (2)(B)(i) with the conditions set
2 forth in subparagraph (B) and to assist
3 such producers in meeting such conditions;
4 and

5 “(ii) to provide assistance to improve
6 the capacity of the Government of Haiti—

7 “(I) to inspect facilities of pro-
8 ducers listed in the registry described
9 in paragraph (2)(B)(i); and

10 “(II) to enforce national labor
11 laws and resolve labor disputes, in-
12 cluding through measures described in
13 subparagraph (E).

14 “(B) CONDITIONS DESCRIBED.—The con-
15 ditions referred to in subparagraph (A) are—

16 “(i) compliance with core labor stand-
17 ards; and

18 “(ii) compliance with the labor laws of
19 Haiti that relate directly to core labor
20 standards and to ensuring acceptable con-
21 ditions of work with respect to minimum
22 wages, hours of work, and occupational
23 health and safety.

1 “(C) REQUIREMENTS.—The requirements
2 for the TAICNAR Program are that the pro-
3 gram—

4 “(i) be operated by the International
5 Labor Organization (or any subdivision, in-
6 strumentality, or designee thereof), which
7 prepares the biannual reports described in
8 subparagraph (D);

9 “(ii) be developed through a
10 participatory process that includes the
11 Labor Ombudsman described in paragraph
12 (2) and appropriate representatives of gov-
13 ernment agencies, employers, and workers;

14 “(iii) assess compliance by each pro-
15 ducer listed in the registry described in
16 paragraph (2)(B)(i) with the conditions set
17 forth in subparagraph (B) and identify any
18 deficiencies by such producer with respect
19 to meeting such conditions, including by—

20 “(I) conducting unannounced site
21 visits to manufacturing facilities of
22 the producer;

23 “(II) conducting confidential
24 interviews separately with workers

1 and management of the facilities of
2 the producer;

3 “(III) providing to management
4 and workers, and where applicable,
5 worker organizations in the facilities
6 of the producer, on a confidential
7 basis—

8 “(aa) the results of the as-
9 sessment carried out under this
10 clause; and

11 “(bb) specific suggestions
12 for remediating any such defi-
13 ciencies;

14 “(iv) assist the producer in remedi-
15 ating any deficiencies identified under
16 clause (iii);

17 “(v) conduct prompt follow-up site
18 visits to the facilities of the producer to as-
19 sess progress on remediation of any defi-
20 ciencies identified under clause (iii); and

21 “(vi) provide training to workers and
22 management of the producer, and where
23 appropriate, to other persons or entities, to
24 promote compliance with subparagraph
25 (B).

1 “(D) BIENNIAL REPORT.—The biennial
2 reports referred to in subparagraph (C)(i) are a
3 report, by the entity operating the TAICNAR
4 Program, that is published (and available to the
5 public in a readily accessible manner) on a bi-
6 annual basis, beginning 6 months after Haiti
7 implements the TAICNAR Program under this
8 paragraph, covering the preceding 6-month pe-
9 riod, and that includes the following:

10 “(i) The name of each producer listed
11 in the registry described in paragraph
12 (2)(B)(i) that has been identified as having
13 met the conditions under subparagraph
14 (B).

15 “(ii) The name of each producer listed
16 in the registry described in paragraph
17 (2)(B)(i) that has been identified as having
18 deficiencies with respect to the conditions
19 under subparagraph (B), and has failed to
20 remedy such deficiencies.

21 “(iii) For each producer listed under
22 clause (ii)—

23 “(I) a description of the defi-
24 ciencies found to exist and the specific
25 suggestions for remediating such defi-

1 iciencies made by the entity operating
2 the TAICNAR Program;

3 “(II) a description of the efforts
4 by the producer to remediate the defi-
5 ciencies, including a description of as-
6 sistance provided by any entity to as-
7 sist in such remediation; and

8 “(III) with respect to deficiencies
9 that have not been remediated, the
10 amount of time that has elapsed since
11 the deficiencies were first identified in
12 a report under this subparagraph.

13 “(iv) For each producer identified as
14 having deficiencies with respect to the con-
15 ditions described under subparagraph (B)
16 in a prior report under this subparagraph,
17 a description of the progress made in re-
18 mediating such deficiencies since the sub-
19 mission of the prior report, and an assess-
20 ment of whether any aspect of such defi-
21 ciencies persists.

22 “(E) CAPACITY BUILDING.—The assist-
23 ance to the Government of Haiti referred to in
24 subparagraph (A)(ii) shall include programs—

1 “(i) to review the labor laws and regu-
2 lations of Haiti and to develop and imple-
3 ment strategies for bringing the laws and
4 regulations into conformity with core labor
5 standards;

6 “(ii) to develop additional strategies
7 for facilitating protection of core labor
8 standards and providing acceptable condi-
9 tions of work with respect to minimum
10 wages, hours of work, and occupational
11 safety and health, including through legal,
12 regulatory, and institutional reform;

13 “(iii) to increase awareness of worker
14 rights, including under core labor stand-
15 ards and national labor laws;

16 “(iv) to promote consultation and co-
17 operation between government representa-
18 tives, employers, worker representatives,
19 and United States importers on matters
20 relating to core labor standards and na-
21 tional labor laws;

22 “(v) to assist the Labor Ombudsman
23 appointed pursuant to paragraph (2) in es-
24 tablishing and coordinating operation of

1 the committee described in paragraph
2 (2)(B)(v);

3 “(vi) to assist worker representatives
4 in more fully and effectively advocating on
5 behalf of their members; and

6 “(vii) to provide on-the-job training
7 and technical assistance to labor inspec-
8 tors, judicial officers, and other relevant
9 personnel to build their capacity to enforce
10 national labor laws and resolve labor dis-
11 putes.

12 “(4) COMPLIANCE WITH ELIGIBILITY CRI-
13 TERIA.—

14 “(A) COUNTRY COMPLIANCE WITH WORK-
15 ER RIGHTS ELIGIBILITY CRITERIA.—In making
16 a determination of whether Haiti is meeting the
17 requirement set forth in subsection
18 (d)(1)(A)(vi) relating to internationally recog-
19 nized worker rights, the President shall con-
20 sider the reports produced under paragraph
21 (3)(D).

22 “(B) PRODUCER ELIGIBILITY.—

23 “(i) IDENTIFICATION OF PRO-
24 DUCERS.—Beginning in the second cal-
25 endar year after the President makes the

1 certification under paragraph (1)(A), the
2 President shall identify on a biennial basis
3 whether a producer listed in the registry
4 described in paragraph (2)(B)(i) has failed
5 to comply with core labor standards and
6 with the labor laws of Haiti that directly
7 relate to and are consistent with core labor
8 standards.

9 “(ii) ASSISTANCE TO PRODUCERS;
10 WITHDRAWAL, ETC., OF PREFERENTIAL
11 TREATMENT.—For each producer that the
12 President identifies under clause (i), the
13 President shall seek to assist such pro-
14 ducer in coming into compliance with core
15 labor standards and with the labor laws of
16 Haiti that directly relate to and are con-
17 sistent with core labor standards. If such
18 efforts fail, the President shall withdraw,
19 suspend, or limit the application of pref-
20 erential treatment under subsection (b) to
21 articles of such producer.

22 “(iii) REINSTATING PREFERENTIAL
23 TREATMENT.—If the President, after with-
24 drawing, suspending, or limiting the appli-
25 cation of preferential treatment under

1 clause (ii) to articles of a producer, deter-
2 mines that such producer is complying
3 with core labor standards and with the
4 labor laws of Haiti that directly relate to
5 and are consistent with core labor stand-
6 ards, the President shall reinstate the ap-
7 plication of preferential treatment under
8 subsection (b) to the articles of the pro-
9 ducer.

10 “(iv) CONSIDERATION OF REPORTS.—

11 In making the identification under clause
12 (i) and the determination under clause
13 (iii), the President shall consider the re-
14 ports made available under paragraph
15 (3)(D).

16 “(5) REPORTS BY THE PRESIDENT.—

17 “(A) IN GENERAL.—Not later than one
18 year after the date of the enactment of the Hai-
19 tian Hemispheric Opportunity through Partner-
20 ship Encouragement Act of 2008, and annually
21 thereafter, the President shall transmit to the
22 appropriate congressional committees a report
23 on the implementation of this subsection during
24 the preceding 1-year period.

1 “(B) MATTERS TO BE INCLUDED.—Each
2 report required by subparagraph (A) shall in-
3 clude the following:

4 “(i) An explanation of the efforts of
5 Haiti, the President, and the International
6 Labor Organization to carry out this sub-
7 section.

8 “(ii) A summary of each report pro-
9 duced under paragraph (3)(D) during the
10 preceding 1-year period and a summary of
11 the findings contained in such report.

12 “(iii) Identifications made under para-
13 graph (4)(B)(i) and determinations made
14 under paragraph (4)(B)(iii).

15 “(6) AUTHORIZATION OF APPROPRIATIONS.—
16 There is authorized to be appropriated to carry out
17 this subsection the sum of \$10,000,000 for the pe-
18 riod beginning on October 1, 2008, and ending on
19 September 30, 2013.”.

20 **SEC. 15404. PETITION PROCESS.**

21 Section 213A(d) of the Caribbean Basin Economic
22 Recovery Act (19 U.S.C. 2703A(d)) is amended by adding
23 at the end the following new paragraph:

24 “(4) PETITION PROCESS.—Any interested party
25 may file a request to have the status of Haiti re-

1 viewed with respect to the eligibility requirements
2 listed in paragraph (1), and the President shall pro-
3 vide for this purpose the same procedures as those
4 that are provided for reviewing the status of eligible
5 beneficiary developing countries with respect to the
6 designation criteria listed in subsections (b) and (c)
7 of section 502 of the Trade Act of 1974 (19 U.S.C.
8 2642 (b) and (c)).”.

9 **SEC. 15405. CONDITIONS REGARDING ENFORCEMENT OF**
10 **CIRCUMVENTION.**

11 Section 213A(f) of the Caribbean Basin Economic
12 Recovery Act, as redesignated by section 15403(2) of this
13 Act, is amended by adding at the end the following new
14 paragraph:

15 “(3) LIMITATION ON GOODS SHIPPED FROM
16 THE DOMINICAN REPUBLIC.—

17 “(A) LIMITATION.—Notwithstanding sub-
18 section (a)(5), relating to the definition of ‘im-
19 ported directly from Haiti or the Dominican
20 Republic’, articles described in subsection (b)
21 that are shipped from the Dominican Republic,
22 directly or through the territory of an inter-
23 mediate country, whether or not such articles
24 undergo processing in the Dominican Republic,
25 shall not be considered to be ‘imported directly

1 from Haiti or the Dominican Republic' until the
2 President certifies to the Congress that Haiti
3 and the Dominican Republic have developed
4 procedures to prevent unlawful transshipment
5 of the articles and the use of counterfeit docu-
6 ments related to the importation of the articles
7 into the United States.

8 “(B) TECHNICAL AND OTHER ASSIST-
9 ANCE.—The Commissioner responsible for U.S.
10 Customs and Border Protection shall provide
11 technical and other assistance to Haiti and the
12 Dominican Republic to develop expeditiously the
13 procedures described in subparagraph (A).”.

14 **SEC. 15406. PRESIDENTIAL PROCLAMATION AUTHORITY.**

15 The President may exercise the authority under sec-
16 tion 604 of the Trade Act of 1974 to proclaim such modi-
17 fications to the Harmonized Tariff Schedule of the United
18 States as may be necessary to carry out this part and the
19 amendments made by this part.

20 **SEC. 15407. REGULATIONS AND PROCEDURES.**

21 The President shall issue such regulations as may be
22 necessary to carry out the amendments made by sections
23 15402, 15403, and 15404. Regulations to carry out the
24 amendments made by section 15402 shall be issued not
25 later than September 30, 2008. The Secretary of Com-

1 merce shall issue such procedures as may be necessary to
2 carry out the amendment made by section 15402(d) not
3 later than September 30, 2008.

4 **SEC. 15408. EXTENSION OF CBTPA.**

5 Section 213(b) of the Caribbean Basin Economic Re-
6 covery Act (19 U.S.C. 2703(b)) is amended—

7 (1) in paragraph (2)(A)—

8 (A) in clause (iii)—

9 (i) in subclause (II)(cc), by striking
10 “2008” and inserting “2010”; and

11 (ii) in subclause (IV)(dd), by striking
12 “2008” and inserting “2010”; and

13 (B) in clause (iv)(II), by striking “6” and
14 inserting “8”; and

15 (2) in paragraph (5)(D)—

16 (A) in clause (i), by striking “2008” and
17 inserting “2010”; and

18 (B) in clause (ii), by striking “108(b)(5)”
19 and inserting “section 108(b)(5)”.

20 **SEC. 15409. SENSE OF CONGRESS ON INTERPRETATION OF**
21 **TEXTILE AND APPAREL PROVISIONS FOR**
22 **HAITI.**

23 It is the sense of the Congress that the executive
24 branch, particularly the Committee for the Implementa-
25 tion of Textile Agreements (CITA), U.S. Customs and

1 Border Protection of the Department of Homeland Secu-
2 rity, and the Department of Commerce, should interpret,
3 implement, and enforce the provisions of section 213A(b)
4 of the Caribbean Basin Economic Recovery Act, as
5 amended by section 15402 of this Act, relating to pref-
6 erential treatment of textile and apparel articles, broadly
7 in order to expand trade by maximizing opportunities for
8 imports of articles eligible for preferential treatment under
9 such section 213A(b).

10 **SEC. 15410. SENSE OF CONGRESS ON TRADE MISSION TO**
11 **HAITI.**

12 It is the sense of the Congress that the Secretary of
13 Commerce, in coordination with the United States Trade
14 Representative, the Secretary of State, and the Commis-
15 sioner responsible for U.S. Customs and Border Protec-
16 tion of the Department of Homeland Security, should lead
17 a trade mission to Haiti, within 6 months after the date
18 of the enactment of this Act, to promote trade between
19 the United States and Haiti, to promote new economic op-
20 portunities afforded under the amendments made by sec-
21 tion 15402 of this Act, and to help educate United States
22 and Haitian business concerns about such opportunities.

23 **SEC. 15411. SENSE OF CONGRESS ON VISA SYSTEMS.**

24 It is the sense of the Congress that Haiti, and other
25 countries that receive preferences under trade preference

1 programs of the United States that require effective visa
2 systems to prevent transshipment, should ensure that
3 monetary compensation for such visas is not required be-
4 yond the costs of processing the visa, including ensuring
5 that such monetary compensation does not violate an ap-
6 plicable system to combat corruption and bribery.

7 **SEC. 15412. EFFECTIVE DATE.**

8 (a) IN GENERAL.—Except as provided in subsection
9 (b), this part and the amendments made by this part shall
10 take effect on the date of the enactment of this Act.

11 (b) EXCEPTION.—The amendments made by section
12 15402 shall take effect on October 1, 2008, and shall
13 apply to articles entered, or withdrawn from warehouse
14 for consumption, on or after that date.

15 **PART II—MISCELLANEOUS TRADE PROVISIONS**

16 **SEC. 15421. UNUSED MERCHANDISE DRAWBACK.**

17 (a) IN GENERAL.—Section 313(j)(2) of the Tariff
18 Act of 1930 (19 U.S.C. 1313(j)(2)) is amended by adding
19 at the end the following: “For purposes of subparagraph
20 (A) of this paragraph, wine of the same color having a
21 price variation not to exceed 50 percent between the im-
22 ported wine and the exported wine shall be deemed to be
23 commercially interchangeable.”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 subsection (a) shall apply with respect to claims filed for

1 drawback under section 313(j)(2) of the Tariff Act of
2 1930 on or after the date of the enactment of this Act.

3 **SEC. 15422. REQUIREMENTS RELATING TO DETERMINA-**
4 **TION OF TRANSACTION VALUE OF IMPORTED**
5 **MERCHANDISE.**

6 (a) REQUIREMENT ON IMPORTERS.—

7 (1) IN GENERAL.—Pursuant to sections 484
8 and 485 of the Tariff Act of 1930 (19 U.S.C. 1484
9 and 1485), the Commissioner responsible for U.S.
10 Customs and Border Protection shall require each
11 importer of merchandise to provide to U.S. Customs
12 and Border Protection at the time of entry of the
13 merchandise the information described in paragraph
14 (2).

15 (2) INFORMATION REQUIRED.—The information
16 referred to in paragraph (1) is a declaration as to
17 whether the transaction value of the imported mer-
18 chandise is determined on the basis of the price paid
19 by the buyer in the first or earlier sale occurring
20 prior to introduction of the merchandise into the
21 United States.

22 (3) EFFECTIVE DATE.—The requirement to
23 provide information under this subsection shall be
24 effective for the 1-year period beginning 90 days
25 after the date of the enactment of this Act.

1 (b) REPORT TO INTERNATIONAL TRADE COMMIS-
2 SION.—

3 (1) IN GENERAL.—The Commissioner respon-
4 sible for U.S. Customs and Border Protection shall
5 submit to the United States International Trade
6 Commission on a monthly basis for the 1-year period
7 specified in subsection (a)(3) a report on the infor-
8 mation provided by importers under subsection
9 (a)(2) during the preceding month. The report re-
10 quired under this paragraph shall be submitted in a
11 form agreed upon between U.S. Customs and Border
12 Protection and the United States International
13 Trade Commission.

14 (2) MATTERS TO BE INCLUDED.—The report
15 required under paragraph (1) shall include—

16 (A) the number of importers that declare
17 the transaction value of the imported merchan-
18 dise is determined on the basis of the method
19 described in subsection (a)(2);

20 (B) the tariff classification of such im-
21 ported merchandise under the Harmonized Tar-
22 iff Schedule of the United States; and

23 (C) the transaction value of such imported
24 merchandise.

25 (c) REPORT TO CONGRESS.—

1 (1) IN GENERAL.—Not later than 90 days after
2 the submission of the final report under subsection
3 (b), the United States International Trade Commis-
4 sion shall submit to the appropriate congressional
5 committees a report on the information contained in
6 all reports submitted under subsection (b).

7 (2) MATTERS TO BE INCLUDED.—The report
8 required under paragraph (1) shall include—

9 (A) the aggregate number of importers
10 that declare the transaction value of the im-
11 ported merchandise is determined on the basis
12 of the method described in subsection (a)(2), in-
13 cluding a description of the frequency of the use
14 of such method;

15 (B) the tariff classification of such im-
16 ported merchandise under the Harmonized Tar-
17 iff Schedule of the United States on an aggre-
18 gate basis, including an analysis of the tariff
19 classification of such imported merchandise on
20 a sectoral basis;

21 (C) the aggregate transaction value of such
22 imported merchandise, including an analysis of
23 the transaction value of such imported mer-
24 chandise on a sectoral basis; and

1 (D) the aggregate transaction value of all
2 merchandise imported into the United States
3 during the 1-year period specified in subsection
4 (a)(3).

5 (d) SENSE OF CONGRESS REGARDING PROHIBITION
6 ON PROPOSED INTERPRETATION OF THE TERM “SOLD
7 FOR EXPORTATION TO THE UNITED STATES”.—

8 (1) IN GENERAL.—It is the sense of Congress
9 that the Commissioner responsible for U.S. Customs
10 and Border Protection should not implement a
11 change to U.S. Customs and Border Protection’s in-
12 terpretation (as such interpretation is in effect on
13 the date of the enactment of this Act) of the term
14 “sold for exportation to the United States”, as de-
15 scribed in section 402(b) of the Tariff Act of 1930
16 (19 U.S.C. 1401a(b)), for purposes of applying the
17 transaction value of the imported merchandise in a
18 series of sales, before January 1, 2011.

19 (2) EXCEPTION.—It is the sense of Congress
20 that beginning on January 1, 2011, the Commis-
21 sioner responsible for U.S. Customs and Border
22 Protection may propose to change or change U.S.
23 Customs and Border Protection’s interpretation of
24 the term “sold for exportation to the United

1 States”, as described in paragraph (1), only if U.S.
2 Customs and Border Protection—

3 (A) consults with, and provides notice to,
4 the appropriate congressional committees—

5 (i) not less than 180 days prior to
6 proposing a change; and

7 (ii) not less than 90 days prior to
8 publishing a change;

9 (B) consults with, provides notice to, and
10 takes into consideration views expressed by, the
11 Commercial Operations Advisory Committee—

12 (i) not less than 120 days prior to
13 proposing a change; and

14 (ii) not less than 60 days prior to
15 publishing a change; and

16 (C) receives the explicit approval of the
17 Secretary of the Treasury prior to publishing a
18 change.

19 (3) CONSIDERATION OF INTERNATIONAL TRADE
20 COMMISSION REPORT.—It is the sense of Congress
21 that prior to publishing a change to U.S. Customs
22 and Border Protection’s interpretation (as such in-
23 terpretation is in effect on the date of the enactment
24 of this Act) of the term “sold for exportation to the
25 United States”, as described in section 402(b) of the

1 Tariff Act of 1930 (19 U.S.C. 1401a(b)), for pur-
2 poses of applying the transaction value of the im-
3 ported merchandise in a series of sales, the Commis-
4 sioner responsible for U.S. Customs and Border
5 Protection should take into consideration the mat-
6 ters included in the report prepared by the United
7 States International Trade Commission under sub-
8 section (c).

9 (e) DEFINITIONS.—In this section:

10 (1) APPROPRIATE CONGRESSIONAL COMMIT-
11 TEES.—The term “appropriate congressional com-
12 mittees” means the Committee on Ways and Means
13 of the House of Representatives and the Committee
14 on Finance of the Senate.

15 (2) COMMERCIAL OPERATIONS ADVISORY COM-
16 MITTEE.—The term “Commercial Operations Advi-
17 sory Committee” means the Advisory Committee es-
18 tablished pursuant to section 9503(c) of the Omni-
19 bus Budget Reconciliation Act of 1987 (19 U.S.C.
20 2071 note) or any successor committee.

21 (3) IMPORTER.—The term “importer” means
22 one of the parties qualifying as an “importer of
23 record” under section 484(a)(2)(B) in the Tariff Act
24 of 1930 (19 U.S.C. 1484(a)(2)(B)).

Calendar No. 753

110TH CONGRESS
2^D Session

H. R. 6124

AN ACT

To provide for the continuation of agricultural and other programs of the Department of Agriculture through fiscal year 2012, and for other purposes.

MAY 22, 2008

Received; read twice and placed on the calendar